

PURCHASE AGREEMENT

**THIS IS A LEGALLY BINDING CONTRACT BETWEEN
PURCHASER AND SELLER
IF YOU DO NOT UNDERSTAND IT, SEEK LEGAL ADVICE**

1. **PARTIES TO CONTRACT - PROPERTY.** Purchaser and Seller acknowledge that Broker is _____ is not _____ the limited agent of both parties to this transaction as outlined in Section III of the Agency Agreement Addendum as authorized by Purchaser and Seller.

_____, hereinafter referred to as

Purchaser, offers and agrees to purchase from _____, hereinafter referred to as Seller, upon the terms and conditions set forth, the property legally described as:

also known as _____

2. **EARNEST MONEY DEPOSIT.** Earnest Money in the amount of (\$ _____) _____ DOLLARS Cash _____ Check _____, unless otherwise noted herein, shall be deposited into the trust account of the listing _____ selling _____ broker on the next legal banking day after acceptance of this offer.

Other earnest money provisions: _____

3. **PURCHASE PRICE.** The total purchase price is to be (\$ _____) _____ DOLLARS

After earnest money herein is credited, the remaining balance is to be paid by Purchaser at closing.

4. **FINANCING.**

- ☐ **New Mortgage.** This offer is contingent upon Purchaser obtaining a new
☐ VA, ☐ FHA, ☐ SDHDA, ☐ Conventional, or ☐ _____ type of loan.
A letter of Purchaser's loan status from _____
☐ is attached or ☐ will be delivered by _____ (date).

Within _____ legal banking days after acceptance of this Agreement, Purchaser will make application for and diligently and in good faith endeavor to secure a new loan, pay all application fees, and to sign all financing documents without delay. Purchaser reserves the right to obtain alternative financing as long as there are no increased costs to Seller.

- ☐ **Assumption.** See attached Addendum.
☐ **Contract for Deed/Private Mortgage.** See attached Addendum.
☐ **Cash.** This is a cash offer. The remaining balance of \$ _____ will be paid at closing by certified check. A letter of verification from _____

regarding the availability of funds ☐ is attached ☐ will be delivered by _____ (date) or this agreement, at the option of Seller without notice to Purchaser may be voided.

INITIALS: PURCHASER _____ / **SELLER** _____ / _____

5. **APPRAISAL.** This offer is _____ is not _____ subject to the property appraising for at least the purchase price. If the appraisal reveals repairs, which must be made, Purchaser and Seller will negotiate which party will complete those repairs for any re-inspection fees. If the appraisal is less than the agreed purchase price, Purchaser and Seller may renegotiate the purchase price.

Appraisal ☐ will / ☐ will not be ordered prior to removal of home inspection contingency.

6. **SALE OF PURCHASER'S PROPERTY**

A. ☐ **This offer is not contingent** upon the sale or close of property owned by Purchaser.

B. ☐ **This offer is contingent** upon the sale and close of Purchaser's property located at

(address, including city & state) _____

☐ within _____ days or ☐ within the time specified for closing the Seller's property. Seller shall have the right to continue to offer the property for sale and accept any offers subject to the rights of Purchaser. If Seller accepts another offer, Seller will give Purchaser written notice of that fact. Within _____ days of receipt of the notice, Purchaser will provide a written waiver of the contingency on the sale and close of Purchaser's property or this agreement will terminate without further notice and deposits will be returned according to paragraph 15 of this agreement. Upon waiver of this contingency, Purchaser warrants and will provide proof that the funds needed for closing will be available and Purchaser's ability to obtain financing is not contingent upon the sale and/or close of any property.

7. **SELLER'S PROPERTY DISCLOSURE.** Purchaser acknowledges receipt of Seller's property condition disclosure statement dated _____ as required by SDCL 43-4-38 through 43-4-57 prior to signing this agreement. (initials) _____/_____

Purchaser acknowledges that no disclosure statement is required by reason of the following:

8. **LEAD-BASED PAINT DISCLOSURE.** Purchaser acknowledges receipt of the pamphlet "Protect Your Family From Lead In Your Home" and the Seller's lead-based paint and lead-based paint hazards form according to the Residential Lead-Base Hazard Reduction Act of 1992. This applies only to properties built prior to 1978. (initials) _____/_____

9. **INSPECTION OF PHYSICAL CONDITION OF PROPERTY.** Purchaser acknowledges that it has been recommended that Purchaser engage, at Purchaser's expense, the services of a professional inspector acting within the scope of the inspector's professional license to inspect the property (initials) _____/_____.

Purchaser and Seller understand the purpose of a property inspection is to inform and educate Purchaser of conditions and future maintenance of property and is not designed to be a point of renegotiation of the purchase price.

This offer ☐ is / ☐ is not contingent upon Purchaser, at Purchaser's expense, obtaining a property inspection(s) and report(s) which may include, but not be limited to the physical, structural, mechanical, pest, geological and environmental contamination conditions relating to the property. These inspection options will be completed and written notice of the results given to Seller or Seller's agent within _____ business days of acceptance of this agreement. If the inspection(s) has not been completed within the specified time, Purchaser's option to have the inspection(s) shall expire and all other terms of this Purchase Agreement will continue unaffected.

INITIALS: PURCHASER _____ / _____ **SELLER** _____ / _____

9. INSPECTION OF PHYSICAL CONDITION OF PROPERTY (continued from page 2)

If any inspection(s) reveals conditions unsatisfactory to Purchaser or unknown to Seller, the parties to this Agreement will have the following options: Purchaser will accept the existing condition; Seller will correct the existing condition and provide certification from an inspector that the condition has been remedied; or Purchaser and Seller will negotiate a settlement. If no written agreement can be reached on the results of the Inspection Report(s) within _____ business days of the date and time Seller is notified of the results of the inspection(s), this Agreement may be deemed null and void in its entirety at the option of Buyer within _____ hours after the negotiation deadline.

☐ Purchaser hereby waives the option to have an independent home inspector assess the condition of the property. _____ (Purchaser's initials)

10. HOME PROTECTION PLAN: Seller _____ has / _____ has not provided a home protection plan. By initialing, Purchaser elects _____ to purchase _____ to not purchase a home protection plan. Purchaser and Seller acknowledge that Broker selling the home protection plan will receive compensation from the home protection plan provider.

11. SURVEY. Purchaser acknowledges that it has been recommended to obtain a survey by initialing one of the following:

_____ new location survey depicting all improvements on the property.

_____ existing location survey depicting all improvements on the property.

_____ new boundary survey marking all property corners before closing.

_____ other _____.

Cost of survey, if any, will be paid as follows: _____ Seller _____ Purchaser

Purchaser waives survey (Initial, if applicable) _____

12. TAXES/PRORATIONS. Purchaser is aware that property taxes may or may not be based upon "Owner Occupied Status". Any and all Special Assessments are to be paid by Seller unless otherwise specified in this agreement.

Taxes, rents, road maintenance, water, sewer, and homeowner's association fees, if any are:

☐ To be prorated to _____

☐ Not to be prorated

Tax proration will be based upon the: ☐ previous year's taxes / ☐ agreed upon amount of _____ /

☐ most current county information / ☐ new construction estimate ☐ other _____

13. TITLE. Merchantable title shall be conveyed by Warranty Deed or other sufficient conveyance instrument, acceptable to Purchaser, subject to conditions, zoning, restrictions, and easements of record, if any, which do not interfere with or restrict the existing use of the property. An owner's policy of Title Insurance in the amount of the purchase price will be furnished with cost to be distributed: Purchaser _____ Seller _____.

INITIALS: PURCHASER _____ / _____ **SELLER** _____ / _____

- 14. CLOSING/POSSESSION.** Closing date will be on or before _____ with possession to be given Purchaser at time of closing. Seller agrees to maintain the property in a condition comparable to its present condition and agrees that Purchaser will have the opportunity for a personal inspection prior to closing. Seller agrees to maintain all existing insurance coverage on property until time of closing.

Closing service fees, if any, cost to be distributed as follows: Purchaser_____ Seller_____.

All personal property, including refuse, not included in the purchase price, shall be removed by Seller prior to closing.

- 15. EARNEST MONEY/DEPOSITS.** The broker, as specified in Section 2, shall deposit and hold all earnest money and other deposits until sale is closed. If an accepted offer and agreement to purchase does not close, regardless of the circumstances, both Purchaser and Seller must agree in writing prior to release of earnest money or in the alternative, pursuant to court order in accordance with SDCL 36-21A-81.

- 16. AGREEMENT TO MEDIATE.** Any dispute or claim arising out of or relating to this contract will be submitted to mediation, if available, in accordance with the rules and procedures of the Sellers/Purchasers Dispute Resolution System. Otherwise, mediation will be submitted to a private mediation service. Any costs of mediation will be shared equally between Purchaser and Seller.

Yes_____ No_____ Purchaser_____/_____(initials)

- 17. PERSONAL PROPERTY.** Any personal property, free of liens and without warranty of condition, shall be transferred to Purchaser by a separate bill of sale. Purchaser ☐ will / ☐ will not compensate seller for fuel oil/propane remaining on date of closing.

- 18. OTHER PROVISIONS:** _____

- 18. ADDENDA TO THIS AGREEMENT.** The following documents are addenda to this contract and are attached and become part of this contract by reference. If none, so state.

- 19.** This agreement is void if not accepted by Seller by the _____ day of _____, _____ by _____ a.m./p.m.

- 20.** The laws of South Dakota govern this transaction.

INITIALS: PURCHASER_____/_____**SELLER**_____/_____

21. TIME IS OF THE ESSENCE OF THIS CONTRACT.

Dated this _____ day of _____, _____ at _____ a.m./p.m.

Purchaser Purchaser

On this _____ day of _____, _____ the foregoing offer is:

(Initial) **ACCEPTED** _____ / _____

NOT ACCEPTED _____ / _____

COUNTERED _____ / _____

Seller Seller

THE FOLLOWING IS FOR INFORMATION PURPOSES ONLY:

Selling Company Selling Licensee

Listing Company Listing Licensee