

Real Estate Closings



ITI Investors Title Insurance Company

INNOVATIVE BY INSTINCT
SOUTH CAROLINA

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Section A

Introduction to Real Estate Closings

The “American Dream” is to own your own home. The closing attorney and their staff get to help make this dream a reality.

A real estate transaction involves a lot of details and planning along the way. This course will review the process of a real estate transaction beginning to end, from when the title request is received to closing to issuing the final title policies. This course will take an in-depth look at each step of the closing process. This process involves many people working together for a common goal and involves cooperation, organization and attention to detail from all parties involved to make a closing happen.

The closing attorney’s office is at the core of every transaction. The closing attorney’s role will be to gather all items necessary for each transaction. Any updates or changes regarding the transaction will be relayed to closing attorney.

As you can see, the closing attorney and their staff play an integral role in the closing process. This course will give you the knowledge and the tools needed to effectively and efficiently handle a real estate transaction.

A Lender and/or an Owner will want to have some type of insurance to protect their interest in the mortgage or the land that they are insuring or purchasing. That is where Title Insurance comes in.

Title insurance is insurance against loss or damage resulting from defects or failure of title to a particular parcel of realty, or from the enforcement of lien existing against it at the time of the insurance. This form of insurance is taken out by a purchaser of the property or one loaning money on a mortgage.

The 2 basic kinds of title insurance are:

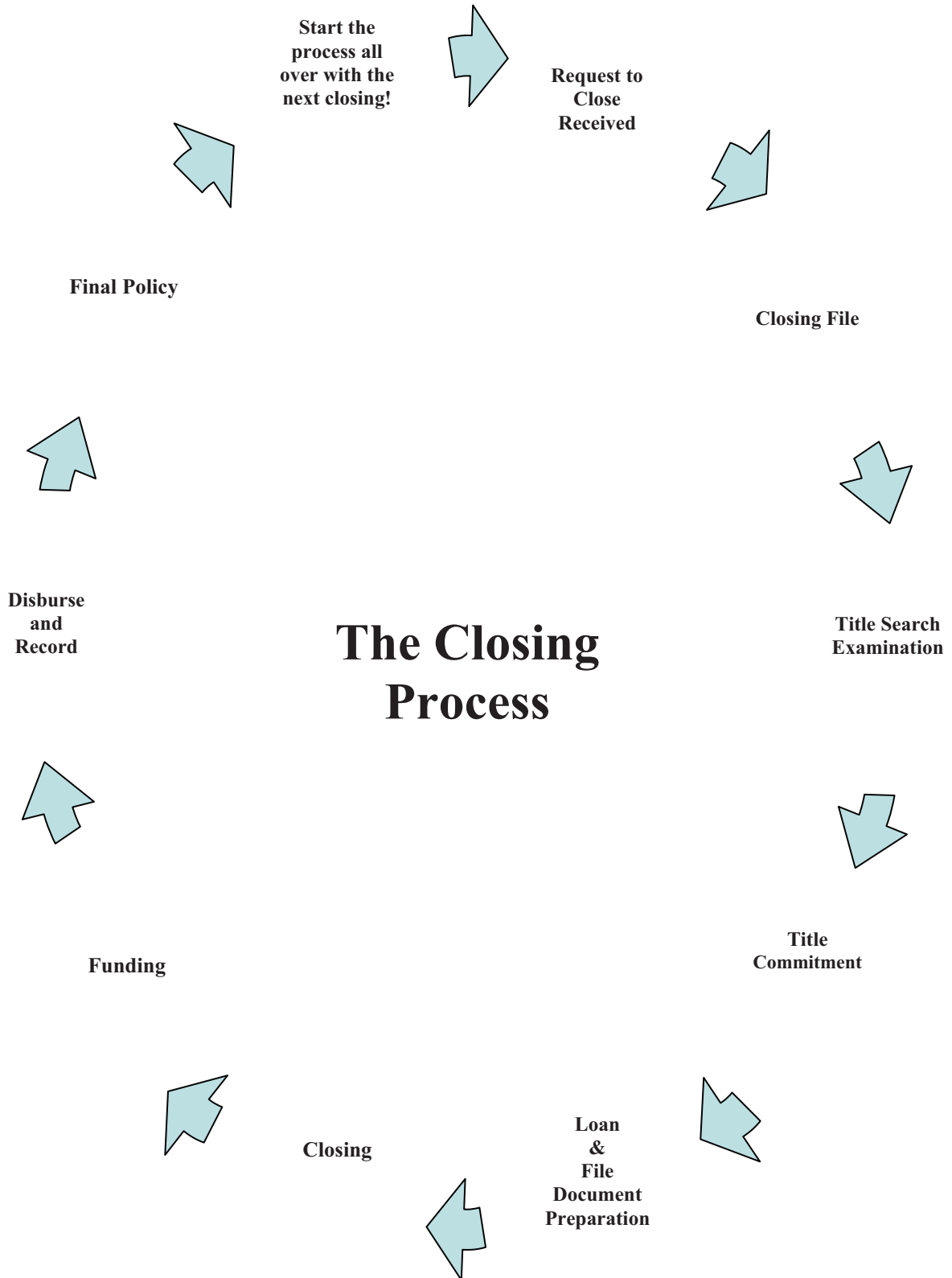
Owner's Title insurance insures the owner’s equity in the property against loss or damage by reason of a defect.

Lender's or Mortgagee Title Insurance insures the lender of the validity, priority and enforceability of its lien and serves as protection for the lender's security interest in the real estate.

A great deal of emphasis is placed on minimizing or eliminating risk for the insured before issuing policies; however, risks are present in all real estate transactions. There are two main risk categories (1) Hidden Risks which are hazards that cannot be detected by a title examination, and; (2) Human Error Risks which are mis-indexed documents, overlooked instruments and errors made in the execution of documents, just to list a few.

Common Functions of the Title Insurance Process

Action	Responsibility
Title Order	Lender/Attorney
Insured Closing Agreement Confirmation Letter	ITIC Approved Attorney
Title Report/Abstract	Attorney
Title Opinion	Attorney
Loan Package	Lender
Loan Documentation	Attorney
Title Insurance	Underwriting Agent
Loan Closing	Attorney
Recording Documents Perform Title Update Prior to Recording	Under the direction of the Attorney
Recording Satisfaction of Liens	Attorney
Title Insurance Policy/Policies Final Title Check Generate Final Documents	Underwriting Agent
Reporting Premium Income to ITIC	Underwriting Agent



SECTION B

THREE PHASES OF CLOSING

There are three phases to a closing: Pre-Closing, Closing and Post Closing. Often the closing phase is thought to be the most important, however; all phases of the process are vital to the success of the closing.

A. Phase I – Pre-Closing

Following are the steps involved in Phase I – Pre-Closing:

1. **Request to Close** - The request to handle a closing is received. Most often the request to close is received from:
 - (a) Lender (Request for Title)
 - (b) Realtor
 - (c) Client
 1. Builder
 2. Developer
 3. Buyer/Seller

Open the File - The closing file should be created upon receiving a request to schedule a closing. It is critical to document every aspect of the transaction and retain backup documentation. It is important to remember that title claims can arise at any time after the closing. If the soundness of the transaction ever comes into question, the closing attorney must be prepared to defend his/her actions and have documentation to support the transaction.

Schedule Closing Date and Time - Make contact with all parties involved in closing (i.e. Buyer, Seller, Realtor, Lender) to schedule date and time for closing and obtain necessary information (i.e. Purchase Agreement/ Contract, closing instructions, hazard insurance information, payoff information, etc). Send a letter or e-mail to the applicable parties confirming the agreed upon closing date and time. This is the time to find out if any of the parties intends to close by **Power of Attorney**. If so, verify that the lender agrees to this and obtain copies of the necessary documentation. The original Power of Attorney will need to be recorded with the other closing documents.

1. **Closing Information Worksheet** - Insert a Closing Information Worksheet into the file and complete as much information as possible. As new information is received, ensure that the checklist is updated accordingly. Determine the type of closing (i.e. Residential or Commercial; Purchase, Second Mortgage/Equity; Refinance etc.), documents needed and actions that should be taken in order to close the transaction. The purpose of this step is to ensure that all closing files are organized in a consistent manner so that pertinent information regarding the closing may be accessed quickly. This will enable another paralegal to handle the processing of the file in an emergency situation. This step will also ensure that key items are not overlooked.

Helpful Hint: Closing checklists can be designed to mirror entry in to your closing software.



Closing Information Worksheet

File Number _____ Closing Date _____

Buyer(s): _____
Phone Nos.: (Home) _____ (Office) _____ (Cell) _____
Email: _____

Seller(s): _____
Phone Nos.: (Home) _____ (Office) _____ (Cell) _____
Email: _____

Property: _____
Street Address: _____
Legal: _____

Loan Amount: \$ _____ Purchase Amount: \$ _____
Lender: _____ Contact: _____

Commission: _____ Co-Brokerage Split: _____ Paid By: _____
Who is holding earnest monies? _____
Will monies be brought to closing? _____ Yes _____ No

Listing Agent: _____ Company: _____
Selling Agent: _____ Company: _____

Attorney Engagement Letter: Date Sent _____ Date Received _____

Termite Report: Ordered by _____ Date Ordered _____ Date Received _____
Termite Company: _____ Amount: \$ _____ B _____ S _____ POC _____

Deed (Prepared By): _____ Phone No. _____

Hazard Insurance: Company: _____ Phone No.: _____
Contact: _____ Fax No.: _____
Address to mail premium to: _____
Annual Premium Amount: \$ _____ B _____ S _____ POC _____
Per Month Amount: \$ _____ # of Months to Escrow: _____

Survey: Company: _____
Contact: _____ Phone No.: _____
Cost: \$ _____ B _____ S _____ POC _____

Title Abstract:
Search Period: _____ Date Ordered: _____ Date Received: _____
Abstractor: _____ Cost: \$ _____ B _____ S _____ POC _____



Title Insurance: Prior Policy () _____
 New Policy(ies) Types: _____
 Insured Amounts: O \$ _____ L \$ _____
 Premium: O \$ _____ L \$ _____

Payoffs:	Lender Acct. No.	Date Ordered	Payoff Amount	Good Thru	Per Diem
1 st Mortgage	_____	_____	\$ _____	_____	\$ _____
2 nd Mortgage	_____	_____	\$ _____	_____	\$ _____
3 rd Mortgage	_____	_____	\$ _____	_____	\$ _____
Other	_____	_____	\$ _____	_____	\$ _____

Homeowner Assoc: _____ Contact: _____
 Phone No.: _____ Fax No. _____
 Certificate Charge: \$ _____ Payable to: _____
 Periodic Fee: \$ _____ per _____ Capital Contribution: _____
 Balance Due: \$ _____ Paid Thru: _____

Assessments: \$ _____ per _____
 Balance Due: \$ _____ Paid Thru: _____

Property Taxes: \$ _____ for the year of _____
 Due Date: _____
 Seller's Portion: \$ _____ Buyer's Portion: \$ _____
 Tax Escrow Information: \$ _____ per month
 Number of months to escrow _____

Other Charges:

ITEM	AMOUNT	PAID BY
_____	\$ _____	B _____ S _____ POC _____
_____	\$ _____	B _____ S _____ POC _____
_____	\$ _____	B _____ S _____ POC _____
_____	\$ _____	B _____ S _____ POC _____
_____	\$ _____	B _____ S _____ POC _____
_____	\$ _____	B _____ S _____ POC _____
_____	\$ _____	B _____ S _____ POC _____
_____	\$ _____	B _____ S _____ POC _____

Notes: _____

3. **Processing the Closing File** – Obtain, review or produce the following documents:
 - a) Contract
 - b) Insured Closing Letter
 - c) Title Search (Is there a prior policy?)
 - d) Over the Limits (if applicable)
 - e) Reinsurance Questionnaire (if applicable)
 - f) Survey, if applicable
 - g) Title Commitment
 - h) HUD Settlement Statements
 - i) Loan Closing Instructions
 - j) Security Instruments (Deed/Mortgage)
 - k) Closing Documents

Order of Things – there is no order. Lender determines the order in which the above may be received and processed.

The closing attorney reviews all documents for accuracy and ensures that there are no discrepancies between the documents. If inconsistencies are detected or if the documents are incomplete, the closing attorney should immediately contact the parties involved in the transaction before proceeding. When preparing and processing a closing file, the paralegal/closing attorney will need to remain in constant communication with all involved parties to ensure that the transaction moves forward. Additionally, the paralegal/closing attorney may also be in contact with title searchers, taxing authorities, other lenders (payoff requests), etc.



Review of the Purchase Agreement/Contract

A review of the Purchase Agreement/Contract will reveal the following:

Parties to and the property involved in the transaction:

Purchasers

Are the names listed as they will appear on the deed and loan documents?

Sellers

Are the seller(s) the owner(s) of record? Do the name(s) agree as they appear on the vesting deed and any changes since that time?

Mailing address (present and forwarding)

Telephone numbers

Real Estate Agent/Brokers

Name, address, telephone and fax numbers for selling and listing agent

Total commission amount or percentage and instructions as to the division between the selling and listing agent

Description of Property

Street address

Legal description and TMS Number - Do the address and TMS number match the deed into the sellers?

Additional fixtures included in the sales price

Utilities

Public or private utilities? Are inspections or certificates needed?

Costs/Fees?

Personal Property

Is personal property being conveyed? Is it identified? Cost or Included in Purchase Price?

Contingencies

Are there any? Warranties, if any provided by seller?

Terms of Sale

Must close on or before?

Purchase price and how payment will be made?

Earnest Money: How much and who is holding it?

Financing: Is the contract contingent on loan approval? How long does the buyer have to obtain loan approval? Is the loan VA or FHA? If so, remember to use the appropriate language in the title commitment / policy.

Closing Costs: Seller pays? Buyer pays?

Other Terms and Conditions

Home Warranty? Who pays?

Survey – Is one required? Who pays?

Title Examination and Title Insurance

When does the contract expire? Is there an automatic extension?

Adjustments (taxes, water, sewer, rents, insurance, association fees, etc.):

How will these be prorated?

Homeowner's Dues? Certificate? Payment or Prorations?

Non-Resident Tax: South Carolina Code Section 12-8-580 (as amended).

Default: What are the terms?

Inspection: Must be complete by?

Termite/Wood Infestation Report: Who pays? Must be complete by?

Repairs: Are there repairs to be made? If so, will monies be escrowed?

Preparation of an Escrow Agreement may be needed.

Is the property affected by the Coastal Title and Wetlands Act?

Is the contract properly executed and witnessed?

Addendums

Are there any?

Addendum Examples:**Agreement to Extend or Amend Contract for the Sale and Purchase of Real Estate**

This addendum allows an amendment or extension of an existing contract for the sale and purchase of real estate.

Description – Addendum for Repairs

This Addendum is used to define the type of repairs, an estimate of costs, and how payment will be handled. If the closing attorney is to hold the funds until repairs are made an Escrow Agreement will need to be prepared and executed.

Addendum for Continued Marketing of Property by Seller due to Contingencies

Addendum to a Residential Real Estate Sales Contract allows for the continued marketing of the subject property by the seller while seller completes the process of fulfilling certain contingencies. If another offer is received on the property, seller must notify the buyer that a new offer has been received, and that buyer must waive the contingencies or else property may be sold to new offer or.

Environmental Assessment, Threatened or Endangered Species, And Wetlands Addendum

Environmental Assessment, Endangered Species, and Wetlands Addendum to a Real Estate Contract, wherein the parties agree that inspections and assessments related to the subject matter may be made by buyer prior to closing the contract, and that buyer may terminate contract if associated problems are discovered. This addendum should be signed contemporaneously with the general Contract.

Exchange Addendum to Contract - Tax Free Exchange Section 1031

This form is used when there is a tax free exchange proposed for buyer or seller. Note: Any handwritten information or changes to the pre-printed contract, including contract addenda, must be initialed by all parties and will supersede any pre-printed information. The closing attorney should contact the realtor periodically to ensure that any items in the sales contract that need to be satisfied (ordering and satisfactory review of inspections and survey, repairs completed, etc.) are met so as to avoid any possible closing delays.



**AGREEMENT TO BUY AND SELL REAL ESTATE
RESIDENTIAL**

1. **PARTIES:** This legally binding Agreement entered into on _____, 20____
between, Buyer(s), _____, (hereinafter called "**BUYER**"), and
Seller(s), _____, (hereinafter called "**SELLER**"). The
property shall be deeded in the name(s) of _____

2. **PROPERTY TO BE SOLD:** Subject to terms and conditions herein, Seller agrees to sell and Buyer agrees to buy the
following described property with improvements and fixtures thereon:

Lot _____ Block _____ Section _____ Subdivision _____
Address _____
Tax Map # _____ City _____ Zip _____
County of _____, State of South Carolina.

Seller represents that the property is connected to public sewer system or to septic tank or to public water or
to well system or to other _____.

No personal property will convey as a part of this sale, except as described: _____

3. **CONVEYANCE SHALL BE MADE:** Conveyance shall be made subject to all easements as well as 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 deliver a proper general warranty deed, if applicable, free of encumbrances, except
as herein stated. Seller agrees to pay all statutory deed recording fees. The deed shall be delivered at the stipulated place
of closing, and transaction closed on or before _____, 20____, not later than 9:00 p.m. **Time is of the
essence.** Seller and Buyer authorize their respective attorneys and the settlement agent to furnish to Listing Broker and
Selling Broker copies of the final HUD-1 settlement statement for the transaction for their review prior to closing.

4. **POSSESSION:** Possession of said property will be given to Buyer at the time of closing. Seller agrees to deliver property
free of debris and in a clean condition. The property, including but not limited to, landscaping and lawn, shall be maintained
in the same condition from the effective date of this agreement until possession is delivered, ordinary wear and tear
excepted. Possession by Buyer before closing or by Seller after closing shall be subject to the terms and conditions of a
separate agreement to be executed prior to closing or occupancy.

5. **PURCHASE PRICE** shall be _____ dollars, \$ _____

6. **METHOD OF PAYMENT:** Purchase price shall be paid as follows: Cash; or Subject to Financing. Financing to
be obtained by Conventional Seller VA FHA Other terms: _____

7. **EARNEST MONEY:** This offer is accompanied by an earnest money deposit of \$ _____
Buyer and Seller authorize _____, as Escrow Agent, to hold and
disburse earnest money according to the terms of this agreement. Earnest money paid by Cash, Check, or Other.
Broker does not guarantee payment of a check or checks accepted as earnest money. All escrow money received shall be
deposited as required by South Carolina law and South Carolina Real Estate Commission Rules and Regulations. At the
consummation of this sale, the earnest money deposit shall be credited to the Buyer.

**THE PARTIES UNDERSTAND THAT, UNDER ALL CIRCUMSTANCES, INCLUDING DEFAULT, THE ESCROW AGENT
HOLDING THE EARNEST MONEY DEPOSIT WILL NOT DISBURSE IT TO EITHER PARTY UNTIL BOTH PARTIES
HAVE EXECUTED AN AGREEMENT AUTHORIZING THE DISBURSEMENT OR UNTIL A COURT OF COMPETENT
JURISDICTION HAS DIRECTED A DISBURSEMENT.**

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8. **LOAN PROCESSING AND APPLICATION:** Buyer's obligation under this agreement is contingent on Buyer obtaining said loan. Buyer shall apply for a _____% loan (loan-to-value ratio) within _____ days from the execution of this Agreement and shall provide Seller with satisfactory loan approval within _____ days. **Time is of the essence.** Should the Buyer fail to make loan application or receive approval within said period, and to diligently pursue the application, the Seller shall have the option to terminate this Agreement, with written notice. Buyer also agrees to provide all documents or information requested by the lending company in a prompt and timely manner. Buyer will take any action that is needed or requested by Lender to process the loan application. Buyer further hereby gives permission to Lender to disclose pertinent information concerning the Buyer's credit-worthiness or any other information needed for the loan processing to the listing or cooperating broker(s) or agent(s). If Buyer fails to comply with these above conditions, Buyer shall be in default of this agreement subject to the terms of paragraph 16.
 FHA Mortgage Insurance will will not be added to the mortgage. VA funding fee will will not be added to the mortgage.

9. **CLOSING COSTS:** Unless otherwise agreed, closing costs, including all loan charges and prepaid recurring items, shall be paid as follows:
 (a) SELLER shall provide or pay for preparation of deed, any recording charge based on value of property, and all costs necessary to deliver a marketable title, including recording of satisfactions and property taxes to the day of closing.
 (b) BUYER shall pay, unless otherwise agreed herein, the cost of the Buyer's credit report, property insurance, appraisal, survey, cost of obtaining loan, discount points, title examination, escrow deposits, and prepaid expenses. The Buyer shall also pay, if applicable, interim interest and mortgage insurance premium or VA funding fee. Buyer's hazard insurance policy shall provide coverage as required by lender. Other terms: _____

10. **HOME PROTECTION PLAN COVERAGE:** Both parties understand that a third party home warranty Plan will will not be issued at closing. If applicable, the warranty premium will be paid at closing by the Buyer or Seller not to exceed \$_____.

11. **EXPIRATION OF OFFER:** The offer from Buyer shall be withdrawn at _____ o'clock _____ M. on _____ unless accepted or countered by Seller in written form prior to such time. **Time is of the essence.**

12. **EXTENSION AGREEMENT:** If the transaction has not closed within the stipulated time limit because a contingency has not been satisfied through no fault of either party, then both parties agree to extend this agreement for a period not to exceed _____ consecutive days from the original closing date. Closing shall occur within this time extension, but in no event shall closing occur later than the above extension date. **Time is of the essence.**

13. **ADJUSTMENTS:** Taxes, water, all sewer assessments, sewer charges, fuel oil, rents as when collected, insurance premiums, if applicable, and other assessments, including homeowner's association fees, shall be adjusted as of the date of closing. Tax prorrations pursuant to this Agreement are to be based on the tax information available on the date of closing, and are to be prorated on that basis. **BUYER TO BE RESPONSIBLE FOR APPLYING FOR ANY APPLICABLE TAX EXEMPTIONS.** Property taxes and rent, as well as other expenses and income of the property, if applicable, shall be apportioned to the date of closing. Annual expenses or income shall be apportioned using 365 days. Monthly property expenses or income shall be apportioned by the number of days in month of closing. Prorrations at closing shall be final.

14. **NON-RESIDENT TAX:** Seller covenants and agrees to comply with the provisions of South Carolina Code Section 12-8-580 (as amended) regarding withholding requirements of sellers who are not residents of South Carolina as defined in the said statute.

15. **RISK OF LOSS OR DAMAGE:** In case the property herein referred to is destroyed wholly or partially by fire or other casualty prior to delivery of deed, Buyer or Seller shall have the option for ten (10) days thereafter of proceeding hereunder, or of terminating this Agreement.

16. **DEFAULT:** If Buyer or Seller fails to perform any covenant of this Agreement, the other may elect to seek any remedy provided by law, including but not limited to attorney fees and actual costs incurred (as defined in paragraph 17), or terminate this Agreement with a five day written notice. If terminated, both parties shall execute a written release of the other from this contract and both shall agree to hold the Escrow Agent harmless. If either Buyer or Seller refuses to execute release, Escrow Agent will hold the earnest money in trust until said releases are executed or until a court of competent jurisdiction dictates legal disposition.

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17. **ACTUAL COST INCURRED** shall include all costs and expenses incurred or obligated for by Buyer, Seller or Broker in an effort to consummate this sale. Such costs shall include, but are not limited to, cost of credit report, appraisal, survey, inspections and reports, title examination, and Broker's fee or commission for this sale.

18. **SURVEY, TITLE EXAMINATION, AND INSURANCE:** The Listing and Cooperating Broker(s) and their Agent(s) recommend that Buyer have a survey of the subject property made, have examination as to the title to the property, obtain owner's title insurance, and that Buyer obtain appropriate hazard insurance coverage effective with the time of closing. All hazard insurance to be canceled and new policies furnished by Buyer at closing unless otherwise stipulated in this Agreement. Flood insurance, if required by Lender, at Buyer's option shall be assigned to Buyer with permission of carrier, and premium prorated to date of closing.

19. **CONDITION OF PROPERTY:**

(A) **Seller's Property Condition Disclosure Statement:** (check one)

Buyer and Seller agree that Seller will **not** complete nor provide Buyer a Seller's Property Condition Disclosure statement in accordance with South Carolina Code of Laws, as amended, Section 27-50-30, Paragraph (13).

Buyer and Seller agree that a Seller's Property Condition Disclosure statement, as required by South Carolina Code of Laws, as amended, Section 27-50-10, et seq., has been provided to Buyer by Seller prior to the ratification of this agreement. If the Seller discovers, after his delivery of a disclosure statement to a Buyer, a material inaccuracy in the disclosure statement or the disclosure is rendered inaccurate in a material way by the occurrence of some event or circumstance, the Seller shall correct promptly the inaccuracy by delivering a corrected disclosure statement to the Buyer or make reasonable repairs necessitated by the occurrence before closing. Buyer understands that the Seller's Property Condition Disclosure statement is not intended to replace a professional home inspection. Buyer understands and agrees that the Seller's Property Condition Disclosure statement contains statements made solely by the Seller. The Buyer and Seller agree that the Listing and Selling Broker and all affiliated agents are not responsible for the accuracy of any information contained in the Seller's Property Condition Disclosure statement. The Buyer and Seller understand and agree that the Listing and Selling Broker and all affiliated agents have fully met the requirements of Section 27-50-70 of the South Carolina Code of Laws, as amended.

(B) **Inspection:** Buyer at Buyer's expense shall have the privilege and responsibility of inspecting the structure, square footage, environmental concerns including but not limited to radon gas, lead-based paint and lead-based paint hazards, wetlands study, appurtenant buildings, heating, air conditioning, electrical and plumbing systems as well as built-in appurtenant equipment or appliances prior to the day of closing or possession. In the event repairs are necessary to place the heating system, air conditioning, plumbing, and electrical system to be conveyed in operative condition and to make the roof free of leaks, and the dwelling structurally sound, the Seller shall be notified within _____ consecutive days after both parties have signed this Agreement. **Time is of the essence.** If Buyer fails to notify Seller within this time, Buyer shall have waived any and all rights under the terms of this paragraph. If Lender's commitment requires any additional inspections or certifications, these are to be provided by Buyer.

(C) **Maintenance:** After any inspection by Buyer and after repairs, if any, made as a result of any such inspection, the Seller agrees to maintain the heating, air conditioning, plumbing, and electrical systems, as well as all appliances to be conveyed in operative condition, normal wear and tear excepted, until the day of closing or the day possession is given, whichever occurs first. Seller agrees to maintain the property, including lawn, shrubbery and grounds until the day of closing or possession, whichever occurs first.

(D) **Wood Infestation Report:** If the property to be sold has been previously occupied, The Buyer The Seller shall, at their expense, have the property inspected and shall obtain a current Wood Infestation Report (CL100) from a licensed and bonded pest control operator, on or before _____, 20____. **Time is of the essence.** If Buyer fails to have the property inspected by this date, Buyer shall have waived any and all rights under the terms of this paragraph. The Seller makes no warranties with regard to matters covered by such report or any other improvement unless specifically stated in this agreement. If the infestation report reveals the presence of or damage by termite infestation or other wood destroying organisms, Seller shall remedy such deficiencies and shall furnish Buyer with a report of a qualified inspector that property is free from infestation or damage herein mentioned or that infestation or damage has been treated and/or repaired as appropriate in a workmanlike manner on or before closing.

If the property to be sold has not been previously occupied, Seller shall certify that the dwelling has been treated by soil poisoning for the prevention of termites and other wood destroying organisms and shall provide the Buyer, at closing, a written certification from a licensed pest control operator.

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(E) **Repairs:** The cost of all repairs to heating system, air conditioning, plumbing, and electrical system to be conveyed, and to make the roof free of leaks, and the dwelling structurally sound and wood infestation treatment, if any, required by section (D) above, to be paid by Seller. If the Seller refuses to make these repairs and treatment, the Buyer shall have the option to (1) accept the property in its present condition, (2) negotiate with the Seller for the payment of these repairs and treatment, or (3) terminate this Agreement, subject to paragraph 7. The repairs to any other items are the sole responsibility of Buyer. The obligations of Seller under paragraph 19 terminate on the day of closing or on the day possession is given, whichever occurs first.

(F) **Residential Dwellings Built before 1978:** (check one of the following)

- This contract is contingent upon a risk assessment or inspection of the property for the presence of lead-based paint and/or lead-based paint hazards which shall be done, at the Buyer's expense, by midnight on _____, 20____. **(Intact lead-based paint that is in good condition is not necessarily a hazard. See EPA pamphlet "Protect Your Family From Lead in Your Home" for more information).** This contingency will terminate at the above predetermined deadline unless the Buyer (or Buyer's agent) delivers to the Seller (or Seller's agent) a written contract addendum listing the specific existing deficiencies and corrections needed, together with a copy of the inspection and/or risk assessment report. The Seller may, at the Seller's option, within _____ days after Delivery of the addendum, elect in writing whether to correct the condition(s) prior to settlement. If the Seller will correct the condition, the Seller shall furnish the Buyer with certification from a risk assessor or inspector demonstrating that the condition has been remedied before the date of the settlement. If the Seller does not elect to make the repairs or if the Seller makes a counter-offer, the Buyer shall have _____ days to respond to the counter-offer or remove this contingency and take the property in "as-is" condition or this contract shall become void. Upon such termination, the earnest money deposit of Buyer shall be returned to Buyer and neither party shall have any further rights hereunder. The Buyer may remove this contingency at any time without cause; or
- Buyer waives the opportunity to conduct a risk assessment or inspection for lead-based paint and/or lead-based paint hazards.

(G) **Megan's Law:** The Buyer and Seller agree that the Listing and Selling Broker and all affiliated agents are not responsible for obtaining or disclosing any information contained in the South Carolina Sex Offender Registry. The Buyer and Seller agree that no course of action may be brought against the Listing and Selling Broker and all affiliated agents for failure to obtain or disclose any information contained in the South Carolina Sex Offender Registry. The Buyer agrees that the Buyer has the sole responsibility to obtain any such information. The Buyer understands that Sex Offender Registry information may be obtained from the local sheriff's department or other appropriate law enforcement officials.

(H) **Disclaimer:** The Buyer acknowledges the Seller, except as provided in subparagraphs (B), (C), (D), and (E) of this section, gives no guarantee or warranty of any kind, expressed or implied, as to the physical condition of the property or to the conditions of or existence of improvements, services, appliances or system thereto, or as to merchantability or fitness for a particular purpose as to the property or improvements thereof, and any implied warranty is hereby disclaimed by the Seller. Neither Buyer nor Seller will hold Cooperating or Listing Broker responsible for any act of negligence or intent by any inspection or repair company employed by Seller or Buyer for the purposes of this agreement. The Seller is not required to make any repairs under any circumstances until Purchaser's financing has been approved.

20. **APPRAISED VALUE:** (check one)

- This agreement is not contingent on the lot or parcel with building and improvements thereon, if any, appraising, according to the lender's appraisal or other appraisal as agreed, for the selling price.
- This agreement is contingent on the lot or parcel with building and improvements thereon, if any, appraising, according to the lender's appraisal or other appraisal as agreed, for the selling price or more; if the lot or parcel with building and improvements thereon appraises for less than the selling price, the seller may elect to sell for the appraised value. In such case, the Buyer agrees to proceed with the consummation of this sale at the reduced price. However, if Seller does not agree to sell at the appraised value, the Buyer shall have the option of proceeding with the consummation of the Agreement without regard to the amount of the appraised valuation, or terminate the agreement without penalty.

[] BUYER [] BUYER [] SELLER [] SELLER HAVE READ THIS PAGE

21. DISCLAIMER BY BROKERS AND AGENTS: The parties acknowledge that the Listing and Cooperating Broker(s) and their Agent(s): (1) Give no guaranty or warranty of any kind, express or implied, as to the physical condition of the property or as to condition of or existence of improvement services or systems, thereto, included but not limited to termite damage, roof, basement, appliances, heating and air conditioning systems, plumbing, sewage, electric systems, and to the structure; (2) Give no warranty, express or implied, as to the merchantability or fitness for a particular purpose as to the property or such improvements thereto and any implied warranty hereby disclaimed; (3) Give no warranty as to title; (4) Give no guaranty or warranty concerning (a) any certification or inspection concerning the condition of the property, (b) any matters which would be reflected by current survey of the property, and (c) the accuracy of the published square footage of the property; (5) Buyer acknowledges that Seller and Seller's Agents have not made any oral or written commitments to Buyer regarding (a) projected income or economic benefit for Buyer from rentals; (b) rental arrangements except that Buyer may rent the unit if Buyer so desires or (c) other economic benefits to the Buyer.

22. COASTAL TIDELANDS & WETLANDS ACT: In the event the property is affected by the provisions of the South Carolina Coastal Tidelands & Wetlands Act (Section 48-39-10, et seq., South Carolina Code of Laws), an Addendum will be attached to this Agreement incorporating the required disclosures at Buyer's Seller's expense.

23. MEDIATION CLAUSE. Any dispute or claim arising out of or relating to this Agreement, the breach of this Agreement or the services provided in relation to this Agreement, shall be submitted to mediation in accordance with the Rules and Procedures of the Dispute Resolution System of the NATIONAL ASSOCIATION OF REALTORS®. Disputes shall include representations made by the Buyer(s), Seller(s) or any real estate broker or other person or entity in connection with the sale, purchase, financing, condition or other aspect of the property to which this Agreement pertains, including without limitation allegations of concealment, misrepresentation, negligence and/or fraud. Any agreement signed by the parties pursuant to the mediation conference shall be binding.

This mediation clause shall survive for a period of 120 days after the date of the closing. The following matters are excluded from mediation hereunder: (a) judicial or non-judicial foreclosure or other action or proceeding to enforce a deed of trust, mortgage, or land contract; (b) an unlawful detainer action; (c) the filing or enforcement of a mechanic's lien; (d) any matter which is within the jurisdiction of a probate court; (e) the filing of an interpleader action to resolve earnest money disputes. The filing of a judicial action to enable the recording of a notice of pending action, for order of attachment, receivership, injunction, or other provisional remedies, shall not constitute a waiver of the right to mediate under this provision, nor shall it constitute a breach of the duty to mediate.

24. SURVIVAL: If any provision herein contained which by its nature and effect is required to be observed, kept or performed after the closing, it shall survive the closing and remain binding upon and for the benefit of the parties hereto until fully observed, kept or performed.

25. ENTIRE BINDING AGREEMENT: This written instrument, including the additional terms and conditions set forth on the reverse, expresses the entire agreement and all promises, covenants, and warranties between the Buyer and Seller. It can be changed only by a subsequently written instrument signed by both parties. Both Buyer and Seller hereby acknowledge that they have not received or relied upon any statements or representations by either Broker or their agents which are not expressly stipulated herein. The benefits and obligations shall inure to and bind the parties hereto and their heirs, assigns, successors, executors, or administrators. Whenever used, singular includes plural, and use of any gender shall include all.

26. FACSIMILE AND OTHER ELECTRONIC MEANS: The parties agree that the offer, any counteroffer and/or acceptance of any offer or counteroffer may be communicated by use of a fax or other secure electronic means, including but not limited to electronic mail and the internet, and the signatures, initials and handwritten or typewritten modifications to any of the foregoing shall be deemed to be valid and binding upon the parties as if the original signatures, initials and handwritten or typewritten modifications were present on the documents in the handwriting of each party.

27. TRUST ACCOUNT INTEREST/CHARITABLE CONTRIBUTION: According to the rules and regulations of the South Carolina Real Estate Commission and the Code of Laws of South Carolina, 1976, as amended, any interest earned on Buyer's earnest money deposit would belong to Buyer until the closing of the transaction referenced in this agreement. It is understood that Broker may place deposited earnest monies into an interest bearing trust account and that Broker will retain all interest incurred in said account in which case all interest earned on Broker's interest bearing trust account shall be donated on a regular basis to a charity of Broker's choice.

28. CONTINGENCIES: These stipulations shall preempt printed matter herein: (attach and reference addendum if necessary) _____

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THIS IS A LEGALLY BINDING AGREEMENT. BOTH BUYER AND SELLER SHALL SEEK FURTHER ASSISTANCE IF THE CONTENTS ARE NOT UNDERSTOOD. BOTH BUYER AND SELLER ACKNOWLEDGE RECEIPT OF A COPY OF THIS AGREEMENT. ALL TERMS AND CONDITIONS OF THIS AGREEMENT DO NOT SURVIVE CLOSING UNLESS OTHERWISE SPECIFIED.

IN WITNESS WHEREOF, this Agreement has been duly executed by the parties.

BUYER: _____ Date _____ Time _____

WITNESS: _____ Date _____ Time _____

BUYER: _____ Date _____ Time _____

WITNESS: _____ Date _____ Time _____

SELLER: _____ Date _____ Time _____

WITNESS: _____ Date _____ Time _____

SELLER: _____ Date _____ Time _____

WITNESS: _____ Date _____ Time _____

LISTING AGENT AND COMPANY _____

SELLING AGENT AND COMPANY _____

ESCROW AGENT ACKNOWLEDGMENT _____