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# **Changes from the July 2006 to the September 2008 Central Carolina Realtors Association (CCRA) Contract**

## **I. BACKGROUND**

### **A. How the New Contract Was Created**

1. The CCRA Contract Committee consisted of buyer agents, seller agents, agents who represent both parties, broker-in-charge, and a real estate lawyer.
2. Compromise between multiple viewpoints were made in an attempt to be fair to both parties and not to have a one-sided contract.

### **B. Length of the Contract**

1. Georgia, North Carolina and Virginia all have contracts approximately the same length as the 2008-CCRA contract.
2. Some states have longer contracts. For example, see the length of the California and New York contracts.
3. Reasons for Additional Length:
  - a. The Contract Committee closed the loopholes in the current contract (e.g., The 2006-Contract has a space for entering the price of the home warranty. However, the contract never addressed who pays the difference if the price for the warranty was more than the price written in the blank by the parties. A few years ago, a warranty company increased the warranty price without notice. All the contracts that closed after the rate increase became problematic because the contract did not address who paid the difference in the price noted in the contract and the actual warrant cost. There are numerous other examples of loopholes that will be demonstrated as you proceed throughout this outline).
  - b. The Inspection Paragraph (9) is greatly changed and is more detailed. Please see the discussion of Paragraph 9 herein for more information on the inspections and changes to the Inspection Paragraph.

- c. The Committee added several “notes” that remind agents of what must be done in particular situations such as making an offer with Veterans’ Administration financing.
- d. Brevity is never the goal of a good contract. Thoroughness, completeness and ease of understanding by the parties are the goals of a well-written contract.

### **C. Topics in Contract**

1. The Contract Committee grouped similar topics (e.g., all earnest money issues are now grouped together).
2. Topic headings are now part of the paragraph and not part of the marginalia.

### **D. Initials**

1. History shows specific issues are problematic to clients who either claim ignorance or inability to interpret the contract when matters arise post-contract signing.
2. The Committee added several places for the client to initial so that the client would be fully aware of the contract language in these circumstances.

## **II. PARAGRAPHS OF THE CONTRACT**

### **A. Paragraph 1 (“Parties”)**

1. Changed heading to “Parties” from “Date”.
2. Changed “Purchaser” to “Buyer” throughout the contract.
3. Special note: “Listing Agent” and “Selling Agent” is now changed to “Buyer’s Agent” and “Seller’s Agent” because of the public’s confusion over the old terms.

### **B. Paragraph 2 (“Property”)**

1. The Paragraph still addresses the property description.
2. The contract added lot, block, phase and subdivision to the description.

- a. Reason for additions was the “911” address can change without notice and conflicts with information at Tax Assessor/Tax Collectors offices.
- b. Also, additions were made to avoid disputes over added or adjacent properties that may have different addresses but still might be considered as part of the transaction.

**C. Paragraph 3 (“Price”)**

1. No changes were made to this paragraph.
2. The Contract still contemplates U.S. Dollars in numerics.

**D. Paragraph 4 (“Earnest Money”)**

1. Contract consolidated all earnest money matters into one paragraph. For example, the contract includes specifics on how earnest money is released, etc. (Please note that Paragraph 20 in the 2006-Contract is consolidated with Paragraph 4).
2. Contract contains language that Buyer understands that earnest money “may” be deposited into an interest-bearing account rather than requiring a selection. Now the real estate agent does not need to know what the broker is doing in this regard.
3. The South Carolina statute is cited as to the release of earnest money.
  - a. State law does not allow the agency to release the earnest money unless the parties to the contract agree.
  - b. Release of earnest money can only occur if both parties sign a release or there is a written order by a court of competent jurisdiction.
  - c. Citing the statute in the contract will help remind the real estate agents and the parties that the statute must prevail.

4. The Contract Committee added a provision that says if a client is being unreasonable and does not agree to the release of the earnest money, the non-prevailing party must pay attorney's fees and court costs of the prevailing party and the real estate agents.

**E. Paragraph 5 (“Transaction Costs”)**

1. Previously Paragraph 6 in the 2006-Contract.
2. Contract now defines “Buyer’s Transaction Costs” and “Seller’s Transaction Costs”.
3. Selection available to the parties is now:
  - a. Buyer pays Buyer’s Transaction Costs and Seller pays Seller’s Transaction Costs.
    - (1) In FHA and VA, non-allowables are now considered Seller’s Transaction Costs!
  - b. Seller pays a portion of Buyer’s Transaction Costs.
    - (1) FHA and VA are paid first in closing costs to avoid argument that Buyer’s non-allowables are added to the closing cost contribution.
4. If closing cost ceiling is not reached, it makes it clear that Seller’s responsibility on closing costs stops, i.e., no more speculation as to whether Seller should pay other costs or give money to Buyer outside of closing in violation of RESPA.

**F. Paragraph 6 (“Financing”)**

1. Background
  - a. Previously Paragraph 4 of the 2006-Contract.
  - b. Committee consulted prominent lenders in CCRA region on various provisions of the contract.
2. Contingent on Financing: Buyer selects whether the contract is contingent or not on contingent on financing.

- a. This allows Buyer to strategize in making a stronger offer (not contingent) and the loss of earnest money if transaction does not close.
  - b. The Contract financing contingency still expires 5 business days before closing date (non-contingent at that point).
3. Paragraph 6.A.
- a. There is another “Note” to realtors:
    - (1) There must be an FHA or VA addendum, if applicable.
    - (2) Seller pays Buyer’s non-allowable closing costs.
    - (3) Seller must pay for VA-required termite letter.
4. Paragraph 6.B.
- a. Buyer still only has 5 days to apply for financing.
    - (1) This includes advancing funds for appraisals, credit report, etc.
    - (2) Buyer must provide identity of the lender to Seller.
    - (3) Failure to apply for financing puts Buyer in default. However, Seller has option to void the contract and earnest money is released to Seller. (Previous contract was an automatic void situation.) (Paragraph 6.B.1).
  - b. If Buyer changes financial condition to where Buyer cannot get the loan, Buyer is now in default (Paragraph 6.B.2).
  - c. Reminder: Contract refers parties back to Paragraph 4 for all earnest money issues.
  - d. Paragraph 6.B.3. Allows attorneys as well as Seller and Seller’s agent to get information on loan.

5. Paragraph 6.C. (“Seller Financing”)
  - a. Contract now requires that the terms of seller-financing be negotiated and added as a contract addendum.
6. Paragraph 6.D. (“Cash Transactions”)
  - a. In cash transactions Buyer still must get proof of funds within 5 days, but now contract requires a letter from the specific source of the funds.
  - b. Failure to provide the letter from the source of funds makes contract voidable (not void) by Seller.
7. Paragraph 6.E. (“Appraisal Contingency”)
  - a. Continuous debate over this issue of appraisal contingency is now resolved by election of the parties as to whether it is contingent upon appraisal or not.
  - b. If contingent on appraisal and the house does not appraise, the options for the parties are:
    - (1) Buyer has 24 hours to notify Seller that he will disregard appraisal and close for negotiated price anyway; or
    - (2) Parties can re-negotiate the terms. If parties cannot reach an agreement, either party may terminate the contract and earnest money goes back to Buyer.
8. Paragraph 6.F. (“Seller’s Mortgage Payoff”)
  - a. Allows attorney to obtain payoff without additional written consent.

**G. Paragraph 7 (“Conveyance Date of Closing/Possession”)**

1. Added that the deed is held in trust by attorney until transaction is disbursed. This provision eliminates concern by Seller that deed is released before funds are disbursed.
2. Section added more options for when possession occurs.



3. Provision maintained automatic extension of 5 days if all parties did what they were supposed to.

#### **H. Paragraph 8 (“Right of Buyer to Inspect/Re-Inspect Property”)**

1. Previously part of the Inspection Paragraph in the 2006-Contract, Paragraph 9.
2. Contract defines “Inspector”: Eliminates family member, friend, etc. who try to give some kind of “professional” opinion.
3. Seller must keep utilities “on” to allow for inspection. (Note: this may be trumped by addenda used by REO sales, relocations, etc.)
4. Ties into Paragraph 11 (“Condition of Property”), discussed later in materials, that allows for re-inspection for repairs and walk-throughs.
5. If house is inspected, and then re-inspected later because of expiration of termite letter for example and *NEW damages are found*, Seller must maintain the house in the same condition and, therefore, Seller must repair.

If *OLD* damage is found at re-inspection, this is not addressed in contract because it involves third party liability and a lawyer should be consulted.

#### **I. Paragraph 9 (“Property Sold Subject to Due Diligence Period”)**

1. Background
  - a. Same paragraph number as 2006-Contract.
  - b. General Statement: This is the most changed provision in the contract. This is what the Contract Committee believes makes this a very good contract. The Committee felt that the inspection provision in the current contract was problematic.
2. Example of Why the Contract Needed to be Changed

In deciding how to attack this matter the Committee felt that if someone was selling widgets to a Buyer, upon

presentation of an offer, Seller would know exactly what he would make from the sell of the property. Seller would know what it is going to cost him to produce and transfer the widgets. Buyer would also know what exactly he was buying in terms of cost and quality.

COMPARED TO 2006-CONTRACT. In the 2006-Contract after Seller accepts an offer he has no idea what he will make on the sale or if he will even make anything. Buyer may present a list of repairs under the inspection provision. Now Seller has to decide whether or not to pay for the repairs or lose the sale. Then often, weeks later, Seller is presented with a HVAC letter requiring repairs that under the current contract he has to make regardless of the later determined quality of the cost and regardless of the other repairs that he just agreed to make. And of course, the HVAC letter is provided well after Seller agrees to the other repairs. Then comes the CL-100 which Seller has to make repairs regardless of the costs. So Seller agreed to make repairs under the home inspection provision that he otherwise would not have agreed to make had he known about the costs under the CL-100 and HVAC. Those costs are unlimited to Seller.

On the Buyer's side, the walk through when Buyer looked at the house with his agent really tells Buyer nothing about the quality of the house. Under the 2006-Contract, Buyer has to buy the house regardless so long as Seller agrees to repair all requested repairs. The Contract Committee felt that it is patently unfair to require Seller to make repairs at any cost and equally unfair to make a Buyer purchase a house when he determines the true condition of the house.

In the past a refusal meant a cancelling of the contract even if Buyer still wanted to buy it without repairs. If Seller counters in the 2008-Contract, the parties may negotiate.

The point in the new contract is Seller is not made to make repairs. Buyer is not forced to purchase the property after his inspections.

3. Two Possible Complaints
  - a. One possible complaint is the inspection letters may expire. HVAC letters are good until the inspector leaves the house. The CL-100 is good for 30-45 days.

In most cases, closings occur within 30-45 days of the contract being executed. In the cases where it does not, the fee for re-inspection is nominal versus the benefits of the inspection period.

- b. Some agents may claim that this will cause more contracts to fall through. The Contract Committee believes that it will have the opposite effect. Buyers who want out of the contract today, use the contract to get out. They get a lender to give them the “financing not approved” letter or ask for untold repairs. It is better for those people to rescind the contract properly within 10 days versus making up a reason the week or day before closing.
4. Agent Code of Ethics. An agent’s codes of ethics prohibits an agent from advising or allowing a client to put a contract on a house simply to hold a house when they have no intention of consummating the sale if they find a different house.
  5. Paragraph 9.A. (“Due Diligence Period Inspections”)
    - a. The contract creates a 10-day due diligence period to perform (all and any) inspections. The 10 days starts at “acceptance” of the contract as defined by Paragraph 29.B.
    - b. Contract includes a list of sample inspections (but not all-inclusive), nor is there a requirement to do any of them.
    - c. VA financing requires Seller to pay for CL-100.
    - d. Re-inspections done by Buyer are done at Buyer’s expense.
    - e. If contract is contingent upon selling Buyer’s current home, the due diligence period does not begin until Seller’s broker receives notice of removal of contingency. (As we will discuss later, Seller can continue to accept new offers, so delay by Buyer is at Buyer’s peril.)

6. Paragraph 9.B. (“Due Diligence Period Extension”)
  - a. If inspections cannot be completed within 10 days, the parties can either extend the period by mutual agreement, or Buyer can elect to proceed with current inspections or rescind contract.
  - b. Example: If termite inspector says mold and mildew and another expert is required to inspect, but this inspection will take place after 10-day period, then the following options apply:
    - (1) Parties renegotiate due diligence period; or
    - (2) Buyer elects to proceed with current inspections and purchase property; or
    - (3) Buyer rescinds contract.
7. Paragraph 9.C. (“Inspection Options”)
  - a. Prior to expiration of due diligence, Buyer has three options:
    - (1) Accept property “as inspected” and close; or
    - (2) Buyer can determine inspections are unsatisfactory and can terminate the contract, but must provide the inspections and written notification of termination prior to expiration of due diligence. (Earnest money released back to Buyer; Paragraph 4). If Buyer fails to give notice during the due diligence period, Buyer is deemed to have accepted the property in “as inspected” condition; and failure to close then would be default.
    - (3) Buyer can request repairs by providing a copy of the report requiring repairs and an addendum requesting the repairs. If Buyer doesn’t follow these requirements, i.e., submit the report or addendum, then it’s an “as is” contract and Buyer must purchase (or be in default).
      - (a) Seller then has the following rights:

- (i) Five days to state; failure to state means “no”.
  - (aa) Yes, I’ll make repairs.  
Then close.
  - (bb) No, I won’t make repairs.  
Then one of four things happens:
    - (1) Buyer says I’ll buy it anyway. Buyer has 24 hours to decide to buy “as inspected”;
    - (2) Buyer rescinds;
    - (3) Parties can continue to negotiate to resolve matter; or
    - (4) Either party can terminate the contract after Buyer attempts negotiations and the negotiations are unfruitful.

8. Paragraph 9.D. (“FHA/VA Appraisal Inspections”):

- a. FHA and VA inspections are not subject to time frames because controlled by third parties.
- b. If repairs are required by FHA or VA inspector:
  - (1) Seller can opt to make them or not.
  - (2) If Seller does not make them, Buyer can make repairs, if permitted, and proceed; or Buyer can cancel contract.

9. Seller now has some control that Seller didn't have in last contract. It allows second opinions where 2006-Contract did not.

For example, if the termite letter requires repairs, Seller is now in the position that he can agree to make repairs only if a second opinion is obtained first.

**J. Paragraph 10 (Property Sold "As-Is")**

1. The reason the paragraph was created was Agents were typically writing "as-is" language without explaining what it meant.
2. Now Paragraph 10 instead of Paragraph 9.
3. Two options:
  - a. "As Is" meaning Buyer takes in current condition but can do inspections. At end of inspections, Buyer opts to either close or not to close.
  - b. "As Is" without inspections (e.g., when someone just wants to tear the house down).
4. Allows Buyers to put in stronger offer.

**K. Paragraph 11 ("Condition of Property")**

1. Ties in with Paragraph 8 (on re-inspections).
2. Previously Paragraph 10.
3. Seller agrees to maintain the property in the same condition as the time of inspections.

**L. Paragraph 12 ("Property Condition Disclosure Statement")**

1. Previously Paragraph 10.E.
2. Contract took language concerning Property Disclosure directly from the South Carolina Code so no equivocation.
3. Contract added the requirement to update the disclosure if the statement is rendered inaccurate, misleading, incomplete or false by later obtained information.

4. The parties can elect not to provide disclosure for one of the thirteen reasons cited in the statute.

**M. Paragraph 13 (“Lead-Based Paint”)**

1. Formerly Paragraph 9.D.
2. Reduced size of paragraph to include only necessities.

**N. Paragraph 14 (“Home Warranty Coverage”)**

1. Previously Paragraph 25.
2. The Committee closed the loophole that if the price of the warranty exceeds the amount written in the blank space to make Buyer now responsible for the difference in the price if it is higher than noted.

**O. Paragraph 15 (“Property Documentation”)**

1. Previously Part of Paragraph 10.
2. Agent recommendation on Buyer reviewing Conditions, Covenants and Restrictions, surveys, etc.
3. Flood Zone Provisions have changed (Paragraph 15.B.)
  - a. The contract language changed from Seller “warrants” to “represents” because Seller may not have information available to him to “warrant”. “Warrants” means it must be correct whereas represents is to the best of Seller’s knowledge.
  - b. If Seller represents the property is not in a designated Special Flood Hazard Area (“flood zone”) and it is determined to be in flood zone, Buyer can terminate the contract. Buyer must terminate within 3 days of the receipt of the flood zone notice.
  - c. Failure to notify Seller means acceptance by Buyer.
4. Homeowners’ Association Fees and Special Assessments; Paragraphs 15.C. and 15.D. deal better with Home Owners’ Association fees and special assessments. Ties into Paragraph 19.

**P. Paragraph 16 (“Additional Contingencies”)**

1. Formerly Paragraph 8.
2. Paragraph 16.A. (“Sale and Closing Contingency”) was added generally to stop the situation where Buyer doesn’t disclose he has a house to sell until the point of closing claiming that he could not get financing. Buyer now has to disclose the house that he must sell or he will be in default. In the past, Buyer would use the financing contingency to get out of contract.
  - a. CCRA cannot require the *For Sale By Owner* (FSBO) to use an agent. A requirement may be in violation of federal law. Now Buyer has to tell Seller if the house is listed with an agent for sale or FSBO. [Paragraph 16.A.1.]
  - b. As long as contingent on the sale and the close of the house, Seller can continue to market and take offers, with this becoming a back up offer. [Paragraph 16.A.2.]
  - c. Language makes it much plainer and simpler for Buyer to understand.
  - d. The new contract must be without contingency other than financing and the inspections must be clear.
  - e. If the contract date passes, and the contingency is not removed, then the contract is void unless extended by agreement. [Paragraph 16.A.3.]
  - f. Paragraph 16.A.4. states once Buyer gets a contract, it is changed in Consolidated Multiple Listing Service (CMLS) to pending or active contingent. If Buyer accepts contract with contingencies, then status does not change. (This is designed to help realtors explain to their clients.)
3. “Closing Contingency” (Paragraph 16.B.) deals with the situation where a contract already exists for Buyer’s current residence but closing has not occurred. In this case, Seller can only accept back-up offers and CMLS will be shown as pending or active contingency. No closing date blank



available. The contract says that it will close prior to the closing of Seller's property.

4. Other contingencies can be added in Paragraph 16.C. (Use normal care in wording them.)

**Q. Paragraph 17 (“Fixtures and Personal Property”)**

1. Formerly Paragraph 13. This paragraph essentially stayed the same.

**R. Paragraph 18 (“Other Terms”)**

1. Formerly Paragraph 14.
2. Added statement that written terms in this space of the contract trump the pre-printed language.

**S. Paragraph 19 (“Adjustments”)**

1. Formerly Paragraph 15.
2. Contract removed the proration of water and sewer because most utilities prefer to close the account or end Seller's account and send them the final bill. Water and sewer bills are not liens on the property until the lien is filed at the Register of Deeds Office.
3. Buyer responsible for applying for tax exemptions.
4. Any assessments levied through the closing date are Seller's responsibility even if not due until after closing.

**T. Paragraph 20 (“Fire and Casualty”)**

1. Formerly Paragraph 16.
2. Change is that Buyer is now able to choose whether to continue with closing after receiving notice of the casualty. (This removes the incentive for Seller to “purposefully” cause damage to be able to void the contract.)

**U. Paragraph 21 (“Default”)**

1. Formerly Paragraph 17.

2. The only significant change is that the contract no longer specifies that realtors are entitled to 50% of the earnest money. If your company/BIC wants the entitlement, you must now provide for that in the listing agreement with Seller.

**V. Paragraph 22 (“Mediation”)**

1. Formerly paragraph 18.
2. Now clarifies that mediation is to take place before filing suit. This is not a guarantee that the mediation step will be used because there is case law that could circumvent the need for mediation and allow a party to file suit in circuit court.

**W. Paragraphs 23 (“Entire Binding Contract”), 24 (“Non-Resident Tax”), 25 (“Expiration of Offer”) and 26 (“Time is of the Essence”) – All of these remained essentially the same but have different paragraph numbers.**

**X. Paragraph 27 (“Notice and Delivery”)**

1. Formerly part of Paragraph 27.
2. Contract defines “notice” to include giving notice to the client’s agent or Broker.
3. All notices must be in writing.
4. Delivery methods include by hand, mail, faxed and/or e-mailed provided you receive written confirmation of receipt. Note: This does not mean fax confirmation sheet is sufficient.

**Y. Paragraph 28 (“Survival”)**

5. Formerly Paragraph 28.
6. No significant changes were made to the paragraph.

**Z. Paragraph 29 (“Definitions”)**

1. Formerly Paragraph 29.
2. New definitions address when final acceptance occurs. Acceptance occurs when the last person making the offer or

counteroffer receives the executed contract back from the other party.

3. Closing is still defined as disbursement.

**AA. Paragraph 30 (“HUD-1 Settlement Statement Release”)**

1. Formerly Paragraph 30.
2. No significant change to the paragraph.

**BB. Paragraph 31 (“Megan’s Law”)**

1. Formerly Paragraph 31.
2. The paragraph was made shorter and more concise.

**CC. Paragraph 32 (“Non-Reliance Clause”)**

1. Formerly Paragraph 32.
2. The section includes a statement that the agent is not a tax advisor, accountant, etc.

**DD. Paragraph 33 (“Disclaimer”)**

1. Formerly Paragraph 33.
2. The Committee made this paragraph more precise and definite.

**III. OTHER ISSUES**

- A. Signature lines are now sealed for statute of limitations issues.
- B. No witness lines are included on the contract.
- C. Acceptance box should be completed in conjunction with Paragraph 29 which would hold last person making offer or counter-offer being the person who must get the contract back fully executed for the contract to be a valid contract. That person fills in the box.
- D. Contract is copyrighted. No one can make changes to contract without clearly noting contract has been changed.

- E. All agents should use this contract instead of the 2006-Contract because both Seller and Buyer have different obligations under the new contract which they did not have in the 2006-Contract. If you use the 2006-Contract which may require your client to perform where the 2008-Contract would not, the client may bring an action against the agent for failure to advise of the right to use the 2008 Contract.

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# CONTRACT OF SALE RESIDENTIAL

Revised 09/08



[ ] BUYER [ ] SELLER IS LICENSED UNDER THE LAWS OF SOUTH CAROLINA AS A REAL ESTATE LICENSEE.

1. **PARTIES:** This Contract of Sale is entered into on \_\_\_\_\_, 20\_\_\_\_ between Buyer(s) \_\_\_\_\_ (hereinafter called "Buyer"), and Seller(s) \_\_\_\_\_ (hereinafter called "Seller").

2. **PROPERTY:** Seller agrees to sell and Buyer agrees to buy the following real property with improvements and fixtures thereon:

Lot \_\_\_\_\_ Block \_\_\_\_\_ Phase \_\_\_\_\_ Subdivision \_\_\_\_\_  
Address \_\_\_\_\_ Unit # \_\_\_\_\_ City \_\_\_\_\_ Zip \_\_\_\_\_  
TMS# \_\_\_\_\_ County of \_\_\_\_\_, State of South Carolina.

3. **PRICE:** The purchase price is \$ \_\_\_\_\_.

4. **EARNEST MONEY:**

- A. \$ \_\_\_\_\_ Earnest money is paid by Check ( ) Cash ( ) Other ( )
- B. \$ \_\_\_\_\_ Additional earnest money to be delivered on or before \_\_\_\_\_.
- C. Earnest money to be held in trust by \_\_\_\_\_ (Escrow Agent).

D. Escrow Agent does not guarantee payment of funds accepted as earnest money. All earnest money received will be deposited as required by South Carolina law and the South Carolina Real Estate Commission's rules and regulations. **Buyer agrees to and understands that earnest money may be deposited in an interest-bearing escrow account and that he has the right to ownership of any interest accrued. Buyer, through this written agreement, relinquishes ownership of the accrued interest to Escrow Agent as consideration for the expenses incurred in maintaining the account.** Earnest money deposited in an escrow account will not be released to either Party until confirmation is received that funds have cleared the bank. If a dispute arises between Buyer and Seller concerning entitlement to and disposition of an earnest money deposit, the deposit will be retained in Escrow Agent's escrow account until Escrow Agent has obtained a written release signed by Buyer and Seller consenting to its disposition or until disbursement is ordered by a court of competent jurisdiction. See S.C. Code, Section 40-57-135 (1976). If a court action is brought by Escrow Agent or Party to the Contract seeking the release of earnest money, the non-prevailing party in the action will be responsible for the prevailing Party's and Escrow Agent's attorney's fees and court costs.

5. **TRANSACTION COSTS:** Buyer's Transaction Costs include all closing costs generated by the type of financing selected, pre-paid recurring items, mortgage insurance and discount points. Seller's Transaction Costs include preparation of deed, any recording charge based on value of the Property (deed stamps), all costs necessary to deliver a marketable title (including recording of satisfaction), property taxes pro-rated to the day of closing and the real estate brokerage fee.

Buyer's and Seller's Transaction Costs will be paid as follows: **(Select, initial and date only one of the options below)**

A. (Buyer/Date Initials / Date ) (Seller/Date Initials / Date ) Buyer will provide or pay for all Buyer's Transaction Costs and Seller will provide or pay for all Seller's Transaction Costs as well as pay for Buyer's non-allowable costs if the financing type selected in Paragraph 6(A) is either VA or FHA.

**OR**

B. (Buyer/Date Initials / Date ) (Seller/Date Initials / Date ) Seller will pay Buyer's Transaction Costs not to exceed \$ \_\_\_\_\_ which includes non-allowable costs first (for VA or FHA financing) and then allowable costs. Buyer is responsible for any Buyer's Transaction Costs exceeding this amount. If the amount Seller has agreed to pay toward Buyer's Transaction Costs exceeds the actual amount of those costs or amount allowed by Lender, then any excess funds will revert to Seller. Seller will also provide or pay for all Seller's Transaction Costs.

**BUYER** ( \_\_\_\_\_ / \_\_\_\_\_ ) \_\_\_\_\_  
Initials Date

**SELLER** ( \_\_\_\_\_ / \_\_\_\_\_ ) \_\_\_\_\_  
Initials Date

**6. FINANCING:** Buyer's obligation under this Contract is ( ) is not ( ) contingent on Buyer obtaining financing. All financing contingencies herein automatically expire five (5) Business Days prior to the closing date set forth in Paragraph 7 and this Contract will become non-contingent on financing unless otherwise agreed to in writing. If Buyer subsequently fails to close because of the inability to obtain financing, the Buyer will be in default of this Contract. See Paragraph 21.

A. FINANCING TYPE. Financing type will be: Lender-provided Conventional ( ); FHA ( ); VA ( ); Seller-provided ( ); Cash (no financing required) ( ); Other \_\_\_\_\_.

Note: If Buyer utilizes FHA or VA financing, an FHA/VA Addendum signed by Buyer and Seller must accompany this Contract. Utilizing FHA or VA financing will require Seller to pay for certain loan-related closing costs termed "non-allowable costs". VA financing will additionally require Seller to pay for the cost of conducting the VA-required termite (CL-100) inspection.

B. APPLICATION FOR FINANCING. If Lender financing is being used, Buyer will have five (5) Business Days from the date of Contract acceptance to apply for financing from Lender of their choice. Application will include advancement of any funds required by Lender and providing Lender's identity to Seller or Seller's Broker. Buyer will also furnish Lender all documentation required for the processing of this loan in a diligent and timely manner.

1. Should Buyer fail to apply for the loan within five (5) Business Days, Buyer will be in default of this Contract and Seller will have the option of voiding this Contract with earnest money being released to Seller. Should the loan be denied while subject to a financing contingency, Contract will be voided and earnest money will be released to Buyer. See Paragraph 4(D).

2. If Buyer elects to make any material change to their financial condition after Contract acceptance that negatively affects their ability to close the transaction, Buyer will be in default and earnest money will be released to Seller. See Paragraph 4(D).

3. Buyer gives permission to Lender to disclose any allowable pertinent information concerning Buyer's loan to any attorney representing Buyer or Seller and to the Buyer's and Seller's Brokers.

C. SELLER FINANCING. If Seller financing is included in the financing of this Property, Buyer's and Seller's Brokers make no representations as to the creditworthiness of Buyer and suggest that Seller determine whether Buyer's credit is satisfactory. The terms of Seller financing should be noted in Paragraph 18 of this Contract or in a separate Addendum to this Contract.

D. CASH TRANSACTION. In a cash transaction, Buyer agrees to provide Seller or Seller's Broker, within five (5) Business Days of acceptance of this Contract, written verification of availability of funds from the source(s) of those funds. If Buyer fails to comply with the above requirement, then Seller will have the option of voiding this Contract and earnest money will be released to Seller. See Paragraph 4(D).

E. APPRAISAL CONTINGENCY. This Contract is ( ) is not ( ) contingent on lot or parcel with building and improvements thereon, if any, appraising according to Lender's appraisal, or other appraisal as agreed by Buyer and Seller for non-Lender financed transactions, for the selling price or more. If contingent, and lot or parcel with building and improvements thereon appraises for less than the selling price, the Buyer will have 24 hours after notification of the results of the appraisal to proceed with the consummation of this sale without regard to the appraised value or attempt to renegotiate this Contract. If the Parties are unable to reach agreement within the proscribed time frame then either party can terminate this Contract by providing written notification to the other. Upon termination, earnest money will be released to Buyer. See Paragraph 4(D).

F. SELLER'S MORTGAGE PAYOFF: (Seller/Date Initials / Date ) Seller gives permission to Closing Attorney to obtain Seller's mortgage payoff information.

**7. CONVEYANCE DATE OF CLOSING/POSSESSION: (Buyer and Seller to initial and date Paragraph 7A)** Conveyance will be made subject to all easements and covenants of record (provided they do not make the title unmarketable) and to all governmental statutes, ordinances, rules and regulations. Seller agrees to convey by marketable title and to have prepared a general warranty deed, if applicable, free of encumbrances, except as herein stated. The deed will be prepared in the name(s) of \_\_\_\_\_, or as otherwise stipulated by Buyer, and delivered to stipulated place of closing. The deed will be held in trust by the Closing Attorney until sales proceeds have been disbursed to Seller, at which time the Closing Attorney shall be authorized to record the deed. This transaction will be closed on or before \_\_\_\_\_ 20\_\_\_\_, unless extended pursuant to Paragraph 7(B) or by mutual agreement.

A. (Buyer/Date Initials / Date ) (Seller/Date Initials / Date ) Seller will be obligated to vacate and give possession of the Property (free of debris and in a clean condition) to Buyer: \_\_\_\_\_ at closing ( ) 24 hours after closing ( ) 48 hours after closing ( ) or in accordance with attached agreement ( ).

BUYER ( \_\_\_\_\_ / \_\_\_\_\_ ) \_\_\_\_\_  
Initials Date

SELLER ( \_\_\_\_\_ / \_\_\_\_\_ ) \_\_\_\_\_  
Initials Date









**14. HOME WARRANTY COVERAGE:** Buyer and Seller agree that a home warranty will ( ) will not ( ) be provided at closing. If applicable, the warranty premium will be paid by Buyer ( ) Seller ( ) in an amount not to exceed \$ \_\_\_\_\_, provided by \_\_\_\_\_ (home warranty company) and written by the Buyer's Broker ( ) Seller's Broker ( ). If the price of the warranty at closing exceeds the dollar amount entered in this paragraph, Buyer shall be responsible for the difference at closing. Brokers may receive a fee for issuance of a home warranty.

**15. PROPERTY DOCUMENTATION:(Initial and date after reviewing information in Paragraphs 15 A-D)**

(Buyer/Date Initials / Date ) (Seller/Date Initials / Date ) Buyer's and Seller's Brokers strongly recommend Buyer review existing Property documentation to include the most current plat, Covenants and Restrictions, and Seller's Property Condition Disclosure Statement before entering into this Contract. The Buyer's and Seller's Brokers also recommend that prior to closing on this Contract Buyer have a survey of the subject Property made to verify land size/boundary dimensions, measure existing structures to verify square footage, have an examination as to the title to the Property, obtain owner's title insurance and that Buyer obtain appropriate hazard, flood, earthquake and wind/hail damage insurance coverage effective at the time of closing.

A. Seller represents that the Property is:

Connected to - public/community sewer system ( ) septic tank ( ).

Connected to - public/community water system ( ) well system ( ) Other \_\_\_\_\_.

B. Seller represents that to the best of Seller's knowledge, the Property is ( ) is not ( ) partly or entirely located within a designated Special Flood Hazard Area (flood zone). If Seller's response indicates that it is in a flood zone, Buyer understands that it may be necessary to purchase flood insurance in order to obtain a loan. If Seller's response indicates that the Property is not in a flood zone and, subsequent to Contract acceptance, it is determined that permanent improvements to the Property are within a flood zone causing Lender to require Buyer to purchase flood insurance as a condition of loan approval, then Buyer can terminate this Contract. Buyer will have three (3) Business Days after receipt of Notice from Lender to provide written Notice to Seller of the decision to terminate. Upon termination, earnest money will be released to Buyer. See Paragraph 4(D). Buyer's failure to provide written Notice to Seller within the three (3) Business Day period will be deemed Buyer's agreement to purchase flood insurance to close the transaction.

C. Seller represents that the Property is ( ) is not ( ) subject to a special assessment of any governing body, including, but not limited to, a homeowner's association/regime or otherwise. The special assessment fee is \$ \_\_\_\_\_.

D. Seller represents that the Property is ( ) is not ( ) subject to a mandatory association fee (i.e., homeowner's association/regime or otherwise). If the Property is subject to a mandatory association fee, the fee is \$ \_\_\_\_\_ per \_\_\_\_\_ and is payable to \_\_\_\_\_.

**16. ADDITIONAL CONTINGENCIES: (Initial and date either Paragraph A or B if applicable and Paragraph C if other contingencies apply)**

A. SALE AND CLOSING CONTINGENCY

(Buyer/Date Initials / Date ) (Seller/Date Initials / Date ) This Contract is contingent on the sale and closing of the Buyer's Property not later than the closing date agreed to in Paragraph 7 of this Contract. Property is located at the following address: \_\_\_\_\_ . Buyer's failure to disclose the existence of this contingency will constitute a default of this Contract and earnest money will be released to Seller. See Paragraph 4(D).

1. Buyer represents that the Buyer's Property identified in Paragraph 16(A) above is ( ) is not ( ) currently listed with a real estate company.

2. As long as this contingency remains in effect, Seller may continue to market Seller's Property and can accept another offer to purchase as a Primary Contract, with this contingency Contract becoming a Back-up Contract upon agreement of both Parties to the Back-up contract. If agreement cannot be reached, this Contract will become null and void and earnest money will be released to Buyer. See Paragraph 4(D).

3. If Buyer does not remove this contingency by the closing date in Paragraph 7, this Contract will automatically become null and void unless both Parties agree to extend the closing date. If Contract is voided, earnest money will be released to Buyer. See Paragraph 4(D).

4. Once Buyer accepts a Contract of Sale on their Property with all contingencies removed or waived (other than financing), with any Due Diligence Period and/or repair negotiations completed, and with a closing occurring prior to the date and time scheduled for the Seller's closing, Buyer will provide written notice of this acceptance to Seller. This Contract will then become contingent on completion of the closing of the sale of Buyer's Property. See Paragraph 16(B) below.

BUYER ( \_\_\_\_\_ / \_\_\_\_\_ ) \_\_\_\_\_  
Initials Date

SELLER ( \_\_\_\_\_ / \_\_\_\_\_ ) \_\_\_\_\_  
Initials Date





**30. HUD-1 SETTLEMENT STATEMENT RELEASE:** Seller and Buyer authorize the Closing Attorney to furnish to Buyer's and Seller's Brokers copies of the HUD-1 Settlement Statement for the transaction.

**31. MEGAN'S LAW:** Buyer and Seller agree that the Buyer's and Seller's Brokers and all affiliated agents are not responsible for obtaining or disclosing any information contained in the South Carolina Sex Offender Registry and that no course of action may be brought against the Buyer's and Seller's Brokers and all affiliated agents for failure to obtain or disclose such information. The Buyer agrees that the Buyer has the sole responsibility to obtain any such information which may be obtained from appropriate law enforcement officials.

**32. NON-RELIANCE CLAUSE:** Both Buyer and Seller execute this Contract freely and voluntarily without reliance upon any statements, representations, promises or agreements by the Buyer's and Seller's Brokers except as set forth in this Contract. Buyer and Seller acknowledge that the Buyer's and Seller's Brokers are being retained solely as real estate agents and not as an attorney, tax advisor, lender, appraiser, surveyor, structural engineer, mold or air quality expert, home inspector or other professional service provider. Buyer and Seller are legally competent to enter into this Contract and to fully accept responsibility for it. **This is a legally binding Contract. Buyer and Seller should seek legal advice prior to entering into this Contract if, after having read it, its contents and provisions are not understood. Both Buyer and Seller acknowledge receipt of a copy of this Contract and acknowledge receiving, reading and understanding South Carolina Real Estate Commission's Agency Disclosure Brochure.**

**33. DISCLAIMER:** Buyer and Seller acknowledge that Buyer's and Seller's Brokers give no warranty of any kind, expressed or implied, as to: (1) physical condition of the Property or as to condition of or existence of improvements, services or systems including but not limited to termite damage, roof, basement, appliances, heating and air conditioning systems, plumbing, sewage/septic, electrical systems or to structure; (2) condition of the Property, any matters which would be reflected by a current survey of the Property or the accuracy of the square footage heated or unheated; (3) title to the Property including the existence or absence of easements, encroachments, projections, encumbrances, restrictions, covenants, setbacks, and the like; (4) fitness for a particular purpose of the Property or improvements; (5) Property being purchased being in compliance with necessary zoning ordinances and restrictions; (6) projected income, value, or other possible benefits to Buyer.

Buyer's Signature	(L.S.)	Buyer's Printed or Typed Name	Date/Time
Buyer's Signature	(L.S.)	Buyer's Printed or Typed Name	Date/Time
Seller's Signature	(L.S.)	Seller's Printed or Typed Name	Date/Time
Seller's Signature	(L.S.)	Seller's Printed or Typed Name	Date/Time

Buyer's Agent/Company acknowledges Buyer is a Client ( ) Customer ( ). Agent's Telephone Number

Seller's Agent/Company acknowledges Seller is a Client ( ) Customer ( ). Agent's Telephone Number

**FINAL CONTRACT ACCEPTED BY BOTH PARTIES AT \_\_\_\_ O'CLOCK \_\_ M (ET) ON \_\_\_\_\_ DATE**

**ACCEPTANCE ENTERED BY \_\_\_\_\_ AGENT**

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