

PURCHASE AND SALE CONTRACT FOR RESIDENTIAL PROPERTY

WARNING: THIS CONTRACT FORM CANNOT BE USED IF THIS TRANSACTION IS COVERED BY THE HOME EQUITY THEFT PREVENTION ACT (Section 265-a of New York Real Property Law).

Plain English Form published by and for the exclusive use of the Greater Rochester Association of REALTORS®, Inc., the Monroe County Bar Association, and those County Bar Associations that have approved its use.

COMMISSIONS OR FEES FOR THE REAL ESTATE SERVICES TO BE PROVIDED ARE NEGOTIABLE BETWEEN REALTOR® AND CLIENT.

When signed, this document becomes a binding contract. Buyer and seller should consult their own attorney. Buyer acknowledges that information contained in the Multiple Listing Service is not guaranteed and should be independently verified before signing this Contract.

TO: _____ and _____ (the "Seller")

FROM: _____ and _____ (the "Buyer")

Seller agrees to sell, and Buyer agrees to purchase, the real property described below on the terms stated in this Purchase and Sale Contract for Residential Property, as well as the Addenda referenced herein and attached hereto (collectively, the "Contract"). Seller and Buyer may each be referred to individually as a "Party" and collectively as the "Parties."

1. PROPERTY.

(A) Property Description; Seller's Power and Authority. Real Property known as _____ in the County of _____ Town City Village of _____, State of New York, Zip _____ also known as Tax No. _____, including all buildings and any other improvements and all rights which the Seller has in or with the premises (the "Property").
Approximate Lot Size: _____. Description of buildings on Property: _____

Seller represents to Buyer that: (i) Seller owns the Property and has the power and authority to sell it, (ii) Seller is not in bankruptcy, and (iii) Seller has sufficient funds (including the proceeds from this sale) to close this transaction and pay Seller's closing expenses.

(B) Other Items Included in Purchase. Any of the following items and all related equipment and accessories for such items now in or on the Property are included in this purchase and sale, which Seller represents are owned by Seller: All awnings, carbon monoxide detectors, central vacuum system, curtain and traverse rods, electric garage door opener and remote control devices, exhaust fans, fences, fireplace screens and enclosures, flowers, garbage disposal, heating systems (except as provided in Paragraph 5(G)), hoods, intercom equipment, lighting fixtures, ceiling fans, mail box, plumbing systems, septic and private water systems, satellite dishes, screens, security systems and security codes, sheds, shrubs, smoke detectors, storm doors, storm windows, sump pumps, swimming pool, trees, underground pet containment fencing with transmitter and collar receiver(s), wall-to-wall carpeting and runners, water softeners, window boxes, window blinds and shades, and the following, if built-in: air conditioning (except window units), humidifier, TV antennae, TV wall mount, basketball apparatus, cabinets, dishwashers, microwave ovens, mirrors, outdoor playsets, ovens, shelving, stoves, and trash compactors. Buyer agrees to accept these items in their present condition. Other items to be included in the purchase and sale are:

Items excluded are: _____

Seller represents that Seller has good title to all of the above items to be transferred to Buyer and will deliver a Bill of Sale for the above items at Closing (as hereinafter defined below in Paragraph 2(A)).

Seller shall cause any heating, plumbing, air conditioning, electrical systems and included appliances to be in working order at the time of Closing, except for _____. The prior sentence shall not be construed as a warranty or guarantee after Closing.

2. PURCHASE PRICE, ADJUSTMENTS, CREDITS AND TAXES.

(A) Price & Payment. The purchase price (the "Purchase Price"), payable in U.S. Dollars as follows, is..... \$ _____

(1) Deposit. The following deposit in the form of [] cash [] personal check [] official bank check or [] wire transfer (the "Deposit") \$ _____

(2) Seller Concession. At Closing, Seller shall pay the sum of [] % of the Purchase Price or [] \$ _____ ("0" if left blank) toward lender approved costs and prepaid items (the "Seller Concession").

Adjusted Balance Due. Upon delivery of the deed ("Closing"), the Purchase Price less (1) the Deposit and (2) Seller Concession, subject to any closing adjustments and credits as provided in this Contract, shall be paid in cash, official bank draft or certified check at Closing (some or all of which may be paid with the proceeds of a new loan).

(B) Deposit; Default. Buyer [] has delivered [] will deliver within two (2) calendar days of acceptance the Deposit set forth in Paragraph 2(A)(1) payable to and held in escrow by _____ (the "Escrow Agent") which will be deposited at _____ (the "Bank") and which Deposit is to become part of the Purchase Price or returned if not accepted or if this Contract thereafter fails to close for any reason not the fault of the Buyer. If Buyer fails to complete Buyer's part of this Contract, Seller is allowed to retain the Deposit to be applied to Seller's damages and may pursue other available rights and remedies Seller has against the Buyer, including but not limited to a lawsuit for any real estate brokerage commission paid by the Seller. If Seller fails to complete Seller's part of this Contract, Buyer's Deposit will be returned to Buyer, and Buyer may pursue other available rights and remedies Buyer has against Seller.

(C) Seller Concession. If the Seller Concession set forth in Paragraph 2(A)(2) exceeds the lender approved costs and prepaid items, the Seller Concession shall be reduced to an amount equal to the lender approved costs and prepaid items.

(D) Transfer Tax, Recording Costs, Mortgage Tax and Closing Adjustments. Seller will pay the real property transfer tax and special additional mortgage recording tax, if applicable. Seller will also pay for the recording/filing of any documents necessary to convey record marketable title, including, but not limited to death certificates, bankruptcy court orders, and affidavits (ie. Alive and Well, Bankruptcy, Estate Tax, Heirship, Judgment, etc.). Buyer will pay for recording the deed and mortgage, mortgage tax and mortgage assumption charges, if any. Excluding delinquent items, interest and penalties, the following will be prorated and adjusted between Seller and Buyer as of the Closing Date (as hereinafter defined below in Paragraph 6(B)): taxes, other assessments and municipal charges computed on a fiscal year basis; rent; common charges or assessments; fuel oil; propane; water, pure water and sewer charges. If the Purchase Price is \$1,000,000.00 or more, then the additional transfer tax identified in Section 1402-a of the Tax Law shall be paid by the [] Seller [] Buyer (check one).

3. CONTINGENCIES. This Contract is subject to the following contingencies. If any of these contingencies are not satisfied by written notice to the other Party by the dates specified (collectively, the "Contingency Deadline Dates"), then either Buyer or Seller may cancel this Contract by written notice to the other, provided that the applicable contingency has not otherwise been satisfied by a Party after the applicable Contingency Deadline Date by written notice to the other Party and prior to any date on which this Contract is cancelled. (Check and complete applicable provisions.)

(A) Financing.

[] (1) Mortgage Commitment. The Contract is subject to Buyer obtaining and accepting a written _____ mortgage loan commitment in an amount not to exceed [] % of the purchase price or [] \$ _____ at an interest rate not to exceed _____%, for a term of _____ years (the "Commitment"). Buyer shall immediately apply for this loan and shall have until _____, 20____ to obtain and accept a Commitment. The conditions of any such Commitment shall not be deemed contingencies of this Contract but shall be the sole responsibility of Buyer; however, a commitment that is conditioned on an appraisal of the Property shall not be deemed a "Commitment" hereunder. If the Commitment requires repairs, replacements, or improvements, Seller shall furnish the requisite materials and have the work done before Closing, at Seller's expense. However, if the cost of doing so exceeds \$ _____, Seller shall not be obligated to furnish such materials and have such work done, and Buyer will be allowed either to receive a credit at Closing for the above amount and incur any necessary expenses to comply with the Commitment requirements, or to cancel this Contract by written notice to Seller, and any Deposit shall be returned to Buyer. Acceptance of a Commitment by Buyer shall be deemed a waiver and satisfaction of this contingency.

[] (2) Cash Transaction. This Contract is subject to Buyer providing Seller with written proof that Buyer has immediately available U.S. funds in the amount of the Purchase Price by _____, 20____.

[] (3) Additional Financing Terms.

[] (B) Sale and Transfer of Title. This Contract is subject to the sale and transfer of title of Buyer's existing real property pursuant to the terms and conditions of the Sale and Transfer of Title Contingency Addendum.

[] (C) Inspection of Property. This Contract is subject to inspection(s) of the Property pursuant to the terms and conditions of the Property Inspection Addendum (the "Property Inspection").

Seller's Initials

Buyer's Initials

- (D) **Building Code Compliance.** This Contract is subject to Seller delivering to Buyer, at Seller's expense, all permits, certificates of compliance and/or other comparable proof of compliance with building codes and ordinances (the "Certificates") on file with the applicable municipality within ten (10) calendar days of acceptance. The Buyer shall have five (5) calendar days from Buyer's receipt of the Certificates or receipt of written notice that no Certificates exist to deliver to Seller a written demand that Seller obtain specific/certain Certificates (the "Demand"). If the Demand is not timely delivered by Buyer, this Building Code Compliance Contingency is deemed waived by Buyer. Upon Seller's receipt of Buyer's Demand, Seller shall have five (5) calendar days to (i) provide the Certificates specifically demanded by Buyer, or (ii) enter into a written agreement with the Buyer addressing the Certificates to be provided to Buyer.
 - (E) **Other Contingency(s).**
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4. **APPROVAL OF ATTORNEY(S).** This Contract is subject to the written approval of attorneys for Buyer and Seller within _____ days (no less than three (3) days, *excluding Saturdays, Sundays and public holidays* and "3" if left blank), from date of acceptance (the "Approval Period"). If either attorney (i) does not provide written approval within the Approval Period or (ii) makes written objection to or conditionally approves (collectively, the "Objections") the Contract within the Approval Period and the Objections are not cured by written approval by both attorneys and all of the Parties within the Approval Period, then (A) either Buyer or Seller may cancel this Contract by written notice to the other and any Deposit shall be returned to the Buyer or (B) the approving attorney may notify the other Party and any attorney listed below in writing that no approval has been received and that the noticed Party has two (2) days, *excluding Saturdays, Sundays and public holidays*, from receipt of the notice (the "Grace Period") to provide written attorney approval or disapproval of the Contract. The approving attorney shall provide to the noticed Party and to any attorney listed below a copy of the approving attorney's approval letter, whether conditional or not, along with the written notice of the Grace Period. If written attorney approval or disapproval is not provided to the approving attorney within the Grace Period, then this Approval of Attorney(s) contingency shall be deemed waived by the noticed Party and any conditions in the approving attorney's approval letter shall be deemed accepted by the noticed Party.

5. **CONDITION OF PROPERTY.**

(A) **Seller's Property Condition Disclosure Statement.**

- (1) Seller has provided Buyer with the attached Seller's Property Condition Disclosure Statement.
- (2) Is not applicable as the property is exempt.

(B) **Representations Pertaining to the Home Equity Theft Prevention Act ("HETPA"). (check applicable box(es))**

- (1) **Buyer.** Buyer represents to Seller as of the date of acceptance that Buyer is acquiring the Property to use the Property as Buyer's primary residence and that Buyer will occupy the Property as Buyer's primary residence.
- (2) **Seller.** To Seller's actual knowledge, Seller represents to Buyer as of the date of acceptance that there is no active Lis Pendens filed against the Property to foreclose a mortgage pursuant to Article 13 of the New York Real Property Actions and Proceedings Law, the Property is not on an active property tax lien sale list, and Seller is not two (2) months or more behind in Seller's mortgage payments with respect to the Property.

(C) **Certificate of Occupancy.** If applicable laws require, Seller shall apply for a Certificate of Occupancy for the Property no less than ten (10) calendar days after acceptance and furnish it before Closing. However, if the cost of obtaining the Certificate of Occupancy exceeds \$ _____, Seller shall not be obligated to provide the Certificate of Occupancy, and Buyer will be allowed either to receive a credit at Closing for the above amount, or to cancel this Contract by written notice to Seller, and any Deposit shall be returned to Buyer.

(D) **Zoning Code Compliance.** Seller represents to Buyer that the Property is zoned for use as a _____ and the Property is in compliance with applicable zoning codes and ordinances.

(E) **Condition of Property.** Buyer agrees to purchase the Property and any items included in the purchase **AS IS** except as provided in Paragraph 1(B), subject to reasonable use, wear, tear, and natural deterioration between now and Closing. However, this paragraph shall not relieve Seller from furnishing a Certificate of Occupancy as called for in Paragraph 5(C) and/or certificate(s) of compliance as called for in Paragraph 3(D), if applicable.

(F) **Gas, Mineral, Oil and Timber Rights.** Seller represents that all gas, mineral, oil and timber rights will transfer with the Property except:

(G) **Services.** Seller represents the Property is serviced by: Electric, Fuel Oil, Gas (Natural), Propane, Public Sewers, Public Water, Septic System, Well, Other: _____.

If Propane is checked, Seller represents that the propane tank (check one box only) is not is owned by Seller and that there (check one box only) is not is an existing written contract to provide propane between the propane company and Seller.

6. **CLOSING AND POSSESSION.**

(A) **Pre-Closing Walkthrough.** Buyer shall have the right to walk through the Property within forty-eight (48) hours before the time of Closing to ensure that the Property is in the condition existing at the time of acceptance subject to reasonable use, wear, tear and natural deterioration between the date hereof and the Closing. Seller agrees that all utilities shall be on at that time. Seller shall continue to maintain the Property in the condition existing as of acceptance, through Closing, including, but not limited to, utility service continuation, lawn and landscaping care, and snow plowing.

(B) Closing Date and Place. Closing shall take place at the _____ County Clerk's Office or the offices of Buyer's lender on or before _____, 20____ (the "Closing Date"). At any time after such specified date, any Party who has completed its obligations under this Contract which are to be completed prior to Closing may notify the other Party that time is of the essence to close (the "Time of Essence Notice") which Time of Essence Notice shall set forth a specific time for Closing on a day that is at least seven (7) calendar days after delivery of the Time of Essence Notice to such other Party pursuant to Paragraph 8(D) below.

(C) Possession of Property.

- (1) Buyer shall have possession of the Property upon Closing, in broom-clean condition, with all keys to the Property delivered to Buyer at Closing.
- (2) Seller shall have the right to retain possession for _____ calendar days after Closing at the cost of \$_____ per day inclusive of real property taxes, plus utilities, continuation of lawn, landscaping, pool, and snow maintenance, and refuse collection, and an escrow deposit by Seller of \$_____. At Closing, a key to the Property shall be delivered to Buyer. At delivery of possession to Buyer, the Property shall be in broom-clean condition and the remaining keys to the Property shall be delivered to Buyer.
- (3) Buyer shall have right of early possession for _____ calendar days prior to Closing at the cost of \$_____ per day inclusive of real property taxes, plus utilities, continuation of lawn, landscaping, pool, and snow maintenance, and refuse collection, and an escrow deposit by Buyer of \$_____. At possession, the Property shall be in broom-clean condition and a key to the Property shall be delivered to Buyer; the remaining keys shall be delivered to Buyer at Closing.

In the event of retained possession or early possession, the Parties shall enter into a written Pre-Closing Occupancy Agreement or Post-Closing Occupancy Agreement, the form of which shall be the Monroe County Bar Association's recommended form.

(D) Risk of Loss. Risk of loss or damage to the Property by fire or other casualty until transfer of title shall be assumed by the Seller. If damage to the Property by fire or such other casualty occurs prior to transfer, Buyer may cancel this Contract without any further liability to Seller and Buyer's Deposit is to be returned. If Buyer does not cancel but elects to close, then Seller shall transfer to Buyer any insurance proceeds, or Seller's claim to insurance proceeds payable for such damage.

7. TITLE MATTERS.

(A) Title and Related Documents. Seller shall deliver at Seller's expense:

- (1) Not later than five (5) calendar days after acceptance of this Contract by Buyer and Seller, Seller shall order (i) an abstract of title, fully guaranteed tax and U.S. Court searches, with a local tax certificate for Village or City taxes, if any (collectively the "Abstract") and (ii) an instrument survey map, certified and prepared to meet the Standards of the Monroe County Bar Association and Buyer's mortgage lender, if any (the "Survey"). Both the Abstract and Survey shall be dated or re-dated after the date of acceptance, and Seller shall endeavor to deliver the Abstract and Survey along with the draft of the proposed deed to Buyer or Buyer's attorney within thirty (30) calendar days thereafter, but in any event, not later than fifteen (15) calendar days prior to the Closing Date in Paragraph 6. Seller will pay for such searches to and including the day of Closing; and
- (2) At the Closing, to Buyer, a properly signed and notarized, (i) Warranty Deed with lien covenant (or Executor's, Administrator's or Trustee's Deed, if Seller holds title as such), (ii) carbon monoxide detector and smoke alarm affidavits, (iii) documents required by law, (iv) documents required by Buyer's lender, provided there is no cost or liability to Seller, and (v) assignment of leases and transfer of security deposits, if any.

(B) Marketability of Title. Seller shall convey good and marketable title to the Property in fee simple, free and clear of all liens and encumbrances. The Parties acknowledge and agree that good and marketable title to the Property, free and clear of all liens and encumbrances, means, without limit, that all gas, mineral, oil and timber rights will transfer with the Property to Buyer except as otherwise provided in Paragraph 5(F) above. However, Buyer agrees to accept title to the Property subject to: (a) restrictive covenants of record common to the tract or subdivision of which the Property is a part, provided these covenants have not been violated or the time for objection to any violation has expired, (b) public utility easements within fifteen (15) feet of lot lines which do not interfere with any existing improvements on the Property or with any improvements that Buyer may construct in compliance with all present restrictive covenants or record and zoning and building codes, and (c) fences deviating from the actual Property line one foot or less, provided the fence placement does not impair access to the Property from a right of way or cause the Property to be in violation of any restrictive covenant, easement or agreement of record or of any building, zoning or subdivision code. Seller and Buyer agree that potential objections revealed by the Survey furnished pursuant to Paragraph 7(A)(1) above shall be resolved pursuant to the "Suggested Title Standards for Treating Discrepancies Revealed by Surveys" of the Monroe County Bar Association.

(C) Objections to Title. If Buyer raises a valid written objection to Seller's title which indicates that title to the Property is unmarketable, then Seller may cancel this Contract upon written notice to Buyer, and the Deposit shall be returned to Buyer. However, if Seller: (a) is able to cure the objection on or before the Closing or (b) is able to insure the title objection and Buyer is willing to accept insurable title, then this Contract shall continue, subject to the Seller curing the title objection and/or providing insurable title at Seller's expense. If Seller fails to cure the title objection on or before the Closing Date, or if Buyer is unwilling to accept insurable title, Buyer may cancel this Contract upon written notice to Seller and the Deposit shall be returned to Buyer.

8. BROKERS & MISCELLANEOUS.

(A) Real Estate Broker.

- (1) The Parties agree that _____ brought about this purchase and sale.
- (2) It is understood and agreed by Buyer and Seller that no broker brought about this purchase and sale.

Seller's Initials _____

Buyer's Initials _____

(B) Attorney Disclaimer: In participating in the transaction, an attorney renders no opinion whatsoever as to the value of the Property. Unless an attorney has actual knowledge to the contrary, it should not be inferred from an attorney's participation in the transaction that the attorney knows, or is aware of, the facts behind the history of the price negotiations between the Parties.

(C) Responsibility of Persons Under This Contract; Non-Assignability. If more than one person signs this Contract as Buyer, each person and any party who takes over that person's legal position will be responsible for keeping the promises made by Buyer in this Contract. If more than one person signs this Contract as Seller, each person or any party who takes over that person's legal position, will be fully responsible for keeping the promises made by Seller. However, this Contract is personal to the Parties and may not be assigned by either without the other's consent.

(D) Notices.

(1) In General.

(i) Notices under this Contract shall be in writing and deemed delivered upon receipt. Except as otherwise provided in Paragraph 8(D)(2) below, notices under this Contract may be made by a Party or by the attorney or the listing/selling agent for such Party and may be received by the other Party or by the attorney or the listing/selling agent for such other Party. Seller and Buyer agree that notices under this Contract may be delivered to any address, fax number, and/or e-mail set forth on the Administrative Information page of this Contract for a Party, the attorney for a Party, or the listing/selling agent for a Party, as applicable.

(ii) Delivery of notices under this Contract shall be made by personal delivery, overnight courier, first class mail, fax, or e-mail, except as otherwise provided in Paragraph 8(D)(2) below.

(iii) If delivery is made by personal delivery, the notice(s) delivered shall be deemed received on the date delivered. If delivery is made by overnight courier or first-class mail, the notice(s) delivered shall be deemed received one calendar day, excluding Saturdays, Sundays and public holidays, following the date upon which the notice(s) are deposited with the overnight courier service with delivery charges prepaid or charged to sender's account or with the postal service with required postage affixed. If delivery is made by fax, the notice(s) transmitted shall be deemed received on the date the sender receives confirmation from the recipient's equipment that the entire transmission has been received. If delivery is made by e-mail, the notice(s) transmitted shall be deemed received on the date the sender's e-mail is located in the sent e-mail folder of the sender, except as otherwise provided in Paragraph 8(D)(2) below.

(2) Special Notices. Any (i) Time of the Essence Notice, (ii) notice of cancellation or termination of the Contract, (iii) bump notice of Seller, (iv) Buyer's notice of removal of sale and transfer of title contingency, or (v) Buyer's notice of preservation of Buyer's transfer of title contingency made under this Contract (each, a "Special Notice") may only be made by a Party or the attorney for such Party and may only be received by the other Party with a copy to such other Party's attorney and to the listing/selling agent of such other Party, if designated on this Contract. Further, if any Special Notice is delivered by e-mail, then a true and complete copy of the e-mailed Special Notice shall also be mailed by first class prepaid mail within one calendar day, excluding Saturdays, Sundays and public holidays, following the date of the e-mail, and the e-mailed Special Notice shall be deemed received on the date the sender's e-mail is located in the sent e-mail folder of the sender, provided the required mailing by first class prepaid mail is completed.

(E) Entire Contract; Miscellaneous. This Contract when signed by both Buyer and Seller will be the record of the complete agreement between the Buyer and Seller concerning the purchase and sale of the Property. This Contract may be signed in counterparts. No oral agreements or promises will be binding. Seller's representations in this Contract shall not survive after Closing. If any provision of this Contract is rendered invalid or unenforceable, it shall not affect the validity or enforceability of the remaining provisions. This Contract shall be construed, enforced and interpreted under the laws of the State of New York, without regard to principles of conflicts of laws.

(F) Electronic Signatures. The Parties agree and consent that this Contract, and every demand, notice and objection given under this Contract, may be signed and initialed in any manner permitted by New York State law, including the Electronic Signatures and Records Act and applicable regulations.

(G) Addenda. The following Addenda are incorporated into and attached to and made a part of this Contract:

- | | | |
|---|--|---|
| <input type="checkbox"/> Agricultural Districts/Farming Activity Disclosure | <input type="checkbox"/> Personal Property Agreement | <input type="checkbox"/> Uncapped Natural Gas Well Disclosure |
| <input type="checkbox"/> All Parties Agreement (FHA/VA) | <input type="checkbox"/> Property Inspection | <input type="checkbox"/> Utility Surcharges |
| <input type="checkbox"/> Contingency Addendum | <input type="checkbox"/> Rented Property | <input type="checkbox"/> Wayne County Disclosure |
| <input type="checkbox"/> Electric Availability | <input type="checkbox"/> Sale & Transfer of Title | <input type="checkbox"/> Notice for all Residential Property |
| <input type="checkbox"/> Home Warranty | <input type="checkbox"/> Short Sale Approval | <input type="checkbox"/> Well and Septic System |
| <input type="checkbox"/> Lead Compliance | | |

Other: _____

9. OTHER TERMS. (If blank, this paragraph is not applicable) In the event of a conflict between the provisions of this paragraph and the provisions of any other paragraph of this Contract, the provisions of this paragraph will control.

10. LIFE OF OFFER. This offer shall expire on _____, 20_____, at _____m.

Seller's Initials

Buyer's Initials

ADMINISTRATIVE INFORMATION

Property Address: _____ **MLS#** _____

Seller

Buyer

Seller

Buyer

Address

Address

City, State, Zip

City, State, Zip

Telephone No.

Telephone No.

Email address

Email Address

Seller's Attorney

Buyer's Attorney

Address

Address

City, State, Zip

City, State, Zip

Telephone No.

Fax

Telephone No.

Fax

Email address

Email address

Listing Broker

Selling Broker

NY License No.

NY License No.

Address

Address

City, State, Zip

City, State, Zip

Phone

Fax

Phone

Fax

Listing Agent

Selling Agent

NY License No.

NY License No.

Phone

Fax

Phone

Fax

Cell

Public ID#

Cell

Public ID#

Email Address

Email address