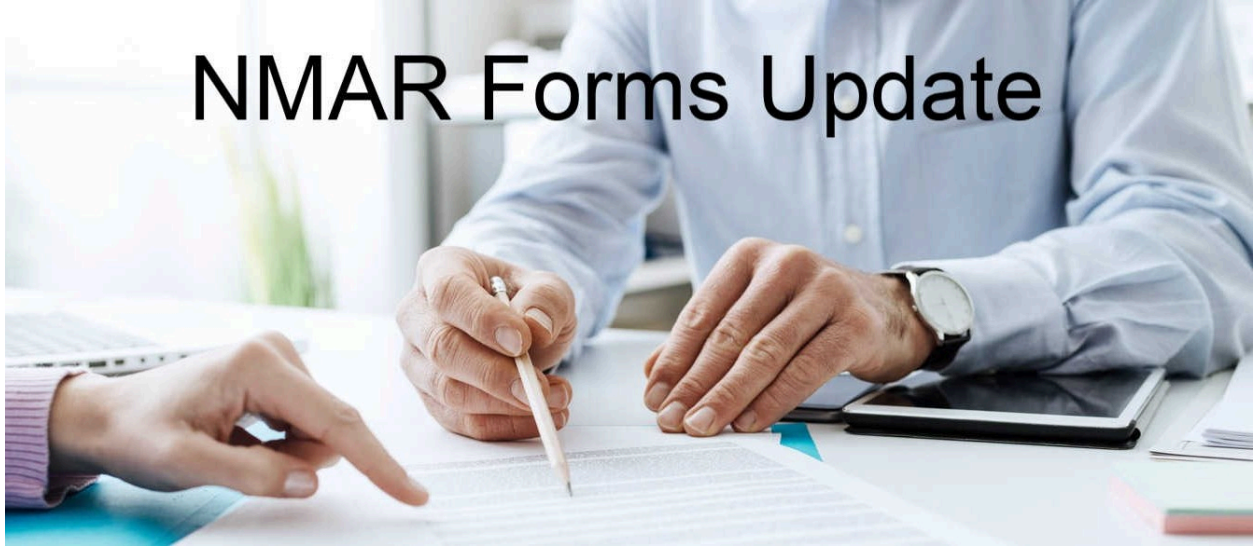


NMAR Forms Update



4 CE Core Elective

This four-hour class is designed to provide attendees with the most recent changes to the most widely used NMAR forms.



Mesa
Real Estate Institute, LLC

Rich Cederberg

(505) 348-3381

MESAREI.COM

In addition to the 2022, 2023 & 2024 NMREC Core courses, MESA REI offers the following:

Core Electives:

- A Look at Real World Issues- Claim Studies 4CE
- Anatomy of a Listing Contract 4CE
- Anatomy of a Purchase Contract 4CE
- Broker Beware: Getting from Contract to Closing 4CE
- Clear the Confusion: Offers (Counters, Multiples, Contingencies, etc.) 4CE
- Disclose, Disclose, Disclose (Unless You're NOT Supposed To) 4CE
- E & O Insurance: Know What you are Buying & Why 4CE
- Inspections, ORR's & Repairs, OH MY! 2 CE
- Intro to Seller Financing 4CE
- NMAR Forms Update 4CE
- NMAR's Many Miscellaneous Forms 4CE
- One Thing Leads to Another- The PA Contingencies Explained 2CE
- Property Management & The 3 Way Reconciliation 2CE Prop Mang
- QB Refresher Course 6CE
- Taxes and Your Real Estate Business 4CE
- Trust Accounts 4CE Prop Mang
- Yes Your Honor, I Did Disclose! 4CE
- Understanding & Using NMAR Forms 8CE
- UORRA 6CE Prop Mang
- Wells & Septics 4CE

Ethics Electives:

- Handling Multiple Offers Ethically & Effectively 4CE
- NAR Code of Ethics & Enforcement 4CE

Other:

- NMREC Meeting Replay CE tbd

Electives:

- Bump In the Pipe 2CE
- Case Studies- Residential Property Management 3CE
- Going to Court- Residential Property Management 3CE

On Demand Classes:

- Handling Multiple Offers 4CE Ethics
- QB Refresher Course 6CE Core Elective





NEW MEXICO ASSOCIATION OF REALTORS® — 2023 LISTING AGREEMENT – EXCLUSIVE RIGHT TO SELL



PART I – BROKERS DUTIES

Per New Mexico law, Brokers are required to perform a specific set of applicable Broker Duties. Prior to the time the Broker generates or presents any written document that has the potential to become an express written agreement, he/she must disclose such duties and obtain written acknowledgement that the Broker has made such disclosures.

SECTION A: All Brokers in this transaction owe the following broker duties to ALL buyers and sellers in this transaction, even if the broker is not representing the buyer or the seller in the transaction:

1. Honesty and reasonable care and ethical and professional conduct;
2. Compliance with local, state, and federal fair housing and anti-discrimination laws, the New Mexico Real Estate License Law and the Real Estate Commission rules and other applicable local, state, and federal laws and regulations;
3. Performance of any and all written agreements made with the prospective buyer, seller, landlord (owner) or tenant;
4. Written disclosure of any potential conflict of interest that the broker has in the transaction, including, but not limited to;
 - A. Any written brokerage relationship the Broker has with any other parties to the transaction or;
 - B. Any material interest/relationship of a business, personal or family nature that the broker has in the transaction; or
 - C. Any written agreement the Broker has with a Transaction Coordinator who will be providing services related to the transaction.
5. Written disclosure of any adverse material facts actually known by the broker about the property or the transaction, or about the financial ability of the parties to the transaction to complete the transaction; adverse material facts requiring disclosure do not include any information covered by federal fair housing laws or the New Mexico Human Rights Act.

SECTION B: In addition to the above duties, Broker(s) owes the following Broker Duties to the buyer(s) and/or seller(s) in this transaction to whom the Broker(s) is/are directly providing real estate services, regardless of the scope and nature of those services.

1. Unless otherwise agreed to in writing by the party, assistance to the party in completing the transaction including:
 - A. timely presentation of and response to all written offers or counteroffers; and
 - B. active participation in assisting in complying with the terms and conditions of the contract and with the finalization of the transaction;

If the broker in the transaction is not providing the service, advice or assistance described in Paragraphs 1A or 1B of this Subsection, the party must agree in writing that the broker is not expected to provide such service, advice, or assistance. The broker shall disclose the existence of such agreement in writing to the other brokers involved in the transaction.
2. Acknowledgement by the broker that there may be matters related to the transaction that are outside the broker’s knowledge or expertise and that the broker will suggest that the party seek expert advice on these matters;
3. Advise to consult with an attorney regarding the effectiveness, validity or consequences of any written document generated by the brokerage or presented to the party and that has the potential to become an express written agreement;
4. Prompt accounting for all money or property received by the broker;
5. Maintenance of any confidential information learned in the course of any prior agency relationship unless the disclosure is with the former principal’s written consent or is required by law;
6. Written disclosure of brokerage relationship option available in New Mexico:
 - A. **Exclusive agency:** an express written agreement between a person and a brokerage wherein the brokerage agrees to exclusively represent as an agent the interest of the person in real estate transaction;
 - B. **Dual agency:** an express written agreement that modifies existing exclusive agency agreements to provide that the brokerage agrees to act as facilitator in the real estate transaction rather than as an exclusive agent for either party;
 - C. **Transaction Broker:** The non-fiduciary relationship created by law, wherein a brokerage provides real estate services without entering into an agency relationship.
7. Unless otherwise authorized in writing, a broker who is directly providing real estate services to a seller shall not disclose the following to the buyer in a transaction:
 - A. that the seller has previously indicated he/she will accept a sales price less than the asking or listed price;
 - B. that the seller will agree to financing terms other than those offered;
 - C. the seller’s motivation for selling/leasing; or
 - D. any other information the seller has requested in writing remain confidential, unless disclosure is required by law;
8. Unless otherwise authorized in writing, a broker who is directly providing real estate service to a buyer shall not disclose the following to the seller in the transaction:
 - A. that the buyer has previously indicated he/she will pay a price greater than the price submitted in a written offer;
 - B. the buyer’s motivation for buying; or
 - C. any other information the buyer has requested in writing remain confidential unless disclosure is required by law.

SELLER(S): PLEASE ACKNOWLEDGE RECEIPT BY INITIALING BELOW.



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PART II -OTHER REQUIRED DISCLOSURES**



Broker shall update these, and all other required disclosures as needed.

Check if Applicable

1. **TRANSACTION COORDINATOR.** Broker(s) has engaged the services of a transaction coordinator who will be assisting the broker in the processing of the real estate transaction. The transaction coordinator’s services may include, but not be limited to, the following: gathering necessary information and paperwork for and from buyers and sellers, overseeing and organizing contractual deadlines, communicating, and coordinating with lenders, title companies, inspectors, other brokers in the transaction and the parties to the contract to facilitate the closing of the real estate transaction, and assembling the final real estate transaction file for closing. **TCs OWE BROKER DUTIES AS SET FORTH ON COVER PAGE 1. ATTN TCs: USE NMAR FORM 2100 TO MAKE ANY DISCLOSURES REQUIRED BY BROKER DUTIES.**

Name of Transaction Coordinator: _____

2. **CONFLICT OF INTEREST/MATERIAL INTEREST.** Broker has a material interest or relationship of a business, personal, or family nature in the transaction. Describe that material interest and/or relationship: _____
3. **ADVERSE MATERIAL FACTS.** Explain any adverse material facts related to the Property or Transaction about which the Broker has actual knowledge. _____

4. Listing Broker is is not willing to represent both Seller and Buyer in the same transaction.

Seller is is not a New Mexico real estate Broker.

Seller is is not subject to another existing listing agreement on the subject property.

SELLER

Seller Signature _____ Printed Name _____ Date _____ Time _____

Seller Signature _____ Printed Name _____ Date _____ Time _____

SELLER'S BROKER

Seller’s Broker Name _____ Seller’s Broker’s Qualifying Broker’s Name and NMREC License No. _____

Seller’s Brokerage Firm _____ Office Phone _____ Cell Phone _____ Email Address _____

Seller’s Brokerage Address _____ City _____ State _____ Zip Code _____

Broker is is not a REALTOR®

CONSENT FOR DUAL REPRESENTATION

CONSENT FOR DUAL REPRESENTATION. By signature hereto Seller consents to Broker also representing a Buyer/Tenant in the purchase or lease, as applicable, of Seller’s Property. Seller understands that they are not obligated to consent to this dual representation. If Seller does not consent to this dual representation, and Broker is approached by an unrepresented Buyer, Broker will advise the buyer to obtain their own broker to represent them in the transaction.

 IMPORTANT NOTICE TO SELLER 

If the Broker learns of adverse material facts related to the Property in the course of representing the buyer in the transaction, and that transaction should terminate, Broker is required by law to disclose those adverse material facts to subsequent buyer.

SELLER(S)

Seller Signature _____ Printed Name _____ Date _____ Time _____

Seller Signature _____ Printed Name _____ Date _____ Time _____



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1. EXCLUSIVE SERVICES. THE UNDERSIGNED

(“Seller”) grants to the undersigned Brokerage Firm (“Brokerage”), the exclusive right to sell the real property described in Paragraph 3. Unless otherwise provided in an addendum hereto, Listing Broker (“Broker”) shall act as Seller’s Transaction Broker and NOT as Seller’s Agent; therefore, Broker shall owe Seller the Broker Duties set forth on Cover Page I, but shall NOT owe Seller fiduciary duties. It is the parties’ intention to minimize the likelihood that Seller shall be held liable for the acts and omissions of the Broker and to eliminate the possibility that Broker is held liable to Seller under agency law. Broker shall not serve as a property manager under this agreement; if such a relationship is desired, such relationship must be established through a separate agreement between Seller and Broker.

2. TERM. The term of this Agreement shall begin on , and terminate at 11:59 p.m. Mountain Time on . If a property is under contract or the Seller is negotiating a written offer with a Buyer on the date this Agreement would otherwise terminate, the term shall automatically be extended through closing or other final disposition of the Property. The word "Term" as used in this Agreement shall include all extensions.

3. PROPERTY.

A. Address (Street, City, State, Zip Code)

Legal Description
Or see metes and bounds description attached as Exhibit

Count(ies), New Mexico.

B. Type: [] RESIDENTIAL: [] Resale [] New Construction [] Site Built [] Manufactured Housing [] Modular [] Off-Site built
[] COMMERCIAL: [] Office [] Industrial [] Warehouse [] Specialty Retail [] Residential Investment (Rental) [] Shopping [] Vacant Land [] Farm and Ranch [] Other:

C. OTHER RIGHTS. Unless otherwise provided herein, Seller shall convey to Buyer all existing wind, solar, water and mineral rights appurtenant to the Property. Is Seller aware of any wind, solar, water or mineral rights that have been severed from the Property [] Yes [] No If "Yes", explain

D. FIXTURES, APPLIANCES, PERSONAL PROPERTY and EXCLUSIONS.

i. FIXTURES. The Property shall include all Fixtures, free of all liens, including, but not limited to, the following Fixtures if such Fixture exists on the Property, unless otherwise excluded as stated in Paragraph 3(D)(iii). A Fixture is defined as an article, which was once personal property, but which has now become a part of the Property because the article has been fastened or affixed to the Property. Fastened/affixed means that removal of the article causes damage to the real property, even if such damage is minor and/or can be repaired. If a unit contains components, some of which are Fixtures and some of which are Personal Property, and a Fixture component of the unit relies on one or more Personal Property components to function as it is intended to do so, then ALL components together are considered a Fixture and shall remain together, unless otherwise provided herein.

This form and all New Mexico Association of REALTORS® (NMAR) forms are for the sole use of NMAR members and those New Mexico Real Estate Licensees to whom NMAR has granted prior written authorization. Distribution of NMAR forms to non-NMAR members or unauthorized Real Estate Licensees is strictly prohibited. NMAR makes no warranty of the legal effectiveness or validity of this form and disclaims any liability for damages resulting from its use. By use of this form, the parties agree to the limitations set forth in this paragraph. The parties hereby release NMAR, the Real Estate Brokers, their Agents and employees from any liability arising out of the use of this form. You should consult your attorney with regard to the effectiveness, validity or consequences of any use of this form. The use of this form is not intended to identify the user as a REALTOR®. REALTOR® is a registered collective membership trademark which may be used only by Real Estate Licensees who are members of the National Association of REALTORS® and who subscribe to the Association’s strict Code of Ethics.



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- Attached fireplace grate(s) & screen(s)
- Attached floor covering(s)
- Attached mirror(s)
- Attached outdoor lighting & fountain(s)
- Attached pot rack(s)
- Attached window covering(s) & rod(s) (**NOT** including curtains, unless otherwise indicated below)
- Awning(s)
- Built in/attached speaker(s) & subwoofer(s)
- Built-in Murphy bed(s) (**INCLUDING** mattress)
- Central vacuum, to include all hoses & attachments
- Dishwasher(s)
- Fire Alarm(s) (if owned by Seller)
- Garbage disposal(s)
- Garage door opener(s)
- Heating system(s)
- Landscaping
- Light fixture(s)
- Mailbox(es)
- Outdoor plant(s) & tree(s) (other than those in moveable containers)
- Oven(s)
- Pellet, wood-burning or gas stove(s)
- Range(s)
- Window/door screen(s)
- Ceiling fan(s)
- Security System(s) (if owned by Seller)
- Smoke Alarm(s) (if owned by Seller)
- Solar Power System(s)/Panels (**If leased by Seller, lien may exist**)
- Sprinkler(s)/irrigation equipment
- Storm window(s) & door(s)
- TV antenna(s) & satellite dish(es)
- Ventilating & air conditioning system(s)
- Water conditioning/filtration /water softener/purification system(s) (if owned by Seller)
- TV Wall Mounts (**NOT** including TVs, unless otherwise indicated Below)

ii. PERSONAL PROPERTY. The following existing Personal Property, if checked, shall remain with the Property, shall be the actual Personal Property that is present as of the date Buyer submits his offer, shall not be considered part of the premises, and shall be transferred with no monetary value, free and clear of all liens and encumbrances. Personal Property is defined as a moveable article that is **NOT** affixed or attached to the Property.

- | | | |
|---|---|---|
| <input type="checkbox"/> Unattached window covering(s) | <input type="checkbox"/> Freestanding Range(s) | <input type="checkbox"/> Satellite receiver(s) with access cards (if owned by Seller and if transferable) |
| <input type="checkbox"/> Audio component(s) | <input type="checkbox"/> Kitchen Refrigerator(s) | <input type="checkbox"/> Unattached fireplace grate(s) |
| <input type="checkbox"/> Video component(s) | <input type="checkbox"/> Other Refrigerator(s) | <input type="checkbox"/> Unattached fireplace screen(s) |
| <input type="checkbox"/> Decorative mirror(s) above bath vanities | <input type="checkbox"/> Garage door remote(s) # _____ | <input type="checkbox"/> Unattached outdoor fountain(s) & equipment |
| <input type="checkbox"/> Dryer(s) | NOTE: If the number of garage door opener remote(s) is left blank, Seller's obligation shall be no more than one working remote. | <input type="checkbox"/> Unattached outdoor lighting |
| <input type="checkbox"/> Washer(s) | <input type="checkbox"/> Storage Shed(s) | <input type="checkbox"/> Hot Tub(s) |
| <input type="checkbox"/> Freezer(s) | <input type="checkbox"/> OTHER _____ | <input type="checkbox"/> Pool & spa equipment including any mechanical or other cleaning system(s) |
| <input type="checkbox"/> Microwave(s) | | |
| <input type="checkbox"/> TV(s) | | |

iii. EXCLUSIONS. The following items are excluded from the sales: _____

IT IS THE SELLER'S RESPONSIBILITY TO ENSURE THAT THESE EXCLUSIONS ARE CONTAINED IN THE FINAL PURCHASE AGREEMENT.

- 4. LISTING PRICE.** The listing price shall be \$ _____
 Other terms and conditions: _____
- 5. BROKER OBLIGATIONS.** Broker will use diligence in effecting the sale of the Property, to include the following:
- A.** Assisting Seller in locating qualified buyers;
 - B.** If requested, assisting potential buyers in preparing offers and locating financing;
 - C.** Assisting Seller in monitoring pre-closing and closing procedures; and
 - D.** Unless otherwise waived by Buyer, prior to accepting an Offer to Purchase; (1) requesting from the County Assessor the Estimated Property Tax Levy with respect to the Property, specifying the listed price as the value of the Property to be used in the estimate, and; (2) providing a copy of the Assessor's response in writing to the prospective Buyer(s) or the Buyer's Broker.
- 6. SELLER OBLIGATIONS.** Seller agrees to the following:
- A.** To provide to Broker Firm all available data, records, and documents relating to the Property;
 - B.** To allow Broker or cooperating Brokers to show the Property at reasonable times and upon reasonable notice;



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- C. To refer to Broker all inquiries relating to the sale/lease of the Property;
- D. To respond to all offers presented. If Seller is rejecting an offer, Seller agrees to complete the “Rejects Offer” box on the offer, if such a provision exists on the offer or to otherwise provide some written rejection of the offer;
- E. To commit no act which might tend to obstruct Broker's performance under this Agreement;
- F. In the event of a sale, to provide all documents necessary to complete the sale; and
- G. That Seller will provide an Adverse Material Facts Disclosure Statement (NMAR Form 1110). Per the NMAR Form 2104 — Purchase Agreement — Residential Resale, Seller is required to disclose known adverse material facts concerning the property.
- H. To inform Broker if Seller is or begins using any audio or video surveillance systems in/on the Property. Seller IS NOT using any audio or video surveillance in/on the Property. If applicable, type of surveillance audio video.
- I. To secure all pets, valuables, medication, and weapons accordingly when the Property is made available for showings; Broker does not guarantee the security of any of the foregoing against acts of third parties. See Release of Liability, Paragraph (14).

7. OFFERS.

- A. **Oral Offers.** Broker shall NOT be required to submit to Seller **ORAL** offers to purchase or lease the Property.
- B. **Offers Received After Contract.** If Seller enters into a written agreement for the sale or lease of the Property, unless that agreement is terminated, or the interest of the Buyer is forfeited, Broker shall shall not be required to submit additional offers to Seller.
- C. **Offer Letters.** An Offer Letter is a letter written by a buyer interested in purchasing a home that often provides personal information about the buyer and includes reasons why the buyer wishes to purchase the home and/or reasons why, from the buyer’s perspective, the seller should sell the home to that particular buyer. In a competitive market, with multiple buyers interested in a home, Offer Letters may assist a seller in determining to whom the seller wishes to sell. **However, sellers should be cautious in accepting Offer Letters from buyers, as Offer Letters have the potential to expose a seller to a claim of discrimination under the Federal Fair Housing Act, as well as the New Mexico Human Rights Act.** Both of these Acts prohibit discriminating against buyers based on their inclusion in certain protected classes (See. Paragraph. 19). Offer Letters may include personal facts about a Buyer that would indicate to a seller that the buyer falls into one of these protected classes. If/When a seller decides not to sell their home to the buyer who wrote the Offer Letter, that buyer may believe and therefore, claim, that the reason the Seller rejected the buyer's offer was because the buyer was a member of one of those protected classes. Seller WILL WILL NOT accept Offer Letters from buyers.

! MLS ENTRY RULE !

All Multiple Listing Services require Brokers to enter residential listings into the MLS for dissemination within one (1) business day of conducting any public marketing of the Property. Public marketing includes, but is not limited to flyers displayed in windows, yard signs, digital marketing on public facing websites, brokerage website displays (including IDX and VOW), digital communications marketing (email blasts), multi-brokerage listing sharing networks, and applications available to the general public. If/While Property listing is withheld from dissemination through the MLS, Broker may ONLY market the Property within the Broker’s brokerage. This is referred to as an “Office Exclusive”.

8. SELLER AUTHORIZATIONS

- A. **AUDIO/VIDEO SURVEILLANCE.** In the event Seller is using or begins to use audio or video surveillance, Broker is authorized to notify other brokers and/or buyers of such use by any means appropriate as determined by Broker in Broker’s sole discretion.
- B. **USE OF LISTING CONTENT; INTELLECTUAL PROPERTY LICENSE**
 - i. If Seller(s) authorizes Broker to submit the Property's listing information to the MLS, Seller understands and agrees that all content relating to the Property provided by Seller to Broker, including, but not limited to photographs, images, graphics, video recordings, virtual tours, drawings, written descriptions, remarks, narratives, pricing information, and other copyrightable elements ("Seller Listing Content"), or any content otherwise obtained or produced by Broker in connection with this Agreement ("Broker Listing Content"), and any



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changes to the Seller Listing Content or the Broker Listing Content, may be filed with one or more MLSs and included in compilations of listings; and

- ii. Seller(s) understand(s) and acknowledges that the MLS will disseminate the Property's listing information to all MLS Brokers who operate Internet web-sites, as well as on-line providers such as www.realtor.com, and that the information on those web-sites may generally be available to the public, further distributed, and reproduced; and
- iii. Seller hereby grants to Broker a non-exclusive, irrevocable, worldwide, royalty free license to use, sublicense through multiple tiers, publish, display, and reproduce the Seller Listing Content, to prepare derivative works of the Seller Listing Content, and to distribute the Seller Listing Content or any derivative works thereof. This non-exclusive license shall survive the termination of this Agreement.

C. BUYER BROKERS/BUYERS ACCESS TO PROPERTY. Subject only to the restrictions listed below, Seller authorizes Broker to allow buyer brokers and/or buyers access to the interior and exterior of the Property.

Restrictions:

- NONE
- If Tenant Occupied, subject to required notice under the law. Name and Contact Information of Property Manager, if applicable: _____
- List Restrictions: _____

D. BROKER CONSENT REQUIRED TO MODIFY.

The following Seller's authorizations serve as material inducement for formation of this agreement and may not be withdrawn without Broker's written consent. Seller's attempt at non-compliance with this provision constitutes interference with Broker's ability to perform under this Agreement and a material default of this Agreement, which entitles Broker to all remedies available through law and/or equity.

SELLER AUTHORIZES:

- | | YES | NO |
|--|--------------------------|--------------------------|
| i. MLS. Unless otherwise provided in Paragraph 9, Brokerage Firm to list the Property with the MULTIPLE LISTING SERVICE ("MLS") , or LISTING EXCHANGE (LEX) , if any, of the local Board or Association of REALTORS®. Seller acknowledges that by placing the Property in the MLS, Broker is required to adhere to all MLS Rules and Regulations, which includes reporting the terms of the sale to the MLS; | <input type="checkbox"/> | <input type="checkbox"/> |
| ii. INTERNET. Broker to place Property and/or allow the MLS to place Property for display on the Internet. If Seller does not want the Property to be displayed on the Internet, then Seller acknowledges that the listing will not appear on ANY Internet sites, including, www.realtor.com or the listing Broker's website and that consumers who conduct searches for listings on the Internet will not see information about the Property in response to their searches. With the exception of removal from other MLS participants' Internet websites, under NO circumstances shall Broker be responsible for removing the listing from Internet websites of online providers once Seller has authorized Broker and/or MLS to place Property on the Internet. | <input type="checkbox"/> | <input type="checkbox"/> |
| iii. SIGNAGE. Broker to place a "For Sale" sign on the Property, if not otherwise prohibited; | <input type="checkbox"/> | <input type="checkbox"/> |
| iv. KEYS. Broker to provide keys to other Brokers and Agents and other authorized personnel to show the Property and to permit access for marketing and inspections; | <input type="checkbox"/> | <input type="checkbox"/> |
| v. PROPERTY INFORMATION. Broker to obtain information about the Property, such as utility loan bills, information, documents, surveys or ILR's, etc.; | <input type="checkbox"/> | <input type="checkbox"/> |
| vi. LOCKBOX. Installation of a lockbox on the Property to show the Property. A lockbox is a locked container on the Property in which a key is placed. The lockbox may be opened by a key, combination, or programmer key, permitting access to the Property. Seller acknowledges that a lockbox and any other keys left with or available to Broker will permit access to the Property by Broker or any other broker, with or without potential purchasers or tenants even when Seller or occupant is absent. Seller further acknowledges that, from time to time, unauthorized persons may have gained access to properties using lockboxes. Seller acknowledges that neither the Brokerage, Broker, nor | <input type="checkbox"/> | <input type="checkbox"/> |



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any Board or Association of REALTORS® is insuring Seller or occupant against theft, loss or vandalism resulting from any such access.

- vii. **PHOTOGRAPHY.** In accordance with state and federal law, Broker to take and/or contract with a third-party vendor to take photographs and/or video ("Images") of the Property, including aerial (drone) Images, and to use such Images to market the Property as Broker deems appropriate.

viii. **OTHER:** _____

YES	NO
<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/>	<input type="checkbox"/>

D. NO BROKER CONSENT REQUIRED TO MODIFY. Seller may modify Seller's authorization below at any time with written notice to Broker.

- i. **OFFERS.** Broker to divulge terms existence of offers on the Property in response to inquiries from buyers or cooperating brokers.
- ii. **OPEN HOUSES BY OTHER BROKERS.** Broker to authorize Associate and Qualifying brokers within Broker's Brokerage* and/or Qualifying Brokers outside Brokers Brokerage to hold an Open House of Property. (check all that apply). ***IMPORTANT NOTE TO BROKERS;** Per NMREC rules, associate brokers ("AB") under the same qualifying broker ("QB") can hold open houses for one another. ABs under different QBs **WITHIN THE SAME BROKERAGE** can hold open houses for one another **IF** the independent contractor agreement between the AB holding the open house and his/her QB allows the AB to conduct work for other QBs within the brokerage. **Only QBs can hold open houses for brokerages other than their own and ABs engaging a QB from another brokerage to hold an Open House should notify his/her QB.**

iii. **PROPERTY ADDRESS; AVMS; BLOGGING. THIS SECTION ONLY APPLIES IF SELLER HAS AUTHORIZED BROKER TO PLACE PROPERTY ON THE INTERNET.** Upon written notice to Broker of any change in Seller's authorizations, Broker shall transmit the request to the MLS.

If Seller(s) authorizes Broker to submit the Property's listing information to the MLS in which Broker participates, some, but not necessarily all, websites to which the listing is disseminated may have features that either allow viewers to make comments about the Property that can be seen by others viewing the Property listing (blogging) or that provide a link to comments made by others about the Property. Additionally, those websites may include with the Property Listing an automated estimate of the market value of the Property or a link to the estimate.

- a. Seller(s) does does not want the address of the listed Property to be displayed on the Internet. If Seller(s) indicates that he/she does not want the Property address to be displayed on the Internet, then the Property will be disseminated via the Internet, but the Property address will not appear in conjunction with the listing.
- b. Seller(s) does does not want the viewers of the Property to have the capability to provide comments (blog) about the Property. If Seller(s) indicates that he/she does not want the blogging feature activated, then this feature will be disabled on all MLS participants' Internet websites. **However, this feature may still appear on the Internet websites of other on-line providers that are not MLS participants.**
- c. Seller(s) does does not want the site operator to allow/provide an automated estimate of the value of the Property (AVM) or a link to the same. If Seller(s) indicates that he/she does not want the AVM feature activated, then this feature will be disabled on all MLS participants' Internet websites. **However, this feature may still appear on the Internet websites of other on-line providers that are not MLS participants.**
- d. **OTHER:** _____

E. REPORTING FALSE INFORMATION. If Seller(s) believes that information about the Property appearing on another MLS participant's website is false, he/she should notify the listing Broker who shall bring the false information to the specific website operator, along with an explanation as to why the information is false. The website operator shall have the obligation under MLS Policy to remove any false information. **Information found on some public-facing websites may be inaccurate; however, Broker has limited, and in some cases no, ability to remove false information from non-MLS participants' websites.**

9. WAIVER OF MARKETING THROUGH OR DELAYED ENTRY INTO THE MLS. THIS SECTION TO BE COMPLETED ONLY IF PROPERTY WILL NOT BE ENTERED INTO THE MULTIPLE LISTING SERVICE (MLS) WITHIN 48 HOURS OF THE BEGINNING TERM DATE SET FORTH IN PARAGRAPH 2. DUE TO MLS RULES, IF/WHILE LISTING IS WITHHELD FROM DISSEMINATION THROUGH THE MLS, BROKER MAY NOT CONDUCT ANY PUBLIC MARKETING OF THE PROPERTY, BROKER MAY ONLY MARKET THE PROPERTY WITHIN THE BROKER'S BROKERAGE. NMAR Form 1820 – Information Sheet – Multiple Listing Service. NOTE:



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Broker's MLS may also require Seller to complete a Waiver Form if/while the Property is not being marketed through the MLS. **Check applicable provision.**

- A. Broker shall not market Property through the MLS. **Seller acknowledges he/she has been informed of the marketing benefits of the MLS and Seller hereby waives such marketing benefits.**
- B. Broker shall begin marketing the Property in the MLS within 48 hours of _____ (DATE)
or _____ (EVENT).

10. TENANT OCCUPIED PROPERTY. If Property is currently tenant-occupied, then Seller must obtain written consent from Tenant for the following and provide such consent to Broker: (NMAR Form # 2110 – Tenant's Consent to Photograph Videograph):

- A. To photograph/videograph the inside of the Property. If Seller is unable to obtain such authorization, Broker shall not photograph or videograph the inside of the Property; Broker shall only photograph/videograph the Property from the public street;
- B. To hold an "Open House" to allow prospective Buyers to inspect the Property. If Seller is unable to obtain such authorization, Broker shall not hold an "Open House" of the Property. **NOTE: Tenant's grant of consent allowing Broker to hold an "Open House" does not obligate Broker to do so.**

11. COMPENSATION.

A. SALE.

i. **Agreement to Pay Compensation.** In the event of the following, Seller agrees to pay Brokerage Firm as compensation for sale of the Property: _____% OF SALES PRICE plus New Mexico Gross Receipts Tax ("GRT") or \$ _____ plus GRT ("Sales Compensation"). In accordance with New Mexico law, the GRT Rate shall be based on the location of the Property. **GRT Location Code _____ (to be completed by Broker).** The term "sale" and "sell" or any conjugation thereof shall include Seller's grant of an option to purchase the Property, an exchange of the Property and all other transfers of any interest in the Property.

- a. If during the term of this Agreement, the Property is sold through Seller or any other source; OR
- b. If the sale of the Property is made by Seller within _____ days after the term of this Agreement (the "Protection Period") to persons who were introduced to the Property during the term, PROVIDED HOWEVER, that Broker submits to Seller a notice or other writing, either before or within five (5) days after the end of the Term, which discloses the names of the prospective buyers or their brokers. It shall not be necessary to provide the name(s) of any buyer who has made an offer to purchase the Property. Except as provided in Paragraph 11(A)(i)(c), the Protection Period shall terminate upon Seller entering into a written exclusive listing agreement with another licensed real estate broker; OR
- c. If at ANY time, a Buyer who obtained an option to purchase during the term of this Agreement exercises that option, Compensation shall be based on sales price of Property. **This provision WILL CONTINUE TO APPLY even if Seller enters into a written exclusive listing agreement with another licensed real estate broker.**

ii. **Compensation to Buyer's Broker.**

a. **If an amount is set forth in Paragraph 11(A)(ii)(b) below, this is the amount typically communicated to all buyers' brokers through the MLS, signaling to them the amount they would receive if a buyer, who they brought to the Property, ultimately purchased and closed on the Property. It is important to note that MLSs do NOT require Listing Brokers to make an offer of compensation, and if compensation is offered, do NOT dictate the amount of compensation offered. If the Listing Brokerage makes and pays compensation to a buyer's broker, the buyer broker compensation will be paid from the Listing Brokerage's Sales Compensation as set forth in Paragraph 11(A)(i). Payment of any buyer-broker compensation under this subparagraph will NOT result in Seller paying any amounts to the Listing Brokerage in excess of the Sales Compensation in Paragraph 11(A)(i).**

b. **(Check ONLY if applicable)** In the event of sale, Seller authorizes Brokerage to SHARE the Sales Compensation with the buyer's brokerage that procured the buyer as follows: _____% of Sales Price plus GRT or \$ _____ plus GRT.

iii. **Seller Paying Bonus to Buyer's Broker. (Check ONLY if Applicable) IN ADDITION to the Sales Compensation,** as set forth in Para. 11(A), Seller will pay a bonus of _____% of sales price, plus GRT or \$ _____ plus GRT to a Buyer's Broker under terms and conditions as set forth in NMAR Form 4660 — Seller's Bonus to Buyer's Broker ("Bonus"). Broker is authorized to promote this Bonus in any and all advertising, including, but not limited to the MLS listing.



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- B. OTHER EVENTS.** Notwithstanding any provision to the contrary, the parties agree that if any of the following events shall occur, that actual damages suffered by the Broker will be difficult to determine with certainty; therefore the parties agree that Seller shall pay Broker compensation as follows: _____ PLUS New Mexico GRT. For GRT Location Code, See Paragraph 11(A). If amount is based on a percentage, the percentage shall be based on the Listing Price or other amount as set forth below.
- i. If during the term of this Agreement, Brokerage Firm, Seller or anyone else produces or finds a buyer ready, willing and able to purchase the Property at the price offered in this Agreement and on terms reasonable and customary for a sale of this type AND Seller refuses to contract with the potential Buyer;
 - ii. If during the term of this Agreement, Brokerage Firm, Seller or anyone else produces or finds a buyer ready, willing and able to purchase the Property at a price and on terms acceptable to Seller as evidenced by Seller's acceptance of the buyer's offer AND Seller defaults on the purchase agreement by refusing to close on the sale of the Property, Compensation shall be based on sales price as set forth in contract for sale signed by Seller.
 - iii. If during the term of this Agreement, Property is made unmarketable by Seller's voluntary act;
 - iv. If during the term of this Agreement, withdrawn from sale;
 - v. If during the term of this Agreement, Seller otherwise breaches this agreement in a manner including, but not limited to refusing to cooperate with Broker or unilaterally terminating this Listing Agreement.
- C.** The Compensation shall be paid upon the earlier of the Closing or ten (10) calendar days after the occurrence of the event set forth in Paragraph 11(B).
- D.** Notwithstanding the foregoing, upon forfeiture of Earnest Money by a prospective buyer, Broker shall be entitled to one-half the earnest money, not to exceed Broker's compensation set forth above.

ACKNOWLEDGMENT BY SELLER: By signature to this Agreement, Seller warrants they have read and understand the above compensation provisions. Further Seller understands the amount of compensation paid by a Seller to a Listing Brokerage or any amounts the Listing Brokerage pays to a buyer's brokerage, if authorized above, is **NOT** dictated by MLS rules, the local, state or National Association of Realtors® or local, state or national law. Seller agrees that the Sales Compensation and any buyer broker compensation agreed to in this Paragraph 11 is an amount that the Seller and Listing Brokerage have freely negotiated and agreed upon.

Seller's Initials: _____ / _____

12. COMPENSATION FOR LEASE. Does Apply Does Not Apply

- A.** In the event Seller elects to lease the Property, Seller agrees to pay Brokerage Firm the following amount as compensation for the lease of the property:

PLUS New Mexico GRT upon the occurrence of any of the following. In accordance with New Mexico law, the GRT shall be based on the location of the Property. For GRT Location Code, See Paragraph 11(A).

- i. If during the term of this Agreement, the Property is leased through Broker, Seller or any other source; OR
 - ii. The lease of the Property is made by Seller within _____ days after the term of this Agreement (the "Protection Period") to persons who are introduced to the Property during the term, PROVIDED HOWEVER, that Broker submits to Seller a notice or other writing, either before or within five (5) days after the end of the Term, which discloses the names of prospective tenants or their brokers. It shall not be necessary to provide the name(s) of any buyer or tenant who has offered to buy or lease the Property. Except as provided in Paragraph 12(B) below, the Protection Period shall terminate upon Seller entering into a written exclusive listing or property management agreement with another licensed real estate broker to lease the Property.
- B.** If Seller enters into a lease agreement during the term of this Agreement or the Protection Period, with respect to any holdovers or renewals of the lease, regardless of whether this Listing Agreement or the Protection Period has expired, Seller agrees to pay a compensation of _____. In the event this paragraph is left blank, the compensation shall be the lease compensation as set forth in Paragraph 12(A) above. This Paragraph 12(B) shall NOT terminate upon Seller entering into a written exclusive listing agreement with another licensed real estate broker.
- C.** Seller authorizes Listing Brokerage Firm to share compensation with a cooperating Brokerage Firm that procures a Tenant as follows: _____



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D. Notwithstanding the foregoing, nothing herein creates a property management agreement with Seller and Broker assumes NO property management responsibilities.

13. SELLER WARRANTIES; REPRESENTATIONS.

A. WARRANTIES.

- i. **AUTHORITY/OWNER OF RECORD:** Except as otherwise disclosed to Broker in writing, the person or persons designated as Seller above and in the signature block of this Agreement is owner of record of the Property and has the authority to enter into this Agreement. Seller further warrants that there are no other owners of record of the Property, unless otherwise indicated: _____
- ii. **INSURANCE:** Seller has and shall maintain insurance covering personal injury on and property damage to the Property and shall continue to do so during the Term of this Agreement. In the event the Property is or becomes vacant during the term of this Agreement, Seller shall notify Seller's casualty insurance company and obtain any endorsement necessary to maintain insurance coverage.
- iii. **SELLER PROVIDED INFORMATION:** Seller has accurately disclosed to Broker all adverse material facts and information concerning the Property known to Seller, including, but not limited to, all material information relating to: connection to a public sewer system, septic tank or other sanitation system; the existence of any tax, judgment or other type of lien; present infestation by or treatment for wood-destroying pests or organisms; and past or present repair of the Property for damage resulting from wood destroying pests or organisms. During the term of this Agreement, Seller agrees to continue disclosing to Broker all additional information of the type required by the preceding sentence promptly after Seller becomes aware of any such information.
- iv. **INTELLECTUAL PROPERTY LICENSE.** Seller Listing Content, and the license granted to Broker for the Seller Listing Content, do not violate or infringe upon the rights, including any copyright rights, of any person or entity. Seller acknowledges and agrees that as between Seller and Broker, all Broker Listing Content is owned exclusively by Broker, and Seller has no right, title or interest in or to any Broker Listing Content.

B. REPRESENTATIONS.

- i. Unless otherwise provided herein, there are no delinquencies or defaults under any Deed of Trust, Mortgage, or other Encumbrance on the Property and the Property is not subject to any current litigation: Explain Delinquencies/Defaults: _____
- ii. Is this a Short Sale? YES NO If yes, attach NMAR Form 2109 — Short Sale Addendum to Listing Agreement.
- iii. During the ownership of the Property, has Seller declared bankruptcy? YES NO, or engaged in a loan modification? YES NO. If yes to either, Seller should determine what, if any implications, such bankruptcy and/or loan modification may have on the sale of the Property.
- iv. Is the Seller receiving benefits from any employer, relocation company, or other entity that provides benefits to Seller when selling the Property YES NO. If yes, provide name. _____
- v. Does any person/entity have an Option or a Right of First Refusal ("RFR") to Purchase the Property? YES NO. If yes, provide a copy of the Option or RFR to Purchase.

14. HOLD HARMLESS; INDEMNIFICATION; RELEASE.

- A. **HOLD HARMLESS AND INDEMNIFICATION.** Seller shall hold harmless and indemnify Brokerage Firm and Broker from any liability or damages, including attorneys' fees, arising out of the following:
 - i. incorrect or undisclosed information about the Property, which Seller knew or should have known;
 - ii. claims for any personal injury to third-parties or damage to the personal property of third parties occurring on the Property, provided such injury and/or damage is not due to Broker's own negligent, reckless or intentional actions. Such damages or claims to include costs and attorney's fees;
 - iii. infringement of any copyright arising out of Broker's use of Seller Listing Content.
- B. **SELLER RELEASE.** Provided the following damages, claims or liability do not arise from the intentional, reckless or negligent acts of Brokerage Firm, Broker or cooperating Broker, Seller agrees that neither Brokerage Firm, Broker, nor any cooperating Broker shall be liable for any damages or claims for any personal injury or damage to real or personal property caused by acts of third parties, including, but not limited to, vandalism and theft or to acts outside of the parties' control, including, but not limited to, acts of God and freezing water pipes. The Broker shall not be responsible for maintenance of the Property unless otherwise agreed to in writing.



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- 15. IMPORTANT NOTICE TO SELLER:** BROKER IS NOT RESPONSIBLE FOR VERIFYING AUTHENTICITY/ VERACITY OF PRE-QUALIFICATION OR PROOF-OF-FUNDS LETTERS OR FOR DETERMINING BUYER’S CREDITWORTHINESS.
- 16. SERVICE PROVIDER RECOMMENDATIONS.** If Broker recommends a builder, contractor, escrow company, title company, pest control service, appraiser, lender, attorney, accountant, home inspection company or home warranty company or any other person or entity to Seller for any purpose, such recommendation shall be independently investigated and evaluated by Seller, who hereby acknowledges that any decision to enter into any contractual arrangement with any such person or entity recommended by Broker shall be based solely upon such independent investigation and evaluation.
- 17. INSPECTION REPORTS.** The NMAR Purchase Agreement provides that if buyer opts to terminate the Purchase Agreement after conducting inspections of the Property, the buyer is NOT required to provide a copy of the inspection report to Seller unless otherwise directed by the Seller in writing. Further, if buyer objects to issues identified during the inspection, the Buyer is only required to provide a copy of the **section** of the report on which the objection is based unless otherwise directed by Seller in writing. The Purchase Agreement is structured like this for the following reasons:
1) if Seller receives information regarding adverse material facts in the Property and the contract terminates, the Seller and Broker will be required to provide this information to subsequent buyers; and (2) many inspection reports contain copyright language prohibiting the customer (who in most cases is the buyer) from sharing, reproducing or distributing the report, which means that adverse material facts identified in the report would have to be transferred into NMAR Form 1110 —Adverse Material Facts or otherwise disclosed in writing.
- 18. FIRPTA.** The Foreign Investment in Real Property Tax Act of 1980 (“FIRPTA”) requires buyers who purchase real property from foreign sellers to withhold a portion of the amount realized from the sale of the real property for remittance to the Internal Revenue Service (“IRS”). In the event the seller(s) is NOT a foreign person, FIRPTA requires the buyer to obtain proof of the seller’s non-foreign status in order to avoid withholding requirements. Exceptions may apply. For more information, refer to NMAR Form 2304 – Information Sheet – FIRPTA & Taxation of Foreign Persons Receiving Rental Income from U.S. Property. In the event exceptions to FIRPTA do not apply, then prior to or at Closing, Seller(s) shall provide to Buyer or to a Qualified Substitute (generally, the Title Company) either a Non-Foreign Seller Affidavit(s) (NMAR Form 2303) OR a letter from the IRS indicating Seller(s) is exempt from withholding. In the event Seller(s) fails to do so, Buyer shall have the right to withhold the applicable percentage of the amount realized from the sale of the Property for remittance to the IRS in accordance with IRS requirements.
- 19. NON-DISCRIMINATION.**
- A. RESIDENTIAL:** Seller understands that federal housing laws, the New Mexico Human Rights Act, and the New Mexico Real Estate Commission Regulations prohibit discrimination in the sale, rental, appraisal, financing, or advertising of housing or other property on the basis of race, color, religion, sex, sexual orientation, gender identity, familial status, spousal affiliation, physical or mental handicap, national origin, or ancestry and in some circumstances, age.
- B. COMMERCIAL:** Seller understands that the New Mexico Human Rights Act prohibits discrimination in the sale or lease of any real property on the basis of race, religion, color, national origin, ancestry, sex, sexual orientation, gender identity, physical or mental handicap or spousal affiliation.
- 20. FARMS AND RANCHES.** The Agricultural Foreign Investment Disclosure Act ("AFIDA") requires disclosure of a transfer of interest in certain agricultural land (including farms and ranches) to or from a Foreign Person to the Farm Service Agency (FSA) within ninety (90) days of the transaction, on a form provided by the FSA. AFIDA does not apply to agricultural land if in the aggregate it is not more than ten (10) acres and if the gross annual receipts from sale of farm, ranch, farming or timber products do not exceed \$1,000.00. A "foreign person" is certain foreign corporations or a person who is not a citizen of the U.S. or U.S. territories, who is not a permanent resident and who is not paroled into the U.S. (NMAR 2304A — Information Sheet — AFIDA).
- 21. LEAD-BASED PAINT.** Are there buildings on the Property that were built prior to 1978? Yes No. If no, proceed to Paragraph (22).
- A. DISCLOSURE AND INFORMATION REQUIREMENTS:** If a residence on the Property was constructed before 1978, Seller **MUST** provide the following information to the Buyer. The Buyer should receive this information **BEFORE** making an offer on the Property. **Seller cannot legally accept Buyer's offer unless Buyer has received all of the following AND completed NMAR Form 5112 - Lead-Based Paint Addendum to the Purchase Agreement.**



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- i. The pamphlet titled, "Protect Your Family from Lead in Your Home".
 - ii. Disclosure of known presence of lead-based paint and lead-based paint hazards;
 - iii. A list and copies of all reports and records available to Seller pertaining to lead-based paint and lead-based hazards on the Property; and
 - iv. A ten (10) day opportunity (or mutually agreed upon period) for the Buyer to conduct a risk assessment or inspection for the presence of lead-based paint hazards. Buyer may waive this opportunity (NMAR Form 5112 — Lead-Based Paint Addendum)
- B. REPAIRS AND RENOVATIONS;** If the Property falls under the Lead-Based Paint Renovation, Repair and Painting Program ("Program"), AND there have been renovations or repairs made to the Property that are governed by the Program, Seller will will not provide a Lead-Based Paint Renovation, Repair and Painting Disclosure Addendum (NMAR Form 5112A — Lead-Based Paint Renovation, Repair and Painting Disclosure Addendum.) For definitions of properties and renovations covered by the Program refer to NMAR Form 2315 — Information Sheet — Lead-Based Paint (LBP) Renovation, Repair and Painting.
- 22. PUBLIC IMPROVEMENT DISTRICT:** Is the Property located in a Public Improvement District? Yes No. **If yes, PER NEW MEXICO LAW, SELLER IS PROHIBITED FROM ACCEPTING AN OFFER TO PURCHASE UNTIL SELLER HAS PROVIDED SPECIFIC DISCLOSURES TO THE BUYER.**
- 23. HOMEOWNERS'/CONDOMINIUM UNIT OWNERS' ASSOCIATION ("HOA/CUOA"):** Is Property located in an HOA OR CUOA? Yes No If yes, Per New Mexico law, Seller is required to provide specific disclosures to the buyer. For HOAs, see NMAR Form 4600 — Information Sheet - Homeowners' Association, NMAR Form 4650 — Seller's Disclosure of Homeowners' Association Documents and NMAR Form 4700 — Homeowners' Association Document and Disclosure Certificate. For CUOAs, see NMAR — Form 2356 — Condominium Association Information Sheet and NMAR Form 2302, Residential Re-Sale Condominium Addendum.
- 24. MEDIATION AND ARBITRATION.** If a dispute arises between the parties relating to this Agreement, the parties shall submit the dispute to mediation, jointly appoint a mediator and share equally in the costs of the mediation. If a mediator cannot be agreed on or mediation is unsuccessful, the dispute shall be settled by arbitration in accordance with the Uniform Arbitration Act. Judgment upon the award rendered may be entered and enforced in any court of competent jurisdiction. NMAR Form 5118 — Information Sheet — Mediation Information for Clients and Customers.
- 25. EXPERT ASSISTANCE.** Broker advises Seller to obtain expert assistance regarding legal, tax, and accounting matters or matters relating to zoning, surveying, inspections, construction, hazardous materials, engineering, or other matters which are not within the expertise of Broker. Broker shall have no liability with respect to such matters.
- 26. CONSENT TO THE ELECTRONIC TRANSMISSION OF DOCUMENTS AND TO THE USE OF ELECTRONIC SIGNATURES.** The parties do do not consent to conduct any business related to and/or required under this Agreement by electronic means, including, but not limited to the receipt of electronic records and the use of electronic signatures. Subject to applicable law, electronic signatures shall have the same legal validity and effect as original hand-written signatures. Nothing herein prohibits the parties from conducting business by non-electronic means. If a party has consented to receive records electronically and/or to the use of electronic signatures, that party may withdraw consent at any point in the transaction by delivering written notice to the other party.
- 27. ATTORNEY FEES AND COSTS.** Should any aspect of this Agreement result in arbitration or litigation, the prevailing party of such action, shall be entitled to an award of reasonable attorneys' fees and court costs.
- 28. TIME IS OF THE ESSENCE.** Time is of the essence with respect to the parties' performance under this Agreement
- 29. FORCE MAJEURE.** Seller or Broker shall not be required to perform any obligation under this Contract or be liable to each other for damages so long as performance or non-performance of the obligation, or the availability of services, is disrupted, delayed, caused or prevented by Force Majeure. "Force Majeure" means: hurricanes, floods, extreme weather, earthquakes, fire, or other acts of God, unusual transportation delays, or wars, insurrections, acts of terrorism, pandemics or diseases or any governmental authority taken in response to a pandemic. All time periods will be extended up to 10 days after the Force Majeure no longer prevents performance under this Agreement, provided, however, if such Force Majeure continues to prevent performance under this Agreement more than 30 days, then either party may terminate this Agreement by delivering written notice to the other. This provision applies whether or not the underlying applicable event is foreseeable at the time of execution of this Agreement.
- 30. GOVERNING LAW AND VENUE.** This Agreement is to be construed in accordance with and governed by the internal laws of the State of New Mexico without giving effect to any choice of law rule that would cause the application of the



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laws of any jurisdiction other than the internal laws of the State of New Mexico to the rights and duties of the parties. Each party hereby irrevocably consents to the jurisdiction and venue of the state and federal courts located in the county in which the Brokerage is located in connection with any claim, action, suit, or proceeding relating to this Agreement and agrees that all suits or proceedings relating to this Agreement shall be brought only in such courts.

- 31. **SEVERABILITY.** If any portion of this Agreement is found by any court of competent jurisdiction to be invalid or unenforceable, the remainder of this Agreement shall remain in full force and effect.
- 32. **HEIRS AND ASSIGNS.** This Agreement shall apply to, be binding upon and enforceable against and inure to the benefit of the parties hereto and their respective representatives, successors, permitted assigns, heirs and estates.
- 33. **AUTHORITY OF SIGNORS.** If Seller is a corporation, partnership, estate, trust, limited liability company or other entity, the person signing this Agreement on its behalf warrants their authority to do so and to bind the Seller for which they are signing.
- 34. **SURVIVAL OF OBLIGATIONS: The following provisions and paragraphs shall survive termination of this Agreement:** 11(A)(i)(b), 11(A)(i)(c), 24, 27, 29, 30, 31, 32, 33, 34, 36.
- 35. **ADDITIONAL TERMS.**

- 36. **ENTIRE AGREEMENT, ADDENDA IN WRITING.** This Agreement, together with the any addenda and any exhibits referred to in this Agreement, contains the entire Agreement of the parties and supersedes all prior agreements with respect to the subject matter, which are not expressly set forth herein. This Agreement may be modified only by written agreement of the parties.

Agency Addendum Other: _____
 Short Sale Addendum Other: _____

The New Mexico Association of REALTORS® and the local board or association of REALTORS® do not fix, control, recommend, suggest or maintain compensation rates for services to be rendered by members, nor the division of Broker's compensation between Broker and cooperating Brokers in a transaction. The amount of compensation and the terms of the Agreement are not prescribed by law and are subject to negotiation.



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THE LISTING AGREEMENT–EXCLUSIVE RIGHT TO SELL IS BY AND BETWEEN BROKERAGE FIRM,
_____ AND _____

⚠ ATTENTION BUYERS AND SELLERS ⚠
THE OBLIGATIONS/RESPONSIBILITIES SET FORTH IN THE PURCHASE AGREEMENT ARE THOSE OF THE PARTIES TO THE PURCHASE AGREEMENT AND NOT OF THE BROKERS.

⚠ ATTENTION SELLERS: WIRE FRAUD ALERT ⚠

- Criminals are hacking email accounts of real estate Brokers, title companies, settlement attorneys and others, resulting in fraudulent wire instructions being used to divert funds to the account of the criminal.
- The emails look legitimate, but they are not.
- Buyer and Seller are advised not to wire any funds without personally speaking with the intended recipient of the wire to confirm the routing number and the account number.
- Buyer and Seller should NOT send personal information such as social security numbers, bank account numbers and credit card numbers except through secured email or personal delivery to the intended recipient.

SELLER(S)

_____ Seller Signature	_____ Printed Name	_____ Date	_____ Time
_____ Seller Signature	_____ Printed Name	_____ Date	_____ Time

LISTING/SELLER'S BROKER

_____ Seller's Broker Name	_____ Seller's Broker Signature		
_____ Seller's Qualifying Broker's Name	_____ Seller's Qualifying Broker's NMREC License No.		
_____ Seller's Brokerage Firm	_____ Office Phone	_____ Cell Phone	
_____ Seller's Brokerage Address	_____ City	_____ State	_____ Zip Code
_____ Seller's Broker Email Address		Broker <input type="checkbox"/> is <input type="checkbox"/> is not a REALTOR®	



**NEW MEXICO ASSOCIATION OF REALTORS® – 2024
BUYER BROKER AGREEMENT
PART I – BROKER DUTIES**

Per New Mexico law, Brokers are required to perform a specific set of applicable Broker Duties. Prior to the time the Broker generates or presents any written document that has the potential to become an express written agreement, he/she must disclose such duties and obtain written acknowledgement that the Broker has made such disclosures.

SECTION A: All Brokers in this transaction owe the following broker duties to ALL buyers and sellers in this transaction, even if the broker is not representing the buyer or the seller in the transaction:

1. Honesty and reasonable care and ethical and professional conduct;
2. Compliance with local, state, and federal fair housing and anti-discrimination laws, the New Mexico Real Estate License Law and the Real Estate Commission rules and other applicable local, state, and federal laws and regulations;
3. Performance of any and all written agreements made with the prospective buyer, seller, landlord (owner) or tenant;
4. Written disclosure of any potential conflict of interest that the broker has in the transaction, including, but not limited to;
 - A. Any written brokerage relationship the Broker has with any other parties to the transaction or;
 - B. Any material interest/relationship of a business, personal or family nature that the broker has in the transaction; or
 - C. Any written agreement the Broker has with a Transaction Coordinator who will be providing services related to the transaction.
5. Written disclosure of any adverse material facts actually known by the broker about the property or the transaction, or about the financial ability of the parties to the transaction to complete the transaction; adverse material facts requiring disclosure do not include any information covered by federal fair housing laws or the New Mexico Human Rights Act.

SECTION B: In addition to the above duties, Broker(s) owes the following Broker Duties to the buyer(s) and/or seller(s) in this transaction to whom the Broker(s) is/are directly providing real estate services, regardless of the scope and nature of those services.

1. Unless otherwise agreed to in writing by the party, assistance to the party in completing the transaction including:
 - A. timely presentation of and response to all written offers or counteroffers; and
 - B. active participation in assisting in complying with the terms and conditions of the contract and with the finalization of the transaction;

If the broker in the transaction is not providing the service, advice or assistance described in Paragraphs 1A or 1B of this Subsection, the party must agree in writing that the broker is not expected to provide such service, advice, or assistance. The broker shall disclose the existence of such agreement in writing to the other brokers involved in the transaction.
2. Acknowledgement by the broker that there may be matters related to the transaction that are outside the broker's knowledge or expertise and that the broker will suggest that the party seek expert advice on these matters;
3. Advise to consult with an attorney regarding the effectiveness, validity or consequences of any written document generated by the brokerage or presented to the party and that has the potential to become an express written agreement;
4. Prompt accounting for all money or property received by the broker;
5. Maintenance of any confidential information learned in the course of any prior agency relationship unless the disclosure is with the former principal's written consent or is required by law;
6. Written disclosure of brokerage relationship option available in New Mexico:
 - A. **Exclusive agency:** an express written agreement between a person and a brokerage wherein the brokerage agrees to exclusively represent as an agent the interest of the person in real estate transaction;
 - B. **Dual agency:** an express written agreement that modifies existing exclusive agency agreements to provide that the brokerage agrees to act as facilitator in real estate transaction rather than as an exclusive agent for either party;
 - C. **Transaction Broker:** The non-fiduciary relationship created by law, wherein a brokerage provides real estate services without entering into an agency relationship.
7. Unless otherwise authorized in writing, a broker who is directly providing real estate services to a seller shall not disclose the following to the buyer in a transaction:
 - A. that the seller has previously indicated he/she will accept a sales price less than the asking or listed price;
 - B. that the seller will agree to financing terms other than those offered;
 - C. the seller's motivation for selling/leasing; or
 - D. any other information the seller has requested in writing remain confidential, unless disclosure is required by law;
8. Unless otherwise authorized in writing, a broker who is directly providing real estate service to a buyer shall not disclose the following to the seller in the transaction:
 - A. that the buyer has previously indicated he/she will pay a price greater than the price submitted in a written offer;
 - B. the buyer's motivation for buying; or
 - C. any other information the buyer has requested in writing remain confidential unless disclosure is required by law.

BUYER(S): PLEASE ACKNOWLEDGE RECEIPT BY INITIALING BELOW.



BUYER BROKER AGREEMENT

PART II – OTHER REQUIRED DISCLOSURES

Broker shall update these, and all other required disclosures as needed.



Check if Applicable

- 1. [] TRANSACTION COORDINATOR. Broker(s) has engaged the services of a transaction coordinator who will be assisting the broker in the processing of the real estate transaction. The transaction coordinator’s services may include, but not be limited to, the following: gathering necessary information and paperwork for and from buyers and sellers, overseeing and organizing contractual deadlines, communicating, and coordinating with lenders, title companies, inspectors, other brokers in the transaction and the parties to the contract to facilitate the closing of the real estate transaction, and assembling the final real estate transaction file for closing. TCs OWE BROKER DUTIES AS SET FORTH ON COVER PAGE 1. ATTN TCs: USE NMAR FORM 2100 TO MAKE ANY DISCLOSURES REQUIRED BY BROKER DUTIES.

Name of Transaction Coordinator: _____

- 2. [] CONFLICT OF INTEREST/MATERIAL INTEREST. Broker has a material interest or relationship of a business, personal, or family nature in the transaction. Describe that material interest and/or relationship: _____

- 3. [] ADVERSE MATERIAL FACTS. Explain any adverse material facts related to the Property or Transaction about which the Broker has actual knowledge. _____

BUYER(S)

Buyer Signature Printed Name Date Time

Buyer Signature Printed Name Date Time

BUYER'S BROKER

Buyer's Broker Name Buyer's Broker's Qualifying Broker's Name and NMREC License No.

Buyer's Brokerage Firm Office Phone Cell Phone Email Address

Buyer's Brokerage Address City State Zip Code Broker [] is [] is not a REALTOR®

DUAL REPRESENTATION

BY SIGNATURE BELOW, BUYER CONSENTS TO BROKER ALSO REPRESENTING THE SELLER IN ANY TRANSACTION.

Buyer understands that Buyer IS NOT OBLIGATED to consent to this dual representation. Broker may have a listing agreement with a seller related to a property or properties that Buyer may be interested in purchasing (“Broker Listed Properties”). If Buyer does not consent to this Dual Representation, as to Broker Listed Properties that Buyer may wish to purchase, then one of the following will apply (Check One Below):

- [] Broker shall refer Buyer to another broker to represent the Buyer in any transaction involving Broker Listed Properties (“Referral Broker”). The Broker Compensation under this Broker Broker Agreement, if any, shall remain in full force and effect, and any compensation due to the Referral Broker will be addressed between Broker and the Referral Broker.

OR

- [] Buyer and Broker shall be released from all obligations under this Buyer Broker Agreement as to Broker Listed Properties ONLY so that Buyer may obtain an alternative broker to represent Buyer in that/those Broker Listing Property transaction(s). In this event Broker agrees to waive any claim of procuring cause for the sale to Buyer of any Broker Listed Property, so that Buyer’s new broker may collect any offer of compensation made by the listing broker or the seller.

BUYER(S)

Buyer Signature Date Time

Buyer Signature Date Time



NEW MEXICO ASSOCIATION OF REALTORS® – 2024 BUYER BROKER AGREEMENT

1. **BROKERAGE RELATIONSHIP.** The undersigned Brokerage and Buyer agree that Broker is providing services to Buyer as a Transaction Broker without creating an agency relationship. It is the parties' intention to minimize the likelihood that Buyer will be held liable for the acts and omissions of the Broker and to eliminate the possibility that Broker is held liable to Buyer under agency law. The term "Buyer" also includes Buyer as Tenant in the event this serves as a Tenant-Broker Agreement, as indicated in Paragraph 2.

2. **BUYER COMMITMENT.** PURCHASE LEASE. "Purchase" includes buying, exchanging, or otherwise creating a right to acquire any interest in property described in this Paragraph. If "Lease" is selected, Broker will serve as a Tenant Broker under same conditions as set forth in Paragraph 1. If Broker is serving as a Tenant Broker, the term "Purchase" also includes leasing or entering into an agreement or option to lease.

A. **ALL INCLUSIVE COMMITMENT (COVERING ANY AND ALL PROPERTIES).** Buyer grants to the undersigned Brokerage the exclusive right to assist Buyer in locating and in the Purchase of real property generally described below, or any other real property which is acceptable to Buyer. **Buyer will not work with any other real estate broker or without broker to negotiate or Purchase any type of property described in this Paragraph.**

i. **General Location:**

ii. **Type:** Check all applicable

RESIDENTIAL

COMMERCIAL

VACANT LAND

FARM AND RANCH

OTHER _____

B. **LIMITED COMMITMENT (SPECIFIC IDENTIFIED PROPERTIES).** Buyer grants to the undersigned Brokerage the right to assist Buyer exclusively, but only with respect to the Purchase of the Property described below. Describe property fully and completely below. **Buyer will not work with any other real estate broker or without Broker to view, negotiate, or Purchase any of the Properties described in this Paragraph, but Buyer may work with any other real estate Broker or without Broker to locate, view, negotiate, or Purchase any property not described in this Paragraph.**

i.

Address (Street, City, State, Zip Code) _____

Legal Description _____

or see metes and bounds description attached as Exhibit _____, _____ County, New Mexico.

ii.

Address (Street, City, State, Zip Code) _____

Legal Description _____

or see metes and bounds description attached as Exhibit _____, _____ County, New Mexico.

3. **TERM.** The term of this Agreement will begin on _____ and terminate at 11:59 p.m. Mountain Time on _____, or if a property is under contract or the Buyer is negotiating the Purchase of Property as defined in Paragraph 2 on the date the Agreement would otherwise terminate, the term will automatically be extended through closing or other final disposition of that property. The word "Term" will include all extensions.

This form and all New Mexico Association of REALTORS® (NMAR) forms are for the sole use of NMAR members and those New Mexico Real Estate Licensees to whom NMAR has granted prior written authorization. Distribution of NMAR forms to non-NMAR members or unauthorized Real Estate Licensees is strictly prohibited. NMAR makes no warranty of the legal effectiveness or validity of this form and disclaims any liability for damages resulting from its use. By use of this form, the parties agree to the limitations set forth in this paragraph. The parties hereby release NMAR, the Real Estate Brokers, their Agents and employees from any liability arising out of the use of this form. You should consult your attorney with regards to the effectiveness, validity or consequences of any use of this form. The use of this form is not intended to identify the user as a REALTOR®. REALTOR® is a registered collective membership mark which may be used only by Real Estate Licensees who are members of the National Association of REALTORS® and who subscribe to the Association's strict Code of Ethics.



NEW MEXICO ASSOCIATION OF REALTORS® – 2024
BUYER BROKER AGREEMENT



4. BROKER OBLIGATIONS. During the term of this Agreement Broker will:

- A. Become familiar with Buyer's property requirements;
B. Assist Buyer to locate financing;
C. Assist Buyer to locate suitable properties;
D. Assist Buyer in negotiating acquisition terms;
E. Assist Buyer to prepare offers;
F. Assist Buyer in monitoring pre-closing and closing procedures; and
G. Other:

5. BUYER OBLIGATIONS. With regard to the type of property identified in this Agreement, Buyer will:

- A. Work exclusively with Broker to negotiate or Purchase;
B. Provide accurate, up to date, complete information about Buyer's property requirements, financial qualifications, and relevant personal situation;
C. Refer to Broker all inquiries from any source, including, but not limited to other brokers and sellers;
D. Direct any questions to Broker;
E. Act in good faith with Broker and in all negotiations for any property;
F. Other:

6. BROKER'S COMPENSATION IN THE EVENT OF PURCHASE.

IMPORTANT: UNDERSTANDING HOW A BUYER'S BROKER IS COMPENSATED FOR SERVICES RENDERED. A broker representing a seller ("Listing Broker") will enter into a listing agreement with the seller in which the seller agrees to pay the Listing Broker some compensation. The listing agreement also typically addresses if the Listing Broker will share some portion of that compensation with the brokerage representing the buyer in the sale. Listing Brokers will then generally place the property for sale in the MLS, which is a database of properties for sale or lease in the geographical area covered by that MLS. If the Listing Brokerage has agreed to share its compensation with a buyer's brokerage, then when the Listing Broker places the property for sale in the MLS, the listing will include that offer of compensation. It is important to note that MLSs do not require Listing Brokers to make an offer of compensation, and if compensation is offered, do not dictate the amount of compensation offered. In many cases, Listing Brokers offer an amount of compensation sufficient to fully compensate the buyer's brokerage for its services; however, sometimes, no offer of compensation will be made in the MLS or the amount of compensation offered in the MLS is less than what the buyer's brokerage is willing to accept for services rendered. Further, some properties may not be placed in the same MLS in which the buyer's broker is a participant, or may be offered for sale without a Listing Broker ("For Sale By Owner" or "FSBO"). Under both of these latter scenarios, compensation is not offered to the buyer's brokerage through the MLS. See MLS Information Sheet, NMAR Form 1820.

A. BROKERAGE'S EXPECTED COMPENSATION: (Check Applicable)

- [] \$ _____ plus applicable New Mexico Gross Receipts Tax ("NMGR"); OR
[] _____ % of sales price of property plus NMGR

B. AMOUNT AND PAYMENT OF COMPENSATION. Broker will attempt to collect the Brokerage's Expected Compensation from the Listing Brokerage, or in the event of a FSBO, from the Seller, but in the event Broker cannot collect the Brokerage's Expected Compensation from the Listing Brokerage or FSBO Seller, as applicable, or can only collect a portion of the Brokerage's Expected Compensation from the Listing Brokerage or FSBO Seller, as applicable, THEN BUYER AGREES TO PAY BROKERAGE THE BROKERAGE'S EXPECTED COMPENSATION, MINUS ANY AMOUNTS THAT BROKERAGE IS ABLE TO COLLECT FROM THE LISTING BROKERAGE OR FSBO SELLER, AS APPLICABLE.

ACKNOWLEDGMENT BY BUYER

Buyer warrants they have read and understand the above compensation provisions. Further, Buyer understands that the amount of compensation that Buyer has agreed to pay Brokerage herein, is NOT dictated by MLS rules, the local, state or National Association of Realtors® or local, state or national law. Buyer affirms that the Brokerage Expected Compensation set forth herein, is an amount that the Buyer and the Brokerage have freely negotiated and agreed upon. Buyer's Initials _____ / _____



**NEW MEXICO ASSOCIATION OF REALTORS® – 2024
BUYER BROKER AGREEMENT**



7. **COMPENSATION EARNED AND DUE.** Unless otherwise provided in Paragraph 6(A), Buyer owes Broker compensation upon the occurrence of any of the following:
 - A. **DURING THE TERM.** Compensation is earned by Broker upon Buyer, or any other person acting on behalf of Buyer, entering into an agreement to Purchase and is due to Broker upon the closing of any property subject to this Agreement during the term of this Agreement, whether or not Buyer sought the assistance of Broker. If any such transaction fails to close because of a default by Seller, compensation otherwise earned and due will be waived; if because of a default by Buyer, compensation earned and due under this Agreement will not be waived.
 - B. **PROTECTION PERIOD.** Within _____ days after termination of this Agreement, if Buyer or anyone acting on behalf of Buyer acquires any real property subject to this Agreement which Broker submitted to Buyer during the term of this Agreement, compensation shall be due to Broker. However, this provision will not apply if Buyer enters into another exclusive agreement with another licensed real estate Broker covering the same property or type of property covered by this Agreement. This paragraph shall survive termination.
8. **COMPENSATION FOR LEASE.** If Buyer enters into an agreement to lease property or does lease any property subject to this Agreement during the term of this Agreement, then Buyer agrees to compensate Broker \$ _____ plus applicable NM Gross Receipts Tax or _____ % of lease rate for duration of lease and any extensions or options whether or not Buyer sought the assistance of Broker. If any such transaction fails to materialize due to default by Owner/Landlord, compensation otherwise due will be waived; if because of a default by Buyer/Tenant, compensation due under this Agreement will not be waived.
9. **VALUE ESTIMATES FOUND ON VARIOUS WEBSITES.** MLSs syndicate property listings to public-facing websites, such as Zillow, Trulia and Realtor.com. Some of these public-facing websites offer opinions of the value or projected sales price of the property. **BUYERS SHOULD BE AWARE THAT THESE ESTIMATES ARE OFTEN INACCURATE AND SHOULD NOT BE CONSIDERED THE ACTUAL VALUE OF THE PROPERTY IN QUESTION.**
10. **OTHER POTENTIAL BUYERS.** Buyer acknowledges that Broker may make known to other buyer clients or customers the same or similar properties as Buyer is seeking to acquire and Buyer consents to this activity of Broker.
11. **CONFIDENTIALITY OF YOUR OFFER.** Be aware that sellers and/or the Listing Brokers may not treat the existence, terms, or conditions of offers as confidential unless confidentiality is required by law, regulation, or by any confidentiality agreement between the parties.
12. **NON-DISCRIMINATION.**
 - A. **RESIDENTIAL:** Buyer understands that federal housing laws, the New Mexico Human Rights Act, and the New Mexico Real Estate Commission Regulations prohibit discrimination in the sale, rental, appraisal, financing, or advertising of housing or other property on the basis of race, age, color, religion, sex, sexual orientation, gender identity, familial status, spousal affiliation, physical or mental handicap, national origin, or ancestry.
 - B. **COMMERCIAL:** Buyer understands that the New Mexico Human Rights Act prohibits discrimination in the sale or lease of any real property on the basis of race, religion, color, national origin, ancestry, sex, sexual orientation, gender identity, physical or mental handicap or spousal affiliation.
13. **EXPERT ASSISTANCE.** Broker advises Buyer to obtain expert assistance regarding legal, tax, and accounting matters or matters relating to zoning, surveying, inspections, construction, hazardous materials, engineering, or other matters which are not within the expertise of Broker. Broker shall have no liability with respect to such matters.
14. **CONSENT TO THE ELECTRONIC TRANSMISSION OF DOCUMENTS AND TO THE USE OF ELECTRONIC SIGNATURES.** The parties do do not consent to conduct any business related to and/or required under this Agreement by electronic means, including, but not limited to the receipt of electronic records and the use of electronic signatures. Subject to applicable law, electronic signatures shall have the same legal validity and effect as original hand-written signatures. Nothing herein prohibits the parties from conducting business by non-electronic means. If a party has consented to receive records electronically and/or to the use of electronic signatures, that party may withdraw consent at any point in the transaction by delivering written notice to the other party.
15. **SERVICE PROVIDER RECOMMENDATIONS.** If Broker(s) recommends a builder, contractor, escrow company, title company, pest control service, appraiser, lender, attorney, accountant, property inspection company or property warranty company or any other person or entity to Buyer for any purpose, such recommendation shall be independently investigated and evaluated by Buyer, who hereby acknowledges that any decision to enter into any contractual arrangement with any such person or entity recommended by Broker shall be based solely upon such independent investigation and evaluation.



**NEW MEXICO ASSOCIATION OF REALTORS® – 2024
BUYER BROKER AGREEMENT**



- 16. MEDIATION.** If a dispute arises between the parties relating to this Agreement, the parties shall submit the dispute to mediation, jointly appoint a mediator and share equally in the costs of the mediation. If a mediator cannot be agreed upon or mediation is unsuccessful, the parties may enforce their rights under this Agreement in any manner provided by New Mexico law. NMAR Form 5118 - Information Sheet - Mediation Information for Clients and Customers.
- 17. GOVERNING LAW AND VENUE.** This Agreement is to be construed in accordance with and governed by the internal laws of the State of New Mexico without giving effect to any choice of law rule that would cause the application of the laws of any jurisdiction other than the internal laws of the State of New Mexico to the rights and duties of the parties. Each party hereby irrevocably consents to the jurisdiction and venue of the state and federal courts located in the county in which the Brokerage is located in connection with any claim, action, suit, or proceeding relating to this Agreement and agrees that all suits or proceedings relating to this Agreement shall be brought only in such courts.
- 18. ATTORNEY FEES AND COSTS.** Should any aspect of this Agreement result in arbitration or litigation, the prevailing party of such action shall be entitled to an award of reasonable attorneys' fees and court costs.
- 19. FIRPTA.** The Foreign Investment in Real Property Tax Act of 1980 (“FIRPTA”) requires buyers who purchase real property from foreign sellers to withhold a portion of the amount realized from the sale of the real property for remittance to the Internal Revenue Service (“IRS”). In the event the seller(s) is **NOT** a foreign person, FIRPTA requires the buyer to obtain proof of the seller’s non-foreign status in order to avoid withholding requirements. Exceptions may apply. For more information, refer to NMAR Form 2304 – Information Sheet – FIRPTA & Taxation of Foreign Persons Receiving Rental Income from U.S. Property. In the event exceptions to FIRPTA do not apply, then prior to or at Closing, Seller(s) shall provide to Buyer or to a Qualified Substitute (generally, the Title Company) either a Non-Foreign Seller Affidavit(s) (NMAR Form 2303) **OR** a letter from the IRS indicating Seller(s) is exempt from withholding. In the event Seller(s) fails to do so, Buyer shall have the right to withhold the applicable percentage of the amount realized from the sale of the Property for remittance to the IRS in accordance with IRS requirements.
- 20. FARMS AND RANCHES.** The Agricultural Foreign Investment Disclosure Act (AFIDA) requires disclosure of a transfer of interest in certain agricultural land (including farms and ranches) to or from a foreign person to the Farm Service Agency within 90 days of the transaction, on a form provided by the FSA. AFIDA does not apply to agricultural land if in the aggregate it is not more than 10 acres and if the gross annual receipts from the sale of farm, ranch, farming or timber products do not exceed \$1,000.00. A "foreign person" is certain foreign corporations or a person who is not a citizen of the U.S. or U.S. territories, who is not a permanent resident and who is not paroled into the U.S. Buyer is is not is not a foreign person as defined in this paragraph. . (See NMAR Form 2304A—Information Sheet — AFIDA)
- 21. ENTIRE AGREEMENT, ADDENDA IN WRITING.** This Agreement, together with the any addenda and any exhibits referred to in this Agreement, contains the entire Agreement of the parties and supersedes all prior agreements with respect to the subject matter, which are not expressly set forth herein. This Agreement may be modified only by written agreement of the parties.
- 22. FORCE MAJEURE.** Buyer or Broker shall not be required to perform any obligation under this Contract or be liable to each other for damages so long as performance or non-performance of the obligation, or the availability of services, is disrupted, delayed, caused or prevented by Force Majeure. “Force Majeure” means: hurricanes, floods, extreme weather, earthquakes, fire, or other acts of God, unusual transportation delays, or wars, insurrections, acts of terrorism, pandemics or diseases or any governmental authority taken in response to a pandemic. All time periods will be extended up to 10 days after the Force Majeure no longer prevents performance under this Agreement, provided, however, if such Force Majeure continues to prevent performance under this Agreement more than 30 days, then either party may terminate this Agreement by delivering written notice to the other This provision applies whether or not the underlying applicable event is foreseeable at the time of execution of this Agreement.
- 23. SEVERABILITY.** If any portion of this Agreement is found by any court of competent jurisdiction to be invalid or unenforceable, the remainder of this Agreement shall remain in full force and effect.
- 24. HEIRS AND ASSIGNS.** This Agreement shall apply to, be binding upon and enforceable against and inure to the benefit of the parties hereto and their respective representatives, successors, permitted assigns, heirs and estates.
- 25. AUTHORITY OF SIGNORS.** If Buyer is a corporation, partnership, estate, trust, limited liability company or other entity, the person signing this Agreement on its behalf warrants their authority to do so and to bind the Buyer for which they are signing.



NEW MEXICO ASSOCIATION OF REALTORS® – 2024
BUYER BROKER AGREEMENT



26. SURVIVAL OF OBLIGATIONS: The following provisions and paragraphs shall survive termination of this Agreement: 7(B), 15, 16, 17, 18, 21, 22, 23, 24, 26.
27. ADDITIONAL TERMS.

Blank lines for additional terms.

The New Mexico Association of REALTORS® and the local board or association of REALTORS® do not fix, control, recommend, suggest, or maintain compensation rates for services to be rendered by members, nor the division of Broker's compensation between Broker and cooperating Brokers in a transaction. The amount of compensation and the terms of this Agreement are not prescribed by law and are subject to negotiation.

Broker Agreement Agency Addendum is attached to this Agreement: [] Yes [] No (NMAR Form # 1205 – Broker Agreement Agency Addendum)

ATTENTION BUYERS: WIRE FRAUD ALERT

- Criminals are hacking email accounts of real estate Brokers, title companies, settlement attorneys and others, resulting in fraudulent wire instructions being used to divert funds to the account of the criminal.
The emails look legitimate, but they are not.
Buyer is advised not to wire any funds without personally speaking with the intended recipient of the wire to confirm the routing number and the account number.
Buyer should NOT send personal information such as social security numbers, bank account numbers and credit card numbers except through secured email or personal delivery to the intended recipient.

BUYER(S)

Buyer Signature Printed Name Date Time

Buyer Signature Printed Name Date Time

BUYER'S BROKER(S)

Buyer's Broker Name Buyer's Broker Signature

Buyer's Qualifying Broker's Name Buyer's Qualifying Broker's NMREC License No.

Buyer's Brokerage Firm Office Phone Cell Phone

Buyer's Brokerage Address City State Zip Code

Buyer's Broker Email Address Broker [] is [] is not a REALTOR®



NEW MEXICO ASSOCIATION OF REALTORS® — 2024 COOPERATION AND COMPENSATION AGREEMENT BROKER TO BROKER

Cooperating Broker and Listing Broker agree to cooperate in connection with the sale or lease of the following Property:

Address (Street, City, State, Zip Code)

Legal Description

or see metes and bounds description attached as Exhibit _____, _____ County, New Mexico.

1. IDENTITY OF BUYER/TENANT. This Agreement applies to (check one):

A. Any Buyer/Tenant produced by Cooperating Broker.

B. The Buyer/Tenant(s) disclosed in this Agreement as follows:

1. _____
2. _____
3. _____

2. COOPERATION. Listing Broker and Cooperating Broker will share all known material facts about the Property and Listing Broker will provide Cooperating Broker with reasonable access to the Property. Cooperating Broker will submit all offers for the Property through the Listing Broker. Listing Broker will present all offers submitted by the Cooperating Broker in accordance with any applicable rules or regulations, including the REALTOR® Code of Ethics. If Cooperating Broker has an exclusive relationship with a potential Buyer/Tenant, Listing Broker will not communicate directly with that potential Buyer/Tenant, except with Cooperating Broker's prior approval; however, nothing herein precludes a Listing Broker acting in the capacity of a Property Manager from communicating directly with a Tenant once the Tenant enters into a Lease Agreement. Cooperating Broker will not communicate directly with Seller/Owner, except with Listing Broker's prior approval.

3. COMPENSATION. If the Property is sold or leased to a Buyer/Tenant identified in Paragraph 1 of this Agreement during the term of this Agreement, Listing Broker will pay to Cooperating Broker as compensation

_____ plus, applicable gross receipts tax, upon closing and funding of the transaction.

4. DEFINITION. Cooperating Broker means the Broker working with or representing the Buyer/Tenant at the time of closing or signing of lease.

5. LIMITATION OF AUTHORITY. The term "Cooperating Broker" will include all brokers affiliated with Cooperating Broker as employees or independent contractors, but Cooperating Broker may not extend this agreement of cooperation and compensation to any other broker.

6. TERM. The Term of this Agreement will begin on _____, _____, and terminate at 11:59 p.m. Mountain Time on _____, _____. If the Buyer/Tenant and/or Seller/Owner are under contract on the Property or are negotiating the sale or lease of the Property on the date this Agreement would otherwise terminate, the term will be extended through the closing, the date the lease is fully executed or other final disposition of said property. The word "Term" as used in this Agreement will include all extensions.

The New Mexico Association of REALTORS® and the local board or association of REALTORS® do not fix, control, recommend, suggest or maintain compensation rates for services to be rendered by members, nor the division of Broker's compensation between Broker and cooperating Brokers in a transaction. The amount of compensation and the terms of this Agreement are not prescribed by law and are subject to negotiation.

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**NEW MEXICO ASSOCIATION OF REALTORS® — 2024
COOPERATION AND COMPENSATION AGREEMENT
BROKER TO BROKER**



LISTING BROKER

Listing Firm _____

Broker is is not a REALTOR®

By (Signature) _____

By (Print) _____

Date _____

Time _____

Address (Street, City, State, Zip Code) _____

Business Phone _____

Fax _____

Email Address _____

Qualifying Broker's Name _____

Phone Number _____

Qualifying Broker's NMREC License Number _____

COOPERATING BROKER

Cooperating Firm _____

Broker is is not a REALTOR®

By (Signature) _____

By (Print) _____

Date _____

Time _____

Address (Street, City, State, Zip Code) _____

Business Phone _____

Fax _____

Email Address _____

Qualifying Broker's Name _____

Phone Number _____

Qualifying Broker's NMREC License Number _____



**NEW MEXICO ASSOCIATION OF REALTORS® — 2024
ADDENDUM NO. _____
RESOLUTION ADDENDUM**

⚠ ATTENTION BUYER AND SELLER ⚠

CONSULT WITH LENDER. THIS IS AN AGREEMENT. Once this Addendum is fully executed by Buyer and Seller, it becomes an addendum to the Purchase Agreement and MUST be provided to Buyer's lender. Buyer is encouraged to consult with their lender prior to entering into this Addendum, as this Addendum may:

- have a detrimental impact on the Buyer's ability to get the loan;
- cause delays in the lender's processing and funding of the loan by Closing; and
- cause the lender to require further inspections and/or repairs.

This Resolution Addendum is hereby incorporated into and made part of the Purchase Agreement dated _____, _____ between _____ ("Buyer") and _____ ("Seller") and relating to the following Property:

Address (Street, City, State, Zip Code)

Legal Description or see metes and bounds description attached as Exhibit _____, _____ Count(ies), New Mexico.

1. SELLER AGREES TO CURE BUYER'S OBJECTIONS AS FOLLOWS:

A. REPAIR/REPLACE: Seller agrees to all repairs/replacements listed below no later than the Repair Completion Deadline set forth in the Purchase Agreement. All repairs shall be completed by an appropriately licensed professional. Copies of all repair invoices shall be provided to Buyer on or before the Pre-Closing Walk-Through and shall include vendor contact information and license number. **IMPORTANT NOTE: IF SELLER HAS AGREED TO REPAIR/REPLACE ITEM(S) IN A PRIOR ADDENDA TO THE PURCHASE AGREEMENT, THEN UNLESS OTHERWISE NOTED BELOW, ITEMS TO BE REPAIRED/REPLACED IN THAT PRIOR ADDENDA SHALL BE IN ADDITION TO THE ITEM(S) THAT THE SELLER HAS AGREED TO REPAIR/REPLACE IN THIS ADDENDUM.**

IF CHECKED, SELLER WILL NOT REPAIR/REPLACE ITEMS ADDRESSED IN A PREVIOUS ADDENDUM TO THE PURCHASE AGREEMENT. SELLER SHALL ONLY REPAIR/REPLACE THE ITEMS NOTED BELOW.

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ADDENDUM NO. _____
RESOLUTION ADDENDUM



SAMPLE

If checked, additional space is required and Exhibit _____ (NMAR Form 2200) is attached.

B. PRICE MODIFICATION: Buyer and Seller agree to amend the Purchase Price of the Property to \$ _____.

C. SELLER CREDITS: Seller agrees to credit \$ _____ (“Credit”) to Buyer at Closing. In the event Buyer is obtaining a loan for the purchase of the Property, parties agree to reduce the Purchase Price by any amount of Seller Credit disallowed by Lender by executing a new addendum (NMAR Form 2101) to reflect the new Purchase Price. **IMPORTANT NOTE: IF SELLER HAS AGREED TO PROVIDE A SELLER CREDIT TO BUYER IN A PRIOR ADDENDUM TO THE PURCHASE AGREEMENT, THEN UNLESS OTHERWISE NOTED BELOW, THAT/THOSE SELLER CREDIT(S) SHALL BE IN ADDITION TO THE SELLER CREDITS LISTED IN THIS ADDENDUM.**

IF CHECKED, SELLER WILL NOT PROVIDE SELLER CREDITS INCLUDED IN PREVIOUS ADDENDA TO THE PURCHASE AGREEMENT. SELLER SHALL ONLY PROVIDE SELLER CREDITS AS NOTED IN THIS PARAGRAPH.



ADDENDUM NO. _____
RESOLUTION ADDENDUM



2. **RESOLUTION:** Parties have reached a Resolution as to all of Buyer(s) objections on Notice of Objection No.(s) _____.

3. **TITLE COMMITMENT REVISIONS FEES:** In the event changes set forth in this Addendum require the issuance of a revised title commitment for which the title company charges a fee, the following applies:

CHECK ONE:

- A. BUYER shall pay any additional fee;
- B. SELLER shall pay any additional fee;
- C. The parties shall SPLIT EQUALLY the fee; or
- D. Other: _____

4. **ADDENDUM PROVISIONS CONTROL.** If there is any conflict between the provisions of the Purchase Agreement and this Addendum, the provisions of this Addendum will control. The remaining provisions of the Purchase Agreement will remain in effect.

BUYER(S)

Buyer Signature	Printed Name	Date	Time
-----------------	--------------	------	------

Buyer Signature	Printed Name	Date	Time
-----------------	--------------	------	------

SELLER(S)

Seller Signature	Printed Name	Date	Time
------------------	--------------	------	------

Seller Signature	Printed Name	Date	Time
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If additional signature lines are needed, please use NMAR Form 1150 – Signature Addendum



**NEW MEXICO ASSOCIATION OF REALTORS® - 2024
ADDENDUM NO. _____
PRICE MODIFICATION/SELLER CREDITS ADDENDUM**

This Addendum is hereby incorporated into and made part of the Purchase Agreement dated: _____
between _____ ("Buyer") and
_____ ("Seller") and relating to the following

Property: _____
Address (Street, City, State, Zip Code)

Legal Description
or see metes and bounds or other legal description attached as Exhibit _____, _____ County(ies),
New Mexico (hereinafter the "Purchase Agreement")

⚠ IMPORTANT NOTICE TO BUYER AND SELLER ⚠

ADDENDUM PROVISIONS CONTROL. If there is any conflict between the provisions of the Purchase Agreement and this Addendum the provisions of this Addendum will control. The remaining provisions of the Purchase Agreement will remain in effect.

1. CHECK ALL THAT APPLY:

- A. **PRICE MODIFICATION:** Buyer and Seller agree to amend the Purchase Price of the Property to \$ _____.
- B. **SELLER CREDITS:** Seller agrees to credit \$ _____ ("Credit") to Buyer at Closing. In the event Buyer is obtaining a loan for the purchase of the Property, parties agree to reduce the Purchase Price by any amount of Seller Credit disallowed by Lender by executing a new addendum (NMAR Form 2101) to reflect the new Purchase Price. **IMPORTANT NOTE: IF SELLER HAS AGREED TO PROVIDE A SELLER CREDIT TO BUYER IN A PRIOR ADDENDUM TO THE PURCHASE AGREEMENT, THEN UNLESS OTHERWISE NOTED BELOW, THAT SELLER CREDIT SHALL BE IN ADDITION TO THE SELLER CREDITS LISTED IN THIS ADDENDUM.**
- CHECK THIS BOX ONLY IF THE SELLER CREDIT LISTED ABOVE WILL INCLUDE ALL SELLER CREDITS BEING GIVEN BY SELLER. IF CHECKED, THIS ADDENDUM SUPERSEDES ALL PRIOR ADDENDA AS TO SELLER CREDITS.**

2. TITLE COMMITMENT REVISION FEES. In the event changes set forth in this Addendum require the issuance of a revised title commitment for which the title company charges a fee, the following applies:

CHECK ONE:

- A. BUYER shall pay any additional fee;
- B. SELLER shall pay any additional fee;
- C. The parties shall SPLIT EQUALLY the fee; or
- D. Other: _____

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**NEW MEXICO ASSOCIATION OF REALTORS® - 2024
ADDENDUM NO. _____
PRICE MODIFICATION/SELLER CREDITS ADDENDUM**

SAMPLE

BUYER(S)

Buyer Signature	Printed Name	Date	Time
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Buyer Signature	Printed Name	Date	Time
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SELLER(S)

Seller Signature	Printed Name	Date	Time
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Seller Signature	Printed Name	Date	Time
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If additional signature lines are needed, please attach NMAR Form 1150 – Signature Addendum.



PART I – BROKER DUTIES DISCLOSURE

Per New Mexico law, Brokers are required to perform a specific set of applicable Broker Duties. Prior to the time the Broker generates or presents any written document that have the potential to become an express written agreement, they must disclose such duties and obtain written acknowledgement that the Broker has made such disclosures.

SECTION A: All Brokers in this transaction owe the following Broker duties to ALL buyers and sellers in this transaction, even if the Broker is not representing the buyer or the seller in the transaction:

1. Honesty and reasonable care and ethical and professional conduct;
2. Compliance with local, state, and federal fair housing and anti-discrimination laws, the New Mexico Real Estate License Law and the Real Estate Commission rules and other applicable local, state, and federal laws and regulations;
3. Performance of any and all written agreements made with the prospective buyer, seller, landlord (owner) or tenant;
4. Written disclosure of any potential conflict of interest that the Broker has in the transaction, including, but not limited to;
 - A. Any written Brokerage relationship the Broker has with any other parties to the transaction or;
 - B. Any material interest/relationship of a business, personal or family nature that the Broker has in the transaction; or
 - C. Any written agreement the Broker has with a Transaction Coordinator who will be providing services related to the transaction.
5. Written disclosure of any adverse material facts actually known by the Broker about the property or the transaction, or about the financial ability of the parties to the transaction to complete the transaction; adverse material facts requiring disclosure do not include any information covered by federal fair housing laws or the New Mexico Human Rights Act.

SECTION B: In addition to the above duties, Broker(s) owes the following Broker Duties to the buyer(s) and/or seller(s) in this transaction to whom the Broker(s) is/are directly providing real estate services, regardless of the scope and nature of those services.

1. Unless otherwise agreed to in writing by the party, assistance to the party in completing the transaction including:
 - A. Timely presentation of and response to all written offers or counteroffers; and
 - B. Active participation in assisting in complying with the terms and conditions of the contract and with the finalization of the transaction;

If the Broker in the transaction is not providing the service, advice or assistance described in Para. 1 (A) or 1 (B) of this Subsection, the party must agree in writing that the Broker is not expected to provide such service, advice or assistance. The Broker shall disclose the existence of such agreement in writing to the other Brokers involved in the transaction.

2. Acknowledgement by the Broker that there may be matters related to the transaction that are outside the Broker’s knowledge or expertise and that the Broker will suggest that the party seek expert advice on these matters;
3. Advice to consult with an attorney regarding the effectiveness, validity or consequences of any written document generated by the Brokerage or presented to the party and that has the potential to become an express written agreement;
4. Prompt accounting for all money or property received by the Broker;
5. Maintenance of any confidential information learned in the course of any prior agency relationship unless the disclosure is with the former principal’s written consent or is required by law;
6. Written disclosure of Brokerage relationship options available in New Mexico:
 - A. **Exclusive agency:** an express written agreement between a person and a Brokerage wherein the Brokerage agrees to exclusively represent as an agent the interests of the person in real estate transaction;
 - B. **Dual agency:** an express written agreement that modifies existing exclusive agency agreements to provide that the Brokerage agrees to act as a facilitator in the real estate transaction rather than as an exclusive agent for either party;
 - C. **Transaction Broker:** the non-fiduciary relationship created by law, wherein a Brokerage provides real estate services without entering an agency relationship.
7. Unless otherwise authorized in writing, a Broker who is directly providing real estate services to a seller shall not disclose the following to the buyer in a transaction:
 - A. That the seller has previously indicated they will accept a sales price less than the asking or listed price;
 - B. That the seller will agree to financing terms other than those offered;
 - C. The seller’s motivations for selling/leasing; or
 - D. Any other information the seller has requested in writing remain confidential, unless disclosure is required by law;
8. Unless otherwise authorized in writing, a Broker who is directly providing real estate service to a buyer shall not disclose the following to the seller in the transaction:
 - A. That the buyer has previously indicated they will pay a price greater than the price submitted in a written offer;
 - B. The buyer’s motivation for buying; or
 - C. Any other information the buyer has requested in writing remain confidential unless disclosure is required by law.

BUYER(S) AND SELLER(S): PLEASE ACKNOWLEDGE RECEIPT BY INITIALING BELOW



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PURCHASE AGREEMENT – RESIDENTIAL RESALE



PART II – OTHER REQUIRED DISCLOSURES
Broker shall update these and all other required disclosures as needed.

BUYER'S BROKER DISCLOSURES:

1. **Brokerage Relationship.** _____ (“Buyer’s Broker”) is working with the Buyer as a:
 - Transaction Broker with without a written Buyer Broker Agreement.
 - Agent with a written Buyer Broker Agreement with Agency Addendum.
 - Transaction Broker without a written Buyer Broker Agreement, but with a Compensation Agreement.
2. **In-House Transaction: Buyer and Seller’s Consent to Dual Representation, NO Dual Agency created.**
 - Brokerage is representing both Buyer and Seller.
 - Buyer’s Broker is licensed under the same Qualifying Broker as Seller’s Broker.
 - Buyer’s Broker is also Seller’s Broker for the property in this Transaction. Broker has a written listing agreement with Seller as a Transaction Broker Agent. **Unless otherwise stated in another agreement between Buyer’s Broker and Buyer, Buyer understands that they are NOT OBLIGATED to consent to this dual representation and that they may obtain their own broker to represent them in this transaction.**

BUYER CONSENTS TO BUYER’S BROKER ALSO REPRESENTING THE SELLER IN THIS TRANSACTION YES or NO Buyer’s initials _____/_____.
3. **Dual Agency:** Brokerage is representing both Buyer and Seller by means of written agency agreements with each of them and Designated Agency has not been chosen by the Qualifying Broker; Designated Agency is a policy that discloses to a client that the Broker representing him/her as an agent is the client’s only representative in the Brokerage. When Designated Agency is not chosen, Dual Agency is created. Prior to writing or presenting this offer, Broker must obtain written consent from the parties to act as a Dual Agent (NMAR Form 1301 - Agency Agreement – Dual).
4. **Additional Disclosures:** If applicable, check box below.
 - Buyer’s Broker has an **OWNERSHIP INTEREST IN PROPERTY**
 - Buyer’s Broker has a **CONFLICT OF INTEREST** or **MATERIAL INTEREST** (business, personal or family)

 - Buyer’s Broker knows of **ADVERSE MATERIAL FACTS** about the Property and/or Transaction

 - Buyer’s Broker has engaged a **TRANSACTION COORDINATOR:** _____.

SELLER’S BROKER DISCLOSURES:

1. **Brokerage Relationship.** _____ (“Seller’s Broker”) is working with the Seller as a:
 - Transaction Broker with a written Listing Agreement.
 - Agent with a written Listing Agreement with Agency Addendum.
 - Transaction Broker without a written Listing Agreement, but with a Compensation Agreement.
2. **Additional Disclosures:** If applicable, check box below.
 - Seller’s Broker has an **OWNERSHIP INTEREST IN PROPERTY**
 - Seller’s Broker has a **CONFLICT OF INTEREST** or **MATERIAL INTEREST** (business, personal or family)

 - Seller’s Broker knows of **ADVERSE MATERIAL FACTS** about the Property and/or Transaction _____

 - Seller’s Broker has engaged a **TRANSACTION COORDINATOR:** _____.

¹ If more space is needed, attach NMAR Form 2100 – Broker Duties Supplemental Disclosure or other disclosure.



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TRANSACTION COORDINATORS are licensed Brokers who have been engaged by the Broker as indicated above to assist the Broker in the processing of the transaction, which may include gathering information and paperwork, overseeing, and organizing contractual deadlines, communicating, and coordinating with lenders, title companies, inspectors, other Brokers, and the parties to the contract to facilitate the Closing of the transaction, and assembling the final transaction file for Closing. **TCs OWE BROKER DUTIES AS SET FORTH ON COVER PAGE 1. ATTN TCs: USE NMAR FORM 2100 TO MAKE ANY DISCLOSURES REQUIRED BY BROKER DUTIES.**

- Buyer is a New Mexico Real Estate Broker Seller is a New Mexico Real Estate Broker
 Buyer is a party to another Buyer-Broker Agreement

BUYER(S)

SELLER(S)

Buyer Signature	Printed Name	Date	Time	Seller Signature	Printed Name	Date	Time
Buyer Signature	Printed Name	Date	Time	Seller Signature	Printed Name	Date	Time

**THE FOLLOWING IS PROVIDED FOR INFORMATIONAL PURPOSES ONLY.
BROKERS ARE NOT PARTIES TO THIS PURCHASE AGREEMENT.**

BUYER'S BROKER(S)

Buyer's Broker Name	Buyer's Broker's Qualifying Broker's Name and NMREC License No.		
Buyer's Brokerage Firm	Office Phone	Cell Phone	Email Address
Buyer's Brokerage Address	City	State	Zip Code
Broker <input type="checkbox"/> is <input type="checkbox"/> is not a REALTOR®			

Buyer's Broker Name	Buyer's Broker's Qualifying Broker's Name and NMREC License No.		
Buyer's Brokerage Firm	Office Phone	Cell Phone	Email Address
Buyer's Brokerage Address	City	State	Zip Code
Broker <input type="checkbox"/> is <input type="checkbox"/> is not a REALTOR®			

SELLER'S BROKER(S)

Sellers's Broker Name	Seller's Broker's Qualifying Broker's Name and NMREC License No.		
Seller's Brokerage Firm	Office Phone	Cell Phone	Email Address
Seller's Brokerage Address	City	State	Zip Code
Broker <input type="checkbox"/> is <input type="checkbox"/> is not a REALTOR®			

Sellers's Broker Name	Seller's Broker's Qualifying Broker's Name and NMREC License No.		
Seller's Brokerage Firm	Office Phone	Cell Phone	Email Address
Seller's Brokerage Address	City	State	Zip Code
Broker <input type="checkbox"/> is <input type="checkbox"/> is not a REALTOR®			



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1. PARTIES AND AGREEMENT

Buyer: _____ agrees to buy from

Seller: _____ and

Seller agrees to sell and convey to Buyer, in accordance with terms of this Purchase Agreement (“Agreement”) the Property described herein with Settlement/Signing date of _____.

Sole and Separate. (Check if Applicable): If Buyer or Seller is married, and a Sole and Separate Agreement is required by the title company and/or lender, the applicable party(ies) shall deliver or cause to be delivered a Sole and Separate Agreement to the Title Company identified herein within _____ days of Date from Acceptance.

2. PURCHASE PRICE. (Sum of A and B) \$ _____

A. APPROXIMATE CASH DOWN PAYMENT to be determined by lender and/or Buyer **OR** **OR CASH DUE AT CLOSING** \$ _____

B. AMOUNT OF LOAN(S) to be determined by lender and/or Buyer **OR** \$ _____

3. OFF MARKET. Unless otherwise agreed to in writing, as of the Date of Acceptance, Seller shall take the Property off the market until termination of this Agreement or default by Buyer which is not waived by Seller, whichever occurs first (“Off Market”). While Off Market, Seller shall not accept any other offer to sell the Property, **except a Back-Up Offer.** Notwithstanding the foregoing, if the Property was marketed through the MLS, the listing is subject to MLS Rules.

4. TIME OFF MARKET (“TOM”) FEE. This paragraph to be used **ONLY IF** Buyer **will be compensating** Seller for taking the Property Off Market. In the event of Closing, the TOM fee SHALL NOT be refunded to Buyer or applied to Purchase Price, down payment, and/or Closing Costs. As compensation, Buyer shall deliver to Seller \$ _____ in the form of Check Cash Other _____, no later than _____

days from Date of Acceptance. In the event of termination of this Agreement, Seller shall retain the entirety of the TOM Fee. Buyer’s failure to timely deliver the TOM Fee shall be considered a default of this Agreement. NMAR Form 2104(A) – Time-Off-Market Fee/Earnest Money Information Sheet and NMAR Form 2104(B) - Receipt for Time Off Market.

5. EARNEST MONEY. Buyer shall deliver \$ _____ Earnest Money in the form of Check Cash Note Wire Transfer of Funds Other _____ to the

Title Company identified herein no later than _____ days from **Date of Acceptance** **OR** **if Buyer has no objections to inspections, the Objection Deadline in Para. 21** **or if Buyer has objections to inspections, the date the parties reach Resolution** **OR** **OTHER** _____. Earnest Money shall be applied to the Purchase Price, down payment, and/or Closing Costs upon the Funding Date. If the lender prohibits the credit of any portion of the Earnest Money towards the Purchase Price, down payment and/or Closing Costs, the Earnest Money or applicable portion thereof shall be refunded to Buyer after Closing. Buyer’s failure to timely deliver the Earnest Money shall be considered a default of this Agreement.

BUYER WARRANTS THEY HAVE VIEWED THE PROPERTY AS FOLLOWS:

IN PERSON

REMOTELY VIA A VIDEO AND AUDIO CALL WHILE BROKER OR OTHER THIRD PARTY VIEWS THE PROPERTY IN-PERSON. NMAR Form 1505 – Remote Viewing and Sight Unseen

BY REVIEWING A RECORDED VIDEO(S) AND/OR PHOTOGRAPH(S). NMAR Form 1505

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6. PROPERTY.

A. DESCRIPTION.

Address (Street, City, State, Zip Code) _____

Legal Description _____

or see metes and bounds or other legal description attached as Exhibit _____, _____ County(ies), New Mexico. An incomplete or inaccurate legal description of the Property shall not render this Agreement invalid; the legal description shall be completed or corrected to meet the requirements of the Title Company issuing the title policy.

Gross Receipts Tax (GRT) Location Code: _____ (To be completed by Broker).

B. TYPE: Site built Manufactured housing Modular Off-site built Other: _____
 _____ . NMAR Form 2305 – Information Sheet - Manufactured Housing.

C. OTHER RIGHTS. Seller shall convey to Buyer all existing wind, solar, water and mineral rights (“Other Rights”) appurtenant to the Property. Seller makes NO warranties as to the existence of Other Rights. **TO SELLER:** If Seller is retaining any/all Other Rights, Seller should NOT sign this offer and should consult qualified legal counsel. **TO BUYER:** Other Rights previously severed from the Property and owned by third persons would not convey to Buyer by way of this Agreement. Buyer should consult qualified legal counsel to determine what Other Rights, IF ANY, Buyer is acquiring, to understand how non-conveyance of Other Rights may affect Buyer, and to ensure Other Rights that will convey are properly transferred at Closing.

D. FIXTURES, APPLIANCES AND PERSONAL PROPERTY. Items not otherwise addressed below are governed by the definitions of “Fixture” and “Personal Property” in the Definitions Paragraph.

i. FIXTURES. Unless otherwise excluded herein, the Property shall include all Fixtures, free of all liens, including, but not limited to, the below Fixtures **if such Fixtures exist on the Property at the time Buyer submits his offer.**

- | | | |
|---|--|---|
| • Attached fireplace grate(s) & screen(s) | • Dishwasher(s) | • Smoke Alarm(s) (if owned by Seller) |
| • Attached floor covering(s) | • Fire Alarm(s) (if owned by Seller) | • Solar Power System(s)/Panels (If leased by Seller, lien may exist) |
| • Attached mirror(s) | • Garbage disposal(s) | • Sprinkler(s)/irrigation equipment |
| • Attached outdoor lighting & fountain(s) | • Garage door opener(s) | • Storm window(s) & door(s) |
| • Attached pot rack(s) | • Heating system(s) | • TV antenna(s) & satellite dish(es) |
| • Attached window covering(s) & rod(s) (NOT including curtains, unless otherwise indicated below) | • Landscaping | • TV Wall Mounts (NOT including TVs, unless otherwise indicated below) |
| • Awning(s) | • Light fixture(s) | • Ventilating & air conditioning system(s) |
| • Built in/attached speaker(s) & subwoofer(s) | • Mailbox(es) | • Water conditioning/filtration /water softener/purification system(s) (if owned by Seller) |
| • Built-in Murphy bed(s) (INCLUDING mattress) | • Outdoor plant(s) & tree(s) (other than those in moveable containers) | • Window/door screen(s) |
| • Ceiling fan(s) | • Oven(s) | |
| • Central vacuum, to include all hoses & attachments | • Pellet, wood-burning or gas stove(s) | |
| | • Range(s) | |
| | • Security Systems(s) – ALL components (if owned by Seller) | |

ii. PERSONAL PROPERTY. The following existing Personal Property, if checked, shall remain with the Property, shall be the actual Personal Property that is present as of the date Buyer submits his offer, shall not be considered part of the premises and shall be transferred with no monetary value, free and clear of all liens and encumbrances. **PERSONAL PROPERTY LISTED IN THE MLS LISTING IS NOT INCLUDED IN THIS PURCHASE AGREEMENT UNLESS INCLUDED BELOW.**



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- | | | |
|---|---|---|
| <input type="checkbox"/> Unattached window covering(s) | <input type="checkbox"/> Freestanding Range(s) | <input type="checkbox"/> Satellite receiver(s) with access cards (if owned by Seller and if transferable) |
| <input type="checkbox"/> Audio component(s) | <input type="checkbox"/> Kitchen Refrigerator(s) | <input type="checkbox"/> Unattached fireplace grate(s) |
| <input type="checkbox"/> Video component(s) | <input type="checkbox"/> Other Refrigerator(s) | <input type="checkbox"/> Unattached fireplace screen(s) |
| <input type="checkbox"/> Decorative mirror(s) above bath vanities | <input type="checkbox"/> Garage door remote(s) # _____ | <input type="checkbox"/> Unattached outdoor fountain(s) & equipment |
| <input type="checkbox"/> Dryer(s) | NOTE: If the number of garage door opener remote(s) is left blank, Seller's obligation shall be no more than one working remote. | <input type="checkbox"/> Unattached outdoor lighting |
| <input type="checkbox"/> Washer(s) | <input type="checkbox"/> Storage Shed(s) | <input type="checkbox"/> Hot Tub(s) |
| <input type="checkbox"/> Freezer(s) | <input type="checkbox"/> OTHER _____ | <input type="checkbox"/> Pool & spa equipment including any mechanical or other cleaning system(s) |
| <input type="checkbox"/> Microwave(s) | _____ | |
| <input type="checkbox"/> TV(s) | _____ | |

If the property contains more than one of an item checked, ALL of those items present at the time of Buyer's offer shall remain unless otherwise excluded.

iii. **EXCLUSIONS.** The following items are excluded from the sale: _____

7. CASH, LOAN OR SELLER FINANCING.

⚠ ATTENTION BUYER ⚠

Buyer shall not change any of the following without Seller's approval: 1) the means of payment (cash, loan or seller financing); 2) the lender identified in the Pre-Qualification Letter; or 3) the loan-program type identified in the Pre-Qualification Letter. Seller's approval SHALL NOT BE unreasonably withheld. Upon Seller's approval, the parties shall execute an addendum to this Agreement that sets forth the change and addresses the disposition of Earnest Money should Buyer be unable to close as a result of the change in payment type, lender or loan program. If Earnest Money disposition is not addressed in the addendum, the Earnest Money shall be refunded to Buyer in all circumstances except the following: Buyer changed to a loan and did not provide a Rejection Letter in accordance with this paragraph.

- A. CASH PURCHASE** - Buyer shall purchase the subject Property for Cash and certifies that funds are:
- Readily available
 - Contingent on the Closing of a cash-out refinance
 - Other _____
- No later than _____ days after the Date of Acceptance, Buyer shall provide Seller with verification of funds and proof satisfactory to Seller that Buyer has in Buyer's possession or control, the funds necessary to complete the transaction. Failure of Buyer to timely deliver proof of funds shall be considered a default of this Agreement. In the event of Buyer's default, Earnest Money, if delivered, shall shall not be refunded to Buyer.
- B. LOANS.** This Agreement is contingent upon Buyer's ability to obtain a loan(s) on or before the Settlement/Signing Date in the amount stated above in Para. 2(B) of the following type: Conventional FHA VA NMMFA Other: _____
- i. Buyer has made written application for a loan, or shall make written application for a loan no later than _____ days from the Date of Acceptance.
 - ii. Buyer shall provide Seller with a Pre-Qualification Letter from a lender no later than _____ days from the Date of Acceptance. **PRE-QUALIFICATION LETTER MUST STIPULATE THE FOLLOWING:**
 - a. That a written loan application has been made;
 - b. That a credit report has been obtained and reviewed by a lender;
 - c. That a pre-qualification has been secured from the same lender;
 - d. The loan type, as set forth in this paragraph; and



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- e. That financing equal to the loan amount provided herein, if a specific amount stipulated in Para. 2(B) is available to complete the transaction by the Settlement/Signing Date, subject to contingencies provided for in this Agreement and underwriting approval.
Buyer’s failure to deliver a Pre-Qualification Letter to Seller within the time frame stipulated shall be considered a default of this Agreement.
- iii. Buyer shall cooperate and act in good faith in obtaining final approval for the loan as outlined in the Pre-Qualification Letter. In the event the lender determines Buyer will not qualify for the loan on or before the Settlement/Signing Date, Buyer shall deliver to Seller a written rejection letter from the lender (“Rejection Letter”) no later than 11:59 p.m. _____ days before the Settlement/Signing Date OR if not otherwise indicated, not later than 11:59 p.m. **three (3) days** before the Settlement/Signing Date. In the event Buyer does not deliver the Rejection Letter within the timeframe set forth in this paragraph, Buyer shall forfeit his Earnest Money to Seller. Notwithstanding any other provision of this Agreement, Buyer shall **NOT** be afforded an Opportunity to Cure if Buyer fails to timely deliver a Rejection Letter. For purposes of only this paragraph, days are calculated as calendar days, and there shall be NO extension of time when the deadline falls on a weekend day or a legal holiday. The definition of "days" for all other provisions of this Agreement is set forth in the Definitions Paragraph.
- iv. **SELLER FINANCING.** The approximate balance of \$ _____ shall be financed by Seller and shall be secured by: Real Estate Contract Mortgage Deed of Trust. Terms and conditions of the applicable instrument shall be attached as an addendum. For a Real Estate Contract, attach NMAR Form 2402 - Real Estate Contract Addendum to Purchase Agreement. For a Mortgage or Deed of Trust, attach NMAR Form 2507 - Addendum to Purchase Agreement – Seller Financing, Mortgage or Deed of Trust.

ATTENTION SELLER

Broker is not responsible for verifying authenticity/veracity of pre-qualification and/or proof of funds letters or for determining buyer’s creditworthiness.

- 8. **BUYER’S SALE, CLOSING AND FUNDING CONTINGENCY.** This Agreement is contingent upon the Closing and Funding of Buyer's property located at _____ on or before _____, _____, OR subject to any applicable Buyer's Contingency Addendum if attached:
 - A. Buyer represents that Buyer’s property is currently under contract for sale. If checked, attach NMAR Form 2503A – Buyer's Closing and Funding Addendum; OR
 - B. Buyer represents that Buyer's property is NOT yet under contract for sale. If checked, attach NMAR Form 2503 – Buyer's Sale Contingency Addendum.
- 9. **APPRAISAL.**
 - A. **APPRAISAL CONTINGENCY.** It is expressly agreed that notwithstanding any other provisions of this Agreement, the Buyer shall not be obligated to complete the purchase of the Property described herein or to incur any penalty by forfeiture of Earnest Money deposits or otherwise if the Purchase Price is greater than the Appraisal. This Appraisal Contingency applies to the following:
 - i. All loan programs requiring an Appraisal; and
 - ii. Cash and seller-financed purchases if the Buyer requires an Appraisal as indicated below.
 - B. **CASH OR SELLER-FINANCED.** Buyer does does not require an Appraisal. If Buyer is requiring an Appraisal, Buyer shall select the appraiser.
 - C. **APPRAISAL DEADLINE.**
 - i. If Buyer is obtaining a loan, then no later than _____ (“Appraisal Order Deadline”), Buyer shall direct the lender in writing to order the Appraisal. Upon written request from Seller, Buyer shall provide Seller evidence of Buyer’s written direction to lender.
 - ii. If Buyer is purchasing with cash or Seller financing and is opting for an appraisal, Buyer shall order the appraisal no later than _____. (“Appraisal Order Deadline”).
 - D. **IF APPRAISED VALUE IS LESS THAN PURCHASE PRICE.** In the event the appraised value is less than the Purchase Price, Buyer shall deliver a copy of the Appraisal to Seller.
 - i. **BUYER** shall have the following options to be exercised within five (5) days from Buyer’s delivery of Appraisal to Seller (collectively “Buyer’s Options”):



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- a. Notify Seller in writing of Buyer’s election to proceed with this Agreement without regard to the amount of the appraised valuation;
- b. Negotiate a revised Purchase Price with Seller, which revised Purchase Price shall be incorporated into an addendum to this Agreement and fully executed by the parties; or
- c. Notify Seller in writing of Buyer’s intent to terminate this Agreement.
- ii. If Buyer fails to satisfy one of the Buyer’s Options within the 5-Day period, such satisfaction to include, if applicable, the parties fully executing a price-modification addendum to this Agreement, this Agreement shall automatically terminate and Earnest Money, if delivered, shall be refunded to Buyer.

E. SQUARE FOOTAGE. The appraisal contingency does not allow for termination based on a discrepancy between representations or assumptions about the square footage and the square footage as indicated in the appraisal.

10. CLOSING. *“Closing” is defined as a series of events by which Buyer and Seller satisfy all of their obligations in this Agreement. Closing is not completed until all parties have completed all requirements as stated below, as well as all other obligations under this Agreement. Any addendum of the following dates **MUST BE** in writing, and unless otherwise provided for in this Agreement, signed by both parties. The parties further acknowledge that Seller shall not receive the proceeds of sale until the Funding Date Requirements are satisfied.*

A. SETTLEMENT/SIGNING DATE: _____ On or before the Settlement/Signing date the parties shall complete the following:

- i. Sign and deliver to the responsible Closing Officer all documents required to complete the transaction and to perform all other Closing obligations of this Agreement; AND
- ii. Provide for the delivery of all required funds, exclusive of lender funds, if any, using wired, certified, or other “ready” funds acceptable to the Closing Officer.

B. FUNDING DATE (Completion of Closing): _____. On or before the Funding Date the responsible party(ies) shall make all funds available to the Closing Officer for disbursement in accordance with this Agreement. The **Funding Date Requirements** have been satisfied when:

- i. the Closing Officer has all funds available to disburse as required by this Agreement; and
- ii. the Closing Officer has recorded with the county clerk all required documents.

Seller shall provide all existing keys, security system/alarm codes, gate openers and garage door openers to Buyer once Funding Date Requirements are satisfied or as otherwise provided for in an Occupancy Agreement.

If the Buyer is obtaining a loan for the purchase of the Property, it is the **Buyer’s responsibility** to ensure that Buyer’s lender makes available to the Escrow Agent wired, certified or other “ready” funds with written instructions to disburse funds on or before the Funding Date. Unless the Buyer has provided a written rejection letter from the lender, the failure of Buyer’s lender to make funds available on or before the Funding Date shall be deemed a default of this Agreement by Buyer.

11. POSSESSION DATE.

A. Seller shall deliver possession of the Property to Buyer on the Possession Date as set forth below:

- At the time Funding Date Requirements are satisfied
- Other: _____

B. Unless otherwise agreed to in writing, upon Possession Date or the date the Property is surrendered to Buyer per a Seller Occupancy Agreement, if applicable, Seller shall have all his personal belongings and all debris and garbage removed from the Property. In the event Seller fails to remove his personal property, Buyer shall not be responsible for storage of Seller’s personal property, may dispose of Seller’s personal property in any manner Buyer deems appropriate in Buyer’s sole and unfettered discretion, and shall not be liable to Seller for the value of Seller’s personal property. In the event Seller fails to remove all debris and garbage from the Property, Seller shall be liable to Buyer for all costs associated with removal of such debris and garbage.

C. If Possession Date is other than the time the Funding Date Requirements are satisfied, then Buyer and Seller shall execute a separate written agreement outlining the terms agreed to by the parties. NMAR Form 2201- Occupancy Agreement – Buyer, NMAR Form 2202 – Occupancy Agreement – Seller, NMAR Form 6101 – Residential Rental Agreement or other agreement as applicable

D. Seller shall maintain homeowners and liability insurance on the Property through Possession Date, unless otherwise provided for in an Occupancy Agreement.

12. IRS 1031 TAX-DEFERRED EXCHANGE. Buyer Seller intends to use this Property to accomplish a 1031 Tax-Deferred Exchange. The parties shall cooperate with one another in signing and completing any documents required. The



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non-exchanging party shall bear no additional expense. Notwithstanding any other provision of this Agreement, in the event of a 1031 Exchange, this Agreement shall be assignable to a Qualified Intermediary.

13. EXAMINATION OF TITLE; LIENS; ASSESSMENTS; DEED.

- A. BUYER SELLER shall order a title commitment from _____
 “Title Company” within _____ days from the **Date of Acceptance** **Date TOM Fee is Delivered** **Date Earnest Money is Delivered**. After receipt of the title commitment and all documents referred to therein, Buyer shall have _____ days (“Review Period”) to review and object to exceptions to the title, including the Standard Exceptions (“Exceptions”) and all bonds, impact fees and assessments other than Public Improvement District assessments (collectively “Assessments”). Exceptions and Assessments shall be deemed approved unless Buyer delivers written objections to the Seller within the Review Period. If Buyer objects to Exceptions and/or Assessments and Seller is unwilling or unable to remove the Exceptions and/or Assessments before the Settlement/Signing Date, Seller shall provide written notice to Buyer within _____ days after receipt of Buyer’s objections. In this event, the following applies:
- i. **Title Exceptions.** Buyer may choose to close subject to the Exceptions, remove the Exceptions at Buyer’s expense or terminate this Agreement. If Buyer timely terminates, any Earnest Money delivered shall be refunded to Buyer.
 - ii. **Assessments.** Buyer may choose to close subject to the Assessments or to terminate this Agreement. If Buyer chooses to close, the current installment of Assessments shall be prorated through the Settlement/Signing Date and Buyer shall assume future installments. If Buyer timely terminates, any Earnest Money delivered shall be refunded to Buyer.
- B. In the event the Title Company, through no fault of Buyer or Seller, is unable to issue a Title Commitment at least _____ days prior to the Settlement/Signing Date, or if not otherwise indicated, at least **five (5) days** prior to the Settlement/Signing Date, then the Settlement/Signing Date shall automatically be extended up to _____ days, or if not otherwise indicated, up to **14 days** (“Automatic Extension”). If the Title Company is not able to issue such Commitment at least _____ days prior to the expiration of the Automatic Extension, or if not otherwise indicated at least **five (5) days** prior to expiration of the Automatic Extension, then either party may terminate this Agreement by delivering written notice to the other party, and any Earnest Money delivered by Buyer shall be refunded to Buyer. If an Automatic Extension is needed, the parties agree to execute an Extension Agreement Addendum (NMAR Form 5104 – Extension Agreement Addendum) that will reflect the new Settlement/Signing Date, but in no event shall the failure of the parties to fully execute the Extension Agreement Addendum render the Automatic Extension invalid.
- C. Seller shall satisfy any judgments and liens including, but not limited to, all mechanics’ and materialmen’s liens of record on or before the Funding Date, and shall indemnify and hold Buyer harmless from any liens filed of record after the Settlement/Signing Date which arise out of any claim related to the providing of materials or services to improve the Property as authorized by Seller or Seller’s agents, unless otherwise agreed to in writing.
- D. Seller shall convey the Property by General Warranty Deed Special Warranty Deed Other Deed (describe) _____ subject only to any matters identified in the title commitment and not objected to by Buyer as provided herein. The legal description contained in the deed shall be the same legal description contained in the title commitment and any survey required herein.



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14. COSTS TO BE PAID. Buyer or Seller, as applicable, shall pay the following marked items: **DO NOT USE THIS SECTION FOR SELLER CONCESSIONS/CREDITS TO BUYER; USE AN ADDENDUM.**

LOAN RELATED COSTS AND FEES*	Buyer	Seller	Not Required	TITLE COMPANY CLOSING COSTS	Buyer	Seller	Not Required
Appraisal Fee				Closing Fee			
Appraisal Re-inspection Fee				Pro-Rata Data Search			
Credit Report				Legal Document Preparation			
Loan Assumption /Transfer				Special Assessment Search			
Origination Charge up to: <input type="checkbox"/> \$ _____ <input type="checkbox"/> _____ %				Prior Title Policy Retrieval Fee			
Points – Buydown				Title Policy Cancellation Fee			
Points – Discount				Buyer Recording Fees			
Tax Service Fee							
Flood Zone Certification				Seller Recording Fees			
Other:				Document Processing Fees			
				Other:			
				POLICY PREMIUMS			
				Initial Title Commitment			
				Standard Owner’s Policy			
BUYER’S PREPAIDS/ESCROWS REQUIRED BY LENDER				Mortgagee’s Policy			
Flood Insurance				Mortgagee’s Policy Endorsements			
Hazard Insurance				Other:			
Interest							
PMI or MIP				Any fees charged by the title company to revise the title commitment, shall be borne by the party who necessitated the revision. In the event a third-party document necessitates the revision (e.g. survey, appraisal, etc.), the parties agree to equally split any fee charged.			
Taxes							
MANUFACTURED HOME COSTS	Buyer	Seller	Not Required	MISCELLANEOUS	Buyer	Seller	Not Required
Foundation Inspection				Survey			
Foundation Repairs				Elevation Certificate			
Re-Inspection Fees				Impact Fees			
DMV Title Transfer				Transfer Fees (HOA/COA)			
Deactivation Fees				Disclosure / Resale Certificate Fee (HOA/COA)**			
Other:				Home Warranty Plan			
Other:				Appraisal for Cash or Seller Financing			
Other:				Other:			

***Buyer shall pay all other allowed direct loan costs. **Cost of additional lender-required HOA/COA document(s) to be borne by Buyer; cost of additional title company-required HOA/COA document(s) to be borne by party paying for policy requiring document; if both policies require the document(s), the cost shall be borne by the party paying for the Owner’s Policy Premium.**

15. FIRPTA. The Foreign Investment in Real Property Tax Act of 1980 (“FIRPTA”) requires buyers who purchase real property from foreign sellers to withhold a portion of the amount realized from the sale of the real property for remittance to the Internal Revenue Service (“IRS”). In the event the seller(s) is **NOT** a foreign person, FIRPTA requires the buyer to obtain proof of the seller’s non-foreign status in order to avoid withholding requirements. Exceptions may apply. For more information, refer to NMAR Form 2304 – Information Sheet – FIRPTA & Taxation of Foreign Persons Receiving Rental Income from U.S. Property.

NOTE: BOTH 1 AND 2 BELOW MUST APPLY TO QUALIFY AS AN EXCEPTION.

FIRPTA EXCEPTION (most common): **1)** The sales price of the property is not more than \$300,000; **AND 2)** Buyer will be using the property as Buyer’s primary residence (“Exception”).



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Buyer Warrants the Exception Applies Exception Does Not Apply

In the event the above Exception to FIRPTA does not apply, then prior to or at Closing, Seller(s) shall provide to Buyer or to a Qualified Substitute (generally, the Title Company) either a Non-Foreign Seller Affidavit(s) (NMAR Form 2303) OR a letter from the IRS indicating Seller(s) is exempt from withholding. In the event Seller(s) fails to do so, Buyer shall have the right to withhold the applicable percentage of the amount realized from the sale of the Property for remittance to the IRS in accordance with IRS requirements.

16. INSURANCE CONTINGENCY/APPLICATION.

- A. APPLICATION.** Buyer shall make application for insurance within _____ days after Date from Acceptance. If Buyer fails to make application to the insurance company within the agreed time, this insurance contingency shall be deemed waived.
- B. CONTINGENCY.** Provided the Contingency Deadline as set forth herein is met, this Agreement is conditioned on the following:
 - i. Buyer’s ability to obtain a homeowner’s or property insurance quote on the Property at normal and customary premium rates; AND,
 - ii. Seller’s claim history having no impact on the Buyer’s insurance in the future.

Buyer understands that an insurance company may cancel or change the terms of a homeowner’s insurance policy/quote for any reason prior to close of escrow or within (60) days after issuance of the homeowner’s policy/quote (which generally occurs at close of escrow).

- C. CONTINGENCY DEADLINE.** The Insurance Contingency set forth herein above shall be deemed satisfied, unless within _____ days after Date of Acceptance of this Agreement, Buyer delivers written notice to Seller that one or more of the above insurance contingencies cannot be satisfied along with documentation from the insurance provider stating the same (“Contingency Deadline”). In the event Buyer delivers such notice and documentation to Seller by the Contingency Deadline, the Purchase Agreement shall terminate and the Earnest Money, if delivered, shall be refunded to Buyer.

17. SURVEYS OR IMPROVEMENT LOCATION REPORT (“ILR”). Buyer has the right to have performed the survey or ILR selected below or the right to accept an existing one. Unless otherwise agreed in writing, the party paying for the survey or ILR, as indicated herein, shall select the surveyor and order the survey or ILR.

- Improvement Location Report Staked Boundary Survey American Land Title Association Survey (ALTA)
 Other: _____

Selected ILR or Survey to include Flagged Corners, if located Flood Plain Designation

- A. DELIVERY DEADLINE:** Survey or ILR shall be delivered to Buyer(s) no later than: _____ or _____ days from Date of Acceptance. **NOTE:** Delivery Deadline only applies **IF** Seller is delivering the survey or ILR to Buyer; it does **NOT** apply if Buyer is ordering the survey or ILR.
- B. OBJECTION DEADLINE:** Objections to be delivered to Seller(s) no later than: _____ or _____ days from Date of Acceptance.
- C. RESOLUTION DEADLINE:** Parties to reach Resolution no later than: _____ or _____ days from Date of Acceptance.
- D. OBJECTION/RESOLUTION/TERMINATION:** Para. 21(H) shall further govern Buyer’s right to object to the survey or ILR performed and resolution of Buyer’s objections.

18. DISCLOSURES AND DOCUMENTS. Check all that apply.

- A. LEAD BASED PAINT (“LBP”) (FOR PROPERTIES BUILT BEFORE 1978).** If available, attach fully-executed NMAR Form 5112 – Lead Based Paint Addendum to Purchase Agreement. If unavailable, **fully-executed NMAR Form 5112 – Lead Based Addendum must be attached to this Agreement PRIOR TO full execution.** NMAR Form 2315 – Information Sheet - LBP RRPP
- B. PUBLIC IMPROVEMENT DISTRICT (“PID”).** Seller may **NOT** accept an offer from Buyer until specific PID disclosures have been made to Buyer. NMAR Form 4500 – Information Sheet - Public Improvement District. Buyer(s) hereby acknowledges receipt of the PID Disclosure on the Property.



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- C. **HOMEOWNERS’ (“HOA”) OR CONDOMINIUM (UNIT) OWNERS’ ASSOCIATION (“COA”)**. Seller shall provide Buyer with specific documents pertaining to the Property and HOA and/or COA, as applicable. For HOAs, see NMAR Form 4600 – Information Sheet - HOA, NMAR Form 4650 – Seller’s Disclosure of HOA Documents and NMAR Form 4700 - HOA Request for Disclosure Certificate. For COAs, see NMAR Form 2302 – Addendum to Purchase Agreement Residential Resale Condominiums, 2302A – Resale Certificate for COAs and NMAR Forms 2355 and 2356 – Information Sheets on COAs.
- D. **PROPERTY TAX DISCLOSURE.** NMAR Form 3275 - Information Sheet - Estimated Property Tax Levy Disclosure
 Buyer(s) hereby acknowledges receipt of the Estimated Property Tax Levy; **OR**
 Buyer(s) hereby acknowledges that the Estimated Property Tax Levy on the Property is not readily available and does hereby waive the right to receive the Estimated Property Tax Levy.
- E. **SEPTIC SYSTEM.** If checked, attach NMAR Form 5120A – Septic System Contingency Addendum. The transfer of the Property is subject to regulations of the New Mexico Environment Department governing on-site liquid waste systems, which includes the requirement that Seller have an inspection conducted by a licensed septic system evaluator prior to transfer. **Seller shall deliver existing septic permit to Buyer no later than five (5) days from Date of Acceptance.** NMAR Form 2308 – Information Sheet - Septic Systems.
- F. **WELLS.** Private Domestic Well Shared Domestic Well Irrigation Well Other _____.
Transfer of Property with a well is subject to the regulations of the New Mexico Office of the State Engineer, which includes the requirement that the State Engineer’s Office be notified when a well changes ownership. NMAR Form 2307 – Information Sheet - Water Rights & Domestic Wells
- G. **TENANT(S) OCCUPYING PROPERTY AFTER CLOSING.** If checked, attach NMAR Form 2106 - Tenant-Occupied Property Addendum - Seller’s Certificate. If not checked, Seller warrants that the tenant of the Property, if any, shall vacate the Property by the Funding Date.
- H. **SOLAR PANELS.** If a solar panel system is subject to a lease, loan, or a Power Purchase Agreement (“PPA”) that neither party will satisfy on or before Closing, attach NMAR Form 5125 - Solar Panel Contingency. NMAR Form 5130 - Information Sheet - Solar System Panel.
- I. **MISCELLANEOUS DISCLOSURES/PRORATIONS.** Seller shall disclose the following:
 - i. All applicable Property specific fees, lease agreements, private memberships and/or association fees or dues, taxes and contract service agreements, all of which are to be prorated by the Title Company through Settlement/Signing Date; and;
 - ii. Any equipment rental or contract service agreement (e.g. alarm system, satellite system, propane tank (to include any remaining propane gas therein), private refuse collection, road maintenance, etc.), which shall be handled directly between the Buyer and Seller; the Title or Escrow Company shall not be responsible for proration thereof.

J. DOCUMENT DEADLINES.

DOCUMENTS	DELIVERY DEADLINE	OBJECTION DEADLINE	RESOLUTION DEADLINE
NMAR Form 1110 - Property Disclosure Statement (Adverse Material Facts).			
Road Documents			
Water Rights Documents			
Well Documents: (Including well permit, well log, shared well agreement and Change of Ownership Information notification.)			
Accompanying Documents to NMAR Form 2106 - Tenant-Occupied Property Addendum			
Permits			
HOA Documents			
NMAR Form 4700 - HOA Disclosure Certificate or NMAR Form 2302A – Resale Certificate from Condominium Association.		_____ Date Buyer has no less than seven (7) days from receipt of the HOA Disclosure Certificate to object	
Covenants, Condition and Restrictions (CCRs) – Restrictive covenants			



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Solar Power System/Panels Documents - NOT to be completed if NMAR Form 5125 – Solar Panel System Loan/Lease Assumption Contingency Addendum is attached.			
Miscellaneous Disclosures (Para.18(I))			
Other:			

MANUFACTURED HOUSING			
NMAR Form 2700 - Seller's Disclosure of MH			
Structural Engineer Inspection			
FHA Inspection			
Foundation Installation			
MH Division Permanent Foundation Permit			

Buyer's failure to timely object or terminate this agreement based on an above document shall be deemed a waiver of Buyer's right to object or terminate based on the above document; it shall not be considered a Default.

19. SELLER'S DUTY TO DISCLOSE. Seller shall disclose to Buyer any Adverse Material Facts known to them about the Property and shall have an ongoing obligation up until, and including, the Settlement/Signing Date to disclose any newly discovered Adverse Material Facts. In the event that Seller discloses newly discovered Adverse Material Facts after Seller's initial Property Disclosure Statement is delivered, Buyer's Objection Deadline for the newly disclosed Adverse Material Facts shall be three (3) days from Buyer's receipt of the disclosure(s) and the Resolution Deadline shall be six (6) days from Buyer's receipt of the disclosure(s). Failure of Buyer to timely make objections to the newly disclosed Adverse Material Facts shall constitute a waiver of Buyer's right to object or terminate based on that newly disclosed Adverse Material Fact. Notwithstanding the foregoing, Seller shall have NO obligation to inspect the Property for the Buyer's benefit or to repair, correct or otherwise cure known Adverse Material Facts that are disclosed to Buyer or unknown Adverse Material Facts that are discovered by Buyer's inspections. Adverse Material Facts do not include facts exempt from the requirement of disclosure under 47-13-2 NMSA 1978. NMAR Form 1110 – Property Disclosure Statement (Adverse Material Facts).

20. BUYER'S INVESTIGATION OF SURROUNDING AREA. Buyer warrants that prior to entering into this Agreement they have thoroughly investigated the neighborhood and the areas surrounding the property to include, but not be limited to, investigation of the following: the existence of registered sex offenders or other persons convicted of crimes that may reside in the area; and the presence of any structures located, businesses operating or activities conducted in the area that, in Buyer's opinion, affects the value and/or desirability of the property. **By entering into this Agreement, Buyer represents they are satisfied with the neighborhood and surrounding areas and agrees that any issue regarding the surrounding area will NOT serve as grounds for termination of this Agreement.**

21. INSPECTIONS. The parties are encouraged to employ competent and, where appropriate, licensed professionals to perform all agreed upon inspections of the property.

A. BUYER DUTIES AND RIGHTS.

- i. BUYER'S DILIGENCE, ATTENTION AND OBSERVATION.** Buyer has the following affirmative duties:
 - a. To conduct all due diligence necessary to confirm all material facts relevant to Buyer's purchase;
 - b. To assure themselves that the Property is exactly what Buyer is intending to purchase;
 - c. To become aware of the physical condition of the Property through their own investigation and observation;
 - d. To investigate the legal, practical and technical implications of all disclosed, known or discovered facts regarding the Property; and
 - e. To thoroughly review all written reports provided by professionals and discuss the results of such reports and inspections with the professionals who created the report and/or conducted the inspection.
- ii. RIGHT TO CONDUCT INSPECTIONS.** NMAR Form 2316 – Information Sheet - Home Inspections. The Buyer is advised to exercise all their rights under and in accordance with this Agreement to investigate the Property. Unless otherwise waived, Buyer(s) may complete any and all inspections of the Property that they deem necessary. These inspections may include, but are not limited to, the following: home, electrical,



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heating/air conditioning, plumbing, roof, structural, lead-based paint (including risk assessment, paint inspection or both), well equipment (pumps, pressure tanks, lines), well potability tests, well water yield tests, pool/spa/hot tub equipment, wood-destroying insects, dry rot, radon, mold, square foot measurement, sewer line inspections, septic inspections, ductwork, phase one environmental and soil tests. Notwithstanding the foregoing, Buyer shall not conduct or allow any invasive testing or inspections that cause damage to the Property without the Seller’s prior written consent, which consent may be withheld in Seller’s sole and unfettered discretion. This right to conduct inspections does NOT permit the Buyer to conduct invasive inspections that cause damage to the Property.

iii. SQUARE FOOTAGE. BUYER IS AWARE THAT ANY REFERENCE TO THE SQUARE FOOTAGE OF THE IMPROVEMENTS ON THE PROPERTY IS APPROXIMATE. IF SQUARE FOOTAGE IS A MATERIAL MATTER TO THE BUYER, THE BUYER SHALL INVESTIGATE THE SQUARE FOOTAGE DURING THE INSPECTION PERIOD.

B. WAIVER OF INSPECTIONS. If Buyer intends to waive all or any inspections, attach NMAR Form - 5140 - Inspection and Observation Waiver Addendum.

C. BUYER’S ENTRY. Seller shall provide reasonable access to Buyer and Buyer’s inspectors. Buyer shall return the Property to the condition it was in prior to any entry, test and/or inspection by Buyer. Buyer shall be liable to Seller for any damages that occur to the Property as a result of any inspection conducted by Buyer, their agents, inspectors, contractors and/or employees (collectively “Buyer’s Agents”) and Buyer agrees to hold Seller harmless, indemnify and defend Seller from any and all claims, liabilities, liens, losses, expenses (including reasonable attorneys’ fees and costs), and/or damages arising out of or related to any entry, inspections and/or tests conducted by Buyer or Buyer’s Agents. **BUYER AND BUYER’S AGENTS ARE NOT PERMITTED ON THE PROPERTY WITHOUT PRIOR NOTIFICATION TO AND APPROVAL BY SELLER OR SELLER’S BROKER.**

D. AVAILABILITY OF UTILITIES FOR INSPECTIONS.

Buyer Seller shall be responsible for paying any charges required by the utility companies to have utilities turned on for inspection purposes. Notwithstanding the foregoing, Buyer shall not be obligated to pay unpaid utility bills, and unless otherwise agreed to in writing, neither party shall be obligated to alter the Property so as to conform with city or county building codes. **IF UTILITIES ARE ON AS OF THE DATE OF ACCEPTANCE, SELLER SHALL MAINTAIN UTILITIES THROUGH POSSESSION DATE OR DATE OTHERWISE STATED IN AN OCCUPANCY AGREEMENT.**

E. INSPECTOR SELECTION. Unless otherwise provided for in this agreement, Buyer shall have the right to select all inspectors and order all inspections EVEN IF Seller has agreed to pay for the inspection(s).

F. PAYMENT OF INSPECTIONS. Buyer shall pay for all inspections except the following, which shall be paid by Seller: _____

G. INSPECTION DEADLINES. Unless otherwise provided for in this Agreement, the following applies:

i. Delivery Deadline: Inspection reports and/or documents to be delivered no later than: _____ or _____ days from Date of Acceptance. **NOTE:** Delivery Deadline only applies **IF** Seller is responsible for ordering a report/document; it does **NOT** apply if Buyer is ordering the report/document. If Seller is responsible for ordering a report/document and Buyer does not receive the report/document by the Delivery Deadline, the parties may agree to extend all applicable deadlines or Buyer may elect to terminate this Agreement and receive a refund of any Earnest Money delivered.

ii. Objection Deadline: Buyer’s Objections to be delivered to Seller(s) no later than: _____ or _____ days from Date of Acceptance.

iii. Resolution Deadline: Parties to reach a Resolution no later than: _____ or _____ days from Date of Acceptance.

H. OBJECTIONS/RESPONSE/RESOLUTION/TERMINATION. If Buyer has objections to any issue or condition discovered by Buyer’s own observations and/or investigation of the Property or disclosed by any survey or ILR, document, and/or inspection, **then no later than the applicable Objection Deadline**, Buyer may OBJECT and request that Seller cure the issue/condition or Buyer may TERMINATE this Agreement. Buyer’s objections or termination must be in writing. Buyer’s failure to timely object or terminate shall be deemed a waiver of Buyer’s right to object or terminate and of the applicable contingency; it shall not be considered a Default. If Buyer is responsible for ordering an inspection,



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survey or document and fails to do so in time to object or terminate by the Objection Deadline, Buyer’s failure to receive the report, survey or document may not be used as rationale for not timely terminating or objecting.

- i. **OBJECTIONS.** NMAR Form 5141 – Notice of Objection
 - a. **Making Objections to Document/Survey.** If Buyer **OBJECTS** to an item on a document, video or survey/ILR, Buyer shall produce with his objection(s) a copy of the **ENTIRE** document, video or survey/ILR on which Buyer's objection(s) is based.
 - b. **Making Objections to Inspections:** If Buyer **OBJECTS** to an item on an inspection report, Buyer shall produce with his objection(s) **ONLY the SECTION(S)** of the report on which Buyer’s objection(s) is based and **AGREES NOT TO SEND Seller the entire inspection report, unless requested by Seller in writing.**
 - c. **If Buyer is making a request only for a monetary concession (price modification or seller concession), Buyer shall not include a copy of the report or any portion thereof unless requested by Seller in writing.**
 - d. **Provided Buyer has received an inspection report, then upon Seller’s written request for the entire inspection report, Buyer shall provide said inspection report(s) within three (3) days from Seller’s written request. Buyer shall provide said inspection report to Seller without payment or other compensation.**
 - e. **Once Buyer makes objections, Buyer may NOT withdraw their objections for the purpose of terminating this Agreement until Seller has responded.** Once Seller responds, Buyer may terminate the Agreement **UNLESS** Seller has agreed to cure all the Buyer’s objections in the manner requested by Buyer. If in Seller’s response, Seller agrees to cure all of the Buyer’s objections in the manner requested by Buyer, the parties are obligated to execute a Resolution Addendum reflecting that agreement. Notwithstanding the foregoing, at any point prior to the Resolution Deadline, Buyer may withdraw their unresolved objections for the purpose of proceeding to Closing with the understanding that Seller will not be responsible for repairing or otherwise remedying those objections for which Resolution has not been reached. NMAR Form 5144 – Notice of Buyer’s Withdrawal of Unresolved Objections.
- ii. **RESPONSE/NEGOTIATION.**
 - a. In response to Buyer’s Notice of Objection, Seller shall do one of the following: agree to cure Buyer’s objections as requested, provide an alternative cure for Buyer’s objections, or refuse to cure Buyer’s objections.
 - b. Seller may not terminate this Agreement based on the fact that Buyer made objections. **If in Seller’s initial response, Seller does not agree to cure ALL of Buyer’s objections in the manner requested by Buyer, then Buyer may elect to terminate this Agreement and receive a refund of any Earnest Money delivered.**
 - c. If Buyer does not agree with Seller’s Response, Buyer may create their own Response outlining Buyer’s desired cure – **NMAR Form 5142 - Response to Notice of Objection.**
- iii. **RESOLUTION.**
 - a. Once the parties have negotiated an agreement to Buyer’s objections, the parties shall complete a Resolution Addendum, which Resolution Addendum shall set forth the parties agreement - **NMAR Form 5143 - Resolution Addendum. If Buyer is obtaining a loan, Buyer is advised to discuss terms of the Resolution Addendum with their lender BEFORE executing the Resolution Addendum, as changes to the Purchase Agreement as set forth in the Resolution Addendum may impact Buyer’s loan.**
 - b. In the event Seller agrees to complete any repairs prior to Closing, Seller shall complete the repairs no later than _____ days prior to Settlement/Signing Date (“Repair Completion Deadline”). **Unless otherwise noted by Buyer in their objections, all repairs to be completed by the appropriately licensed professional and copies of all repair invoices, which shall include vendor contact information and license number, shall be provided to Buyer on or before the Pre-Closing Walk-Through.**
 - c. If the parties are unable to reach a Resolution by the Resolution Deadline, then Buyer shall have two (2) days from the Resolution Deadline to provide written notification to Seller that Buyer is withdrawing all objections on which the parties have not come to Resolution (NMAR Form 5144 – Notice of Buyer’s Withdrawal of Unresolved Objections). If Buyer does NOT withdraw unresolved objections within two (2) days from the Resolution Deadline, then **THIS AGREEMENT SHALL TERMINATE** and Earnest Money, if delivered, shall be refunded to Buyer. Notwithstanding the foregoing, Buyer’s withdrawal of all unresolved objections prior to the Resolution Deadline or within the two (2) days following the Resolution Deadline constitutes Resolution. **NMAR Form 5144 - Notice of Buyer’s Withdrawal of Unresolved Objections.**
- iv. **TERMINATION.** NMAR Form 5105 – Termination Agreement. If Buyer elects to **TERMINATE** this Agreement without requesting Seller to cure any objections, **Buyer AGREES THAT THEY WILL NOT SEND a copy of the document, survey and/or inspection report on which Buyer’s Termination Agreement is based unless requested by Seller in writing. Provided Buyer has received an inspection report, then upon Seller’s written**



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request for a copy of the document, survey and/or inspection report, Buyer shall provide said document, survey or report within three (3) days from Seller’s written request. Buyer shall provide said inspection report to Seller without payment or other compensation. If Buyer timely elects to terminate, Earnest Money, if delivered, shall be refunded to Buyer.

22. TERMINATION AND DISTRIBUTION OF EARNEST MONEY. If this Agreement terminates in accordance with the terms of this Agreement, the parties shall execute a NMAR Form – 5105 - Termination Agreement, and in the event Earnest Money has been delivered to a Title Company/Escrow Agent, the parties shall execute a NMAR Form 5105B - Earnest Money Consent to Distribution that provides for distribution of the Earnest Money in accordance with the terms of this Agreement.

23. SERVICE PROVIDER RECOMMENDATIONS. If Broker(s) recommends a builder, contractor, escrow company, title company, pest control service, appraiser, lender, attorney, accountant, home inspection company or home warranty company or any other person or entity to Seller or Buyer for any purpose, such recommendation shall be independently investigated and evaluated by Seller or Buyer, who hereby acknowledges that any decision to enter into any contractual arrangement with any such person or entity recommended by Broker shall be based solely upon such independent investigation and evaluation.

24. HOME WARRANTY CONTRACT. Buyer is advised to investigate the various home warranty plans available for purchase. The parties acknowledge that different home warranty plans have different coverage options, exclusions, limitations and service fees and most plans exclude pre-existing conditions. Neither the Seller nor the Broker is responsible for home warranty coverage or lack thereof. The parties acknowledge that a home warranty service contract provider may conduct an inspection of the Property but does not always do so.

A. A Home Warranty Plan shall be ordered by Buyer Seller to be issued by _____ at a cost not to exceed \$ _____ (Cost to be paid by party indicated in Costs to be Paid grid) or

B. Buyer declines the purchase of a Home Warranty Plan.

25. DISCLAIMER. The Property is sold in its current condition including, but not limited to, the nature, location, amount, sufficiency or suitability of the following: current or future value; future income to be derived therefrom; current or future production; condition; size; location of utility lines; location of sewer and water lines; availability of utility services or the possibility of extending improvements (paving, sewer, water, utilities, access) to the Property; easements with which the Property is burdened or benefited; lot boundaries; adjacent property zoning; physical and legal access; soil conditions; permits, zoning, or code compliance; lot size or acreage; improvements or square footage of improvements; and water rights. **Broker has not investigated and is not responsible for the forgoing aspects of the Property, among which lot size, acreage, and square footage may have been approximated, but are not warranted as accurate.** Buyer shall have full and fair opportunity to inspect and judge all aspects of the Property with professional assistance of Buyer’s choosing prior to settlement. Buyer and Seller acknowledge that Brokers’ only role in this transaction is to provide real estate advice to Broker’s respective client and/or customer and real estate information to the parties. For all other advice or information that may affect this transaction including, but not limited to, financial and legal advice, the parties shall rely on other professionals.

26. MAINTENANCE. Until the Possession Date, Seller shall maintain the Property and all aspects thereof including, but not limited to, the following: heating; air conditioning; electrical; roofs; solar; septic systems; well and well equipment; gutters and downspouts; sprinklers; plumbing systems, including the water heater; pool and spa systems; appliances; and other mechanical apparatuses. **IF UTILITIES ARE ON AS OF THE DATE OF ACCEPTANCE, SELLER SHALL MAINTAIN UTILITIES THROUGH POSSESSION DATE (Para. 11) OR DATE OTHERWISE STATED IN AN OCCUPANCY AGREEMENT. IT IS THE BUYER’S RESPONSIBILITY TO ARRANGE TO TRANSFER UTILITIES INTO BUYER’S NAME ON POSSESSION DATE OR DATE OTHERWISE STATED IN AN OCCUPANCY AGREEMENT.** Seller shall deliver the Property, all of the foregoing, and all other aspects thereof to Buyer in the same condition as of the Date of Acceptance, reasonable wear and tear excepted. The following items are specifically excluded from the above:

27. PRE-CLOSING WALK-THROUGH. Within _____ days prior to Settlement/Signing Date, Seller shall allow reasonable access to conduct a walk-through of the Property for the purpose of satisfying Buyer that any corrections or repairs agreed to by the Seller have been completed, warranted items are in working condition and the Property is in the same condition as on the Date of Acceptance, reasonable wear and tear excepted. NMAR Form 5110 - Walk-Through Statement. Notwithstanding



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the foregoing, if the Property is not in the same condition as of the Date of Acceptance due to fire or other causality, see Risk of Loss Paragraph.

- 28. RISK OF LOSS.** Prior to the Funding Date, Seller shall bear the risk of fire or other casualty. In the event of loss, Seller shall provide Buyer written notification of the loss and indicate if insurance coverage is available for the loss within **three (3) days** from loss (“Seller’s Notification”). Buyer shall have the following options to be exercised within **three (3) days** from Seller’s Notification: Buyer may terminate this Agreement and receive a refund of all Earnest Money delivered; or Buyer may elect to delay their decision until they receive written notification from Seller of the amount of insurance proceeds available (“Insurance Notification”). In the event Buyer elects to first receive the Insurance Notification, Seller shall work diligently with their insurance company to determine the amount of coverage and Buyer shall have **three (3) days** from receipt of Insurance Notification to: 1) terminate this Agreement and receive a refund of all Earnest Money delivered, or 2) to close and receive an assignment of Seller’s portion of the insurance proceeds at the Funding Date. If at any point Buyer fails to timely notify Seller of Buyer’s election, Buyer shall be deemed to have elected to proceed to Closing and receive an assignment of insurance proceeds, if any. The parties agree that the Closing date shall automatically be extended as necessary to allow Buyer time to exercise their rights under this paragraph.
- 29. CONSENT TO THE ELECTRONIC TRANSMISSION OF DOCUMENTS AND TO THE USE OF ELECTRONIC SIGNATURES.** The parties do do not consent to conduct any business related to and/or required under this Agreement by electronic means including, but not limited to, the receipt of electronic records and the use of electronic signatures. Subject to applicable law, electronic signatures shall have the same legal validity and effect as original handwritten signatures. Nothing herein prohibits the parties from conducting business by non-electronic means. If a party has consented to receive records electronically and/or to the use of electronic signatures, that party may withdraw consent at any point in the transaction by delivering written notice to the other party.
- 30. ASSIGNMENT.** Buyer may may not sell, assign or transfer the Buyer’s rights or obligations under this Agreement, or any interest herein. In the event of a Buyer’s Assignment, Buyer expressly acknowledges and agrees that notwithstanding language to the contrary in any assignment, Buyer shall remain liable under this Purchase Agreement and perform all of the condition and obligations in this Purchase Agreement.
- 31. HEIRS AND ASSIGNS.** This Agreement shall apply to, be binding upon and enforceable against and inure to the benefit of the parties hereto and their respective representatives, successors, permitted assigns, heirs and estates.
- 32. DEFINITIONS.** The following terms as used herein shall have the following meanings:
- A. APPRAISAL:** current estimated market value of the Property as determined by a licensed real estate appraiser. If Buyer is obtaining a loan, the term refers to an appraisal conducted by an appraiser approved by the lender.
 - B. BROKER:** includes the Buyer’s and Seller’s Brokers.
 - C. DATE:** If a specific **DATE** is stated as a deadline in this Agreement, then that date **IS** the **FINAL** day for performance; and if that specific date falls on a Saturday, Sunday or a legal Holiday, the date **does not** extend to the next business day.
 - D. DATE OF ACCEPTANCE:** date this Agreement is fully executed and delivered.
 - E. DAY(S):** determined on a “calendar day” basis and if the **FINAL** day for performance falls on a Saturday, Sunday or legal Holiday, the time therefore shall be extended to the next business day. Legal Holidays are described as New Year’s Day, Martin Luther King Jr.’s Birthday, President’s Day, Memorial Day, Juneteenth, Independence Day, Labor Day, Columbus Day/Indigenous Peoples Day, Veteran’s Day, Thanksgiving Day and Christmas.
 - F. DELIVER(ED):** by any method where there is evidence of delivery. In the event the parties have agreed to electronic transmission of documents, a facsimile or e-mail transmission of a copy of this or any related document shall constitute delivery of that document. When an item is delivered to the real estate Broker who represents the Buyer or Seller, it is considered delivered to the Buyer or Seller respectively, except if the same Broker represents both Buyer and Seller, in which case, delivery must be made to the Buyer or Seller, as applicable.
 - G. DEADLINES:** any “deadline(s)” can be expressed either as a calendar date or as a number of days.
 - H. ELECTRONIC/ELECTRONIC RECORD:** relating to technology having electrical, digital, magnetic, wireless, telephonic, optical, electromagnetic or similar capabilities and includes, but is not limited to, facsimile and e-mail; a record created, generated, sent, communicated, received or stored by electronic means.
 - I. ELECTRONIC SIGNATURE:** an electronic sound, symbol or process attached to or logically associated with a record and executed or adopted by a person with the intent to sign the record.
 - J. EXPIRATION DATE:** means the date the party is revoking their offer or counteroffer. An offer is no longer capable of acceptance after it expires, consequently, if the party intends to accept the offer or counteroffer, it must be accepted before the Expiration Date. If a party intends to make a counteroffer, it does not need to be made by the Expiration Date because a counteroffer serves as both a rejection of the original offer (or counteroffer) AND as a new offer.



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- K. FIXTURE:** an article which was once Personal Property, but which has now become a part of the Property because the article has been fastened or affixed to the Property. Fastened/affixed means that removal of the article causes damage to the real property, even if such damage is minor and/or can be repaired. If a unit contains components, some of which are Fixtures and some of which are Personal Property, and a Fixture component of the unit relies on one or more Personal Property components to function as it is intended to do so, then **ALL** components together are considered a Fixture and shall remain together, unless otherwise provided herein.
- L. MASCULINE:** includes the feminine.
- M. PERSONAL PROPERTY:** a moveable article that is NOT affixed/attached to the Property.
- N. RESOLUTION:** a written agreement between the parties regarding how all Buyers' objections shall be resolved.
- O. SINGULAR:** includes the plural.
- P. STANDARD EXCEPTIONS:** those common risks as set forth in the title commitment for which the title insurance policy does NOT provide coverage. These exceptions are matters outside the Title Company's search and special requirements must be met in order to delete them and provide the insured with the additional/extended coverage.
- 33. FLOOD HAZARD ZONE.** If the Property is located in an area which is designated as a special flood hazard area, Buyer may be required to purchase flood insurance in order to obtain a loan secured by the Property from any federally regulated financial institution or a loan insured or guaranteed by an agency of the U.S. Government.
- 34. MEDIATION.** If a dispute arises between the parties relating to this Agreement, the parties shall submit the dispute to mediation, jointly appoint a mediator and share equally in the costs of the mediation. If a mediator cannot be agreed upon or mediation is unsuccessful, the parties may enforce their rights under this Agreement in any manner provided by law. NMAR Form 5118 - Information Sheet - Mediation Information for Clients and Customers.
- 35. EARNEST MONEY DISTRIBUTION.** Generally, title or escrow companies will not release Earnest Money without first receiving either an Earnest Money Distribution Agreement signed by all parties to this Agreement (NMAR Form 5105B – Earnest Money – Consent to Distribution) or a judgment from a court. If the parties cannot come to an agreement on how the Earnest Money shall be distributed, the Mediation Paragraph shall apply. If the parties cannot reach a resolution through mediation and proceed to litigation, at the conclusion of litigation the court will issue a judgment apportioning Earnest Money. Also, the title or escrow company holding the Earnest Money has the option of filing an Interpleader Action, which will force Buyer and Seller into litigation. NMAR Form 2310 – Information Sheet - Earnest Money Dispute
- 36. DEFAULT, NOTICE AND OPPORTUNITY TO CURE.** Time is of the essence. Except as otherwise noted herein, any default under this Agreement shall be treated as a material default, regardless of whether the party's action or inaction is specifically classified as a default herein.
- A. Deadline Defaults.** In the event a party fails to perform by a specified deadline, the non-defaulting party shall provide written notice to the defaulting party of the nature and extent of the Deadline Default ("Notice"). NMAR Form 2112 - Notification of Deadline; Default and Opportunity to Cure. The defaulting party shall have **two (2) days** from receipt of the Notice to Cure the Deadline Default ("Opportunity to Cure"). If after Notice and Opportunity to Cure, the defaulting party fails to cure the Deadline Default, the non-defaulting party may elect to cease further performance under this Agreement. In this event, the non-defaulting party may retain the Earnest Money and pursue any additional remedies allowable by law. In the alternative, the non-defaulting party may elect to waive the Deadline Default, in which case, both parties remain responsible for all obligations and retain all rights and remedies available under this Agreement.
- B. Other Defaults.** The requirement to provide Notice and Opportunity to Cure only applies to defaults with specific deadlines for performance. For all other defaults, the non-defaulting party may elect to cease further performance under this Agreement without Notice and Opportunity to Cure and to retain the Earnest Money and pursue any additional remedies allowable by law. In the alternative, the non-defaulting party may elect to waive the default, in which case, both parties remain responsible for all obligations and retain all rights and remedies available under this Agreement.
- 37. ATTORNEY FEES AND COSTS.** Should any aspect of this Agreement result in arbitration or litigation, the prevailing party of such action shall be entitled to an award of reasonable attorneys' fees and court costs.
- 38. FAIR HOUSING.** Buyer and Seller understand that the Fair Housing Act and the New Mexico Human Rights Act prohibit discrimination in the sale or financing of housing on the basis of race, age (this covers protection for people with children under age 18 and pregnant women), color, religion, sex, sexual orientation, gender identity, familial status, spousal affiliation, physical or mental handicap, national origin or ancestry.
- 39. COUNTERPARTS.** This agreement may be executed in one or more counterparts, each of which is deemed to be an original, and all of which shall together constitute one and the same instrument.



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- 40. GOVERNING LAW AND VENUE.** This Agreement is to be construed in accordance with and governed by the internal laws of the State of New Mexico without giving effect to any choice-of-law rule that would cause the application of the laws of any jurisdiction other than the internal laws of the State of New Mexico to the rights and duties of the parties. Each party hereby irrevocably consents to the jurisdiction and venue of the state and federal courts located in the county in which the Property or any portion of the Property is located in connection with any claim, action, suit, or proceeding relating to this Agreement and agrees that all suits or proceedings relating to this Agreement shall be brought only in such courts.
- 41. SEVERABILITY.** If any portion of this Agreement is found by any court of competent jurisdiction to be invalid or unenforceable, the remainder of this Agreement shall remain in full force and effect.
- 42. MULTIPLE BUYERS.** Each Buyer to this Agreement is jointly and severally liable for all obligations under this Agreement. In the event any Buyer should be unable to perform under this Agreement (due to death or incapacity), the remaining Buyer(s) shall continue to be obligated under this Agreement.
- 43. AUTHORITY OF SIGNORS.** If Buyer or Seller is a corporation, partnership, estate, trust, limited liability company or other entity, the person signing this Agreement on its behalf warrants their authority to do so and to bind the Buyer or Seller for which they are signing.
- 44. BUYER AND SELLER AUTHORIZATIONS.** Unless otherwise instructed in writing, with respect to the real estate transaction that is the subject of this Agreement, Seller and Buyer hereby authorize the following: the Title Company, lender, Escrow Agent and their representatives to provide a copy of any and all loan estimates, Closing disclosures, other settlement statements and title documents to the Seller’s and Buyer’s respective Brokers; the Title Company to deliver any Title Company generated settlement statement(s), in its entirety (Seller and Buyer’s information) to both the Seller and Buyer and their respective Brokers; and their respective Broker to be present for the Closing.
- 45. SURVIVAL OF OBLIGATIONS.**
 - A. The following paragraphs shall survive Closing of the Property:** 2, 6, 11, 12, 14, 15, 17, 18(I), 21, 23, 26, 28, 31, 34, 37, 40, 41, 42 and 45-48.
 - B. Unless otherwise noted on the Termination Agreement or the Earnest Money Consent to Distribution, the following provisions and paragraphs shall survive termination of this Agreement:** any provision requiring a party to pay for a document inspection, appraisal, survey or ILR; Buyer’s obligation to deliver the entire inspection report in accordance with Para. 21 upon written request from Seller; the requirement that the parties sign an Earnest Money Consent to Distribution in accordance with Para. 22; and Paragraphs: 4, 5, 23, 31, 34, 35, 37, 40, 41, 42, and 45-48.
- 46. FORCE MAJEURE.** Buyer or Seller shall not be required to perform any obligation under this Agreement or be liable to each other for damages so long as performance or non-performance of the obligation or the availability of services, insurance or required approvals essential to Closing, is disrupted, delayed, caused or prevented by Force Majeure. “Force Majeure” means: hurricanes, floods, extreme weather, earthquakes, fire, or other acts of God, unusual transportation delays, wars, insurrections, acts of terrorism, pandemics or diseases or any governmental authority taken in response to a pandemic. All time periods, including the Closing Date, will be extended up to 10 days after the Force Majeure no longer prevents performance under this Agreement, provided, however, if such Force Majeure continues to prevent performance under this Agreement more than 30 days beyond the Settlement/Signing Date, then either party may terminate this Agreement by delivering written notice to the other and any Earnest Money deposit shall be refunded to Buyer. This provision applies whether or not the underlying applicable event is foreseeable at the time of execution of this Agreement.
- 47. SIGNIFICANCE OF INITIALS.** Initials signify that the Buyer and/or Seller has reviewed and understands the page or section; initials do not signify acceptance of the terms on the page or in the section. **By their signature hereto, the parties represent that they have reviewed, understand, accept and agree to the terms contained in this Agreement.**
- 48. ACCEPTANCE, ENTIRE AGREEMENT, ADDENDUMS IN WRITING.** This offer is not considered accepted until fully executed by the Seller and delivered to the Buyer. Once fully executed and delivered, the parties have a legally binding contract. This Agreement, together with the following addenda and any exhibits referred to in this Agreement, contains the entire Agreement of the parties and supersedes all prior agreements with respect to the Property, which are not expressly set forth herein. All exhibits and addenda to this Agreement are incorporated into this Agreement as operative provisions unless otherwise stated in a counteroffer or subsequent addendum.

THIS AGREEMENT MAY BE MODIFIED ONLY BY WRITTEN AGREEMENT OF THE PARTIES.

- | | |
|--|---|
| <input type="checkbox"/> Addendum to Purchase Agreement – Back Up Offer (NMAR Form 1530) | <input type="checkbox"/> Mortgage/Deed of Trust Addendum (NMAR Form 2507) |
| <input type="checkbox"/> Addendum No. _____ (NMAR Form 5101 or 2300) | <input type="checkbox"/> Occupancy Agreement – Buyer/Seller (NMAR 2201/2202) |
| <input type="checkbox"/> Buyer’s Closing & Funding Sale Contingency (NMAR Form 2503A) | <input type="checkbox"/> Real Estate Contract Addendum (NMAR Form 2402) |
| <input type="checkbox"/> Buyer’s Sale Contingency Addendum (NMAR Form 2503) | <input type="checkbox"/> Residential Resale Condominium Addendum (NMAR Form 2302) |



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- Escalation Clause Addendum (NMAR Form 2111)
Estimated Property Tax Levy
Lead-Based Paint Addendum (NMAR Form 5112)
Other
Septic System Contingency Addendum (NMAR Form 5120A)
Inspection and Objection Waiver Addendum (NMAR Form 5140)
Other

49. EXPIRATION OF OFFER. This offer shall expire unless acceptance is delivered in writing to Buyer or Buyer's Broker on or before ... at ... a.m. p.m. Mountain Time. NOTE: UNTIL SELLER ACCEPTS THIS OFFER AND DELIVERS THE FULLY EXECUTED AGREEMENT, BUYER MAY WITHDRAW THIS OFFER AT ANY TIME.

ATTENTION BUYERS AND SELLERS

- OBLIGATIONS/RESPONSIBILITIES SET FORTH HEREIN. Unless otherwise noted on Cover Page II, the Brokers involved in this sale are working as transaction brokers. This means, in part, that the obligations and responsibilities set forth in this Purchase Agreement are those of the parties to the Purchase Agreement and not of the Brokers.
AVAILABILITY OF INSPECTORS. Buyers are encouraged to determine the availability of home and other inspectors the Buyer intends to engage PRIOR TO entering into this Agreement. Events may impact the availability of home and other inspectors and vendors needed to conduct inspections and/or repairs. The parties should be aware of this when setting deadlines for inspections and repairs and are expected to deviate from their primary selection(s) of inspectors and/or vendor(s) when necessary to meet the inspection and repair deadlines in this Agreement.
WIRE FRAUD ALERT
Criminals are hacking email accounts of real estate Brokers, title companies, settlement attorneys and others, resulting in fraudulent wire instructions being used to divert funds to the account of the criminal.
The emails look legitimate, but they are not.
Buyer and Seller are advised not to wire any funds without personally speaking with the intended recipient of the wire to confirm the routing number and the account number.
Buyer and Seller should NOT send personal information such as social security numbers, bank account numbers and credit card numbers except through secured email or personal delivery to the intended recipient.

OFFER BY BUYER

BUYER ACKNOWLEDGES THAT BUYER HAS READ THE ENTIRE PURCHASE AGREEMENT AND UNDERSTANDS THE PROVISIONS THEREOF.

Buyer Signature Printed Name Offer Date Time
Buyer Signature Printed Name Offer Date Time

If additional signature lines are needed, please use NMAR Form 1150 – Signature Addendum



SELLER'S RESPONSE

SELLER ACKNOWLEDGES THAT SELLER HAS READ THIS ENTIRE AGREEMENT AND UNDERSTANDS THE PROVISIONS HEREOF. (SELLER SHOULD SELECT ONE):

ACCEPTANCE

SELLER ACCEPTS this Offer and **AGREES** to sell the Property for the price and on the terms and conditions specified in this Agreement. **IF SELLER IS ACCEPTING THIS OFFER, SELLER SHOULD INITIAL ALL PAGES AND SIGN BELOW.**

SELLER(S)

Seller Signature Printed Name Date Time

Seller Signature Printed Name Date Time

If additional signature lines are needed, please use NMAR Form 1150 – Signature Addendum

COUNTEROFFER

SELLER REJECTS and submits a **Counteroffer**. NMAR 5102 or NMAR 2111B

IF SELLER IS REJECTING THIS OFFER AND SUBMITTING A COUNTEROFFER, SELLER SHOULD NOT SIGN THIS AGREEMENT, BUT SHOULD INITIAL ALL PAGES AND INITIAL BELOW.

SELLER(S) _____

NOTIFICATION OF MULTIPLE OFFERS

SELLER REJECTS and submits a **Notification of Multiple Offers**. NMAR 5103 – Notification of Multiple Offers

IF SELLER IS REJECTING THIS OFFER AND SUBMITTING A NOTIFICATION OF MULTIPLE OFFERS, SELLER SHOULD NOT SIGN THIS AGREEMENT AND DOES NOT NEED TO INITIAL ANY /ALL PAGES BUT SHOULD INITIAL BELOW.

SELLER(S) _____

REJECTION

SELLER REJECTS THIS OFFER.

IF SELLER IS REJECTING THIS OFFER, SELLER SHOULD NOT SIGN THIS AGREEMENT AND DOES NOT NEED TO INITIAL ANY/ALL PAGES BUT SHOULD INITIAL BELOW.

SELLER(S) _____



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