

RESIDENTIAL REAL ESTATE TRANSACTION CHECKLIST

1. CLIENT. _____ Seller Buyer

2. CLIENT CONTACT INFORMATION.

Address: _____
Home Phone: _____ Work Phone: _____
Cell Phone: _____ Fax: _____

[Note: There is an Oregon Department of Revenue tax withholding requirement on certain Oregon real estate sales transactions by nonresident individuals and C corporation sellers that do not do business in Oregon. For more information, go to the following statute:
<http://www.oregonlaws.org/ors/314.258.>]

3. SUBJECT PROPERTY. Address: _____

[Tip: Contact the title company for copy of latest vesting deed. It will provide the legal description and the full name(s) in which the Seller(s) took title. A grantor should convey title out in the same name he/she took title as a grantee. The deed will also contain the legal description of the property that is the subjection of the transaction.]

IF MANUFACTURED OR FLOATING HOME LOCATED IN MANUFACTURED OR FLOATING HOME COMMUNITY:

Address: _____
Make/Model: _____ Yr: _____ VIN: _____ Lic: X- _____

Registration information for manufactured homes can be obtained through the Manufactured Home Ownership Document System (MHODS) effective Feb. 1, 2017. See: <http://www.oregon.gov/bcd/man-home-own/Pages/man-home-MHODS-info.aspx>

For floating home certificates of title and identifying plates go to: <http://www.oregon.gov/OSMB/title-registration/Pages/Floating-Home-Properties.aspx>; see also: <http://www.oregonlaws.org/ors/830.850>

[Note, if the manufactured home is not located in a manufactured housing community it will likely be treated as real property if the land and home are under the same ownership; real property taxes will apply and title will transfer via a standard deed of conveyance for real property. The usual form of purchase money security interest would be a deed of trust. If the manufactured home is located in a manufactured housing community or it is a floating home, it will be treated as personal property, and personal property taxes will apply; the form of purchase money security interest would be via a UCC security interest and noted on the certificate of title. See: <http://www.oregon.gov/bcd/man-home-own/Pages/man-home-owner.aspx> for manufactured homes located in manufactured housing communities. See: <http://www.oregonlaws.org/ors/830.745> for floating homes.]

4. REAL ESTATE BROKERS. Seller's (i.e. Listing) Broker and Company: _____ /Lic. No. _____

Phone: _____ E-mail: _____

Buyer's Broker and Company: _____
/Lic. No. _____ Phone: _____ E-mail: _____

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5. **TITLE.** If Buyer Are Co-Owners, How Will Title Be Taken by Buyer(s)?

H/W & Dom. Prtnrsp. (Survivorship) [See, <http://www.oregonlaws.org/ors/106.340>]

Survivorship

Tenancy/Common [No right of survivorship.]

Other: _____

[See: [ORS 93.180](http://www.oregonlaws.org/ors/93.180) (<http://www.oregonlaws.org/ors/93.180>)]

Seller Will Convey Title By:

Warranty Deed

Special Warranty Deed

Bargain & Sale Deed

Other: _____

[For discussion of statutory deed forms, to go [ORS 93.850 – 93.870](http://www.oregonlaws.org/ors/93.850) (<http://www.oregonlaws.org/ors/93.850>)]

6. **SELLER PROPERTY DISCLOSURE.** [ORS 105.462-490](http://www.oregonlaws.org/ors/105.462-490)

Provided? Yes [Date of delivery to Buyer.] _____ No

Reviewed? Yes No

Has it been fully completed with all necessary attachments? Yes No [If No, Buyer's counsel should consider extension of Buyer's right of revocation until disclosure form has been fully completed with all necessary attachments.]

Expiration date of Buyer's right of revocation: _____ [Note: Buyer has 5 business days from date of Seller's delivery of property disclosure statement to buyer, to give Seller written notice of intent to withdraw from the transaction, and obtain all deposits back from escrow. Delivery to Buyer's broker is delivery to Buyer. The Buyer's right to escrow's return of all deposits applies even though Seller may object.]

[If Seller Property Disclosure does not apply, verify why. See statutory disclosure form at <http://www.oregonlaws.org/ors/105.464>. Section 1 of form lists exclusions.]

7. **PERSONAL PROPERTY; FIXTURES.** Personal Property **Included** in Sale? Yes No [If Yes, identify here or attach list]: _____

Is a value being assigned to any included personal property? Yes No

If Yes, how much? \$ _____

Fixtures **Excluded** From Sale? Yes No [If Yes, identify here or attach list]: _____

8. **FINANCING (TYPE).**

THIRD PARTY FINANCING. E.g. Conventional, FHA, State/Fed VA, USDA, Other]

Specify type and identify lender: _____

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Has/will Buyer provided/provide pre-approval letter from lender or mortgage broker? Yes No

Is letter satisfactory to Seller? Yes No

ALL CASH. Has/will Buyer provided/provide evidence of availability of funds? Yes No

Are funds readily available or contingent? Readily Available Contingent

If contingent, explain: _____ *[Caution to Seller's counsel: If funds become unavailable (e.g. cannot liquidate stock in time for closing) will seller be damaged by taking property off market for period of time? What assurances can buyer give? Should earnest money deposit become non-refundable up front? Consider options and alternatives.]*

SELLER-CARRIED FINANCING.

Identify Security Document: Land Sale Contract Trust Deed. *[See Footnote¹]*

9. FINANCING TERMS.

Third-Party Financing

Sale Price: \$ _____

Earnest Money Deposit: \$ _____

Financed Amt.: \$ _____

Balance at Closing: \$ _____

All Cash

Sale Price: \$ _____

Earnest Money Deposit: \$ _____

Balance at Closing: \$ _____

Seller-Carried Financing

Sale Price: \$ _____

Earnest Money Deposit: \$ _____

¹ **Caveats and Amplifications:**

(a) If Seller has an existing loan on the property that will not be paid off at the time of closing, the underlying trust deed should be reviewed, as it likely contains a "due on sale" clause. If the parties intend to proceed nevertheless, the risks must be fully explained, and the Seller's carry-back security instrument should address who will bear the risk/responsibility if the underlying lender calls the loan due and payable.

(b) Also, commencing in 2014, under ORS 86A.203 (<http://www.oregonlaws.org/ors/86A.203>), one needs to be licensed as a mortgage loan originator to engage in a "residential mortgage transaction." See, ORS 86A.100(8) (<http://www.oregonlaws.org/ors/86A.100>) for definition of "residential mortgage transaction." The law excludes sellers taking back financing on the sale of a home they now live in or ever lived in as a primary residence and sales to certain relatives, such as a spouse, child, parent, sibling, etc. See, ORS 86A.203(2)(b)&(c) (<http://www.oregonlaws.org/ors/86A.203>). Note that Oregon House Bill 2856 (2013) (<https://olis.leg.state.or.us/liz/2013R1/Measures/Text/HB2856/Enrolled>) amends ORS 86A.203 and permits individuals to offer or negotiate residential mortgage loans secured by a non-primary residence, if the individual makes less than three (3) such loans during any consecutive 12-month period and does not hold more than eight (8) residential mortgage loans at any one time.

(c) Even though ORS 86A.203(2)(d) (<http://www.oregonlaws.org/ors/86A.203>) excludes Oregon licensed lawyers, the Oregon Department of Finance and Corporate Securities ("DFCS") (<http://www.cbs.state.or.us/dfcs/>) appeared to take the position that this exemption only applied if the residential mortgage transaction is *incidental to other work the lawyer is currently engaged in for the client*. See discussion at page 6 of the Oregon State Bar publication: "Regulating the Financers: Dodd-Frank and Oregon Licensing Requirements" (2013 RELU Annual Summer Conference) (<http://www.osbar.org/docs/sections/relu/2013cle/chapter5.pdf>). This has been changed by 2015 legislation, effective January 1, 2016, so that the "incidental to other work" requirement is gone. See, [SB 879 \(2015\)](https://olis.leg.state.or.us/liz/2015R1/Measures/Overview/SB879); <https://olis.leg.state.or.us/liz/2015R1/Measures/Overview/SB879>

(d) Also, note that under the Dodd-Frank Act, notwithstanding the Oregon limited exemption under HB 2856, the Qualified Mortgage and Ability to Repay rules will apply if the transaction is subject to Reg. Z under the Truth in Lending Act ("TILA"). Although most garden variety single seller carry transactions will likely be exempted from TILA, attorneys need to be careful in this arena. For more on these rules, go to: <http://www.consumerfinance.gov/regulations/ability-to-repay-and-qualified-mortgage-standards-under-the-truth-in-lending-act-regulation-z/>.

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(Seller-Carried Financing, cont.)

Principal Balance at Closing: \$ _____

Principal Balance of \$ _____ amortized over _____ months @ _____% = \$
_____/monthly installments; Security Instrument: Land Sale Contract Deed of Trust

If Seller has existing TD on property that will continue to be serviced (aka "All-Inclusive TD", or "Wrap TD", the unpaid principal balance does not exceed \$ _____.

Which party will bear risk if lender calls the loan due: Seller will pay off or refinance, and Contract or TD will continue in force; Buyer will refinance and pay off Seller; Other (Explain): _____

Additional Terms for Seller-Carried Financing:

Adjustable rate/interest? Yes No; If Yes, Describe: _____

Balloon Payment Date? Yes No; _____

Right of Prepayment? Yes No;

Prepayment Penalty?* Yes No; If Yes, Describe: _____

Restriction on Transfer? Yes No; If Yes, Describe: _____

Other: _____

*[*Note, ORS 86.150 requires certain disclosures if there is to be a prepayment penalty. There are also certain technical requirements if the seller's financing is considered a "high-cost mortgage".^{2]}*

11. CONTINGENCIES³

BUYER. [Check all that apply]: Buyer obtaining financing Marketability of Seller's Title Professional Inspection Quality and Quantity of Well Water Condition of onsite septic system Availability and cost of any insurance (especially flood insurance) Sale and closing of Buyer's existing residence [Caution should be exercised in drafting this last contingency, as disputes can occur if Buyer is unable to sell and close their home in time.]

Other: Specify: _____

SELLER. [Check all that apply]: Identification/purchase of substitute residence [Caution should be exercised in drafting this contingency, as disputes can occur if Seller is unable to identify/purchase

² If the Seller-Carried Transaction contains certain features, it may be subject to more stringent regulations. This is especially true if it is "High-Cost Mortgage." (See definition here: <http://www.consumerfinance.gov/regulations/high-cost-mortgage-and-homeownership-counseling-amendments-to-regulation-z-and-homeownership-counseling-amendments-to-regulation-x/>.)

³ Note that most contingencies in the parties' Sale Agreement expire if not waived after a certain period of time. This means that Buyer's and Seller's counsel should coordinate dates to make sure they are in agreement on the deadlines.

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substitute home in time.]

Other: Specify: _____

12. CLOSING/POSSESSION DATES. Date of Closing: _____ Date of Possession: On Closing Date
(_____ AM/PM)? _____ Days after Closing Date? Days before Closing Specific date?
_____ [See Footnote⁴]

If transaction fails to close on/before Closing Date, will there be automatic extension? Yes No

Is property leased? Yes No

Will tenant(s) vacate before closing? Yes* No

If Yes, has notice been given? Yes No

Tenants: _____ Monthly Rent: \$ _____

Is rent current? Yes No ? Refundable Security Deposits: \$ _____ *

Rental/Lease Agreement Reviewed? Yes No

**[Note: Under Oregon Landlord-Tenant law, all deposits are refundable. See, ORS 90.300,
<http://www.oregonlaws.org/ors/90.300>]*

13. TITLE/ESCROW COMPANY. Name/Address: _____

Escrow Officer: _____ Phone: _____ E-mail: _____

Title Officer: _____ Phone: _____ E-mail: _____

Cost of Owner's Policy: \$ _____ Ordered? Yes No

Does Buyer want any special endorsements? Yes No

[See <http://www.alta.org/forms/> for samples.]

Cost of Escrow: \$ _____

Homebuyer Protection Act Compliance? Yes No

[See ORS 87.007: <http://www.oregonlaws.org/ors/87.007>.]

Explain how Seller will comply: _____

Preliminary Title Report ("PTR") Reviewed? Yes No

Any objectionable liens or encumbrances? Yes No

If Yes, have Seller and title company been notified? Yes No

14. EXISTING LIENS, EASEMENTS, OR OTHER ENCUMBRANCES IN PTR NEGATIVELY AFFECTING TITLE:

a. _____ Exception No. _____

b. _____ Exception No. _____

c. _____ Exception No. _____

d. _____ Exception No. _____

⁴**Caveat:** Note that buyer pre-closing possession arrangements and seller post-closing possession arrangements are permitted exemptions under Oregon's landlord-tenant law. But if the arrangement exceeds 90 days (pre- or post-closing) the exemption goes away, and the non-possessory party becomes a "landlord" under ORS Chapter 90, with all the attendant liabilities. See exemption: [ORS 90.110\(2\)](http://www.oregonlaws.org/ors/90.110) (<http://www.oregonlaws.org/ors/90.110>).

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STATUS OF TITLE OBJECTION(S): _____

15. **ESCROW FEE:** Shared Equally Seller Buyer [Note: Long standing custom in Oregon is that Seller and Buyer equally share the escrow fee, and this is what the standard [OREF Sale Agreement](#) provides.]
16. **RECORDING FEES:** Each party bears the cost of recording their own documents Seller pays Buyer pays. [Note: Long standing custom in Oregon is that Seller and Buyer pay the fee for recording the document that benefits them. E.g. Seller pays for lien releases; Buyer pays for recording of deed and financing instruments, etc.]
17. **WASHINGTON COUNTY TRANSFER TAX:** If property located in Washington County, will transfer tax apply?
[Note exemptions at <http://www.co.washington.or.us/AssessmentTaxation/Recording/upload/Selling-price-less-than-14000.pdf>.]

If so, how will transfer tax of 1% of sale price be paid? Shared Equally Seller Buyer
[Note: Long standing custom in Oregon is that Seller and Buyer equally share the cost of the transfer tax.]
18. **TITLE INSURANCE:** Shared Equally Seller Buyer [Note: Long standing custom in Oregon is that seller pays for buyer's owners policy of title insurance. If buyer wants extended coverage, e.g. to protect against construction liens arising after closing, that is normally paid by buyer. One exception is the Homebuyer Protection Act, which applies with new construction or improvements exceeding \$50,000. See, ORS 87.007, <http://www.oregonlaws.org/ors/87.007>]
19. **REAL PROPERTY TAXES; ASSESSMENTS & DEFERRALS.** Annual Amount For Current Tax Year: \$ _____
Paid to: _____ Pro-Rate Date: Closing Other: _____
[Note: If subject property is a manufactured home located in manufactured housing community or a floating home, it will be treated as personal property and that tax will apply. See discussion at Section 3, above.
Caution: Local tax assessors, in their search for more funding sources, and constrained by the limitations placed on them by [Measure 5](#), have been monitoring pending real estate marketing sites, and reassessing before closing under the "omitted property" statute, [ORS 308.628](#), <http://www.oregonlaws.org/ors/308.628>. The assessment can go back up to five years. See also, [ORS 311.205 et seq](#), <http://www.oregonlaws.org/ors/311.205>. Since the tax assessor cannot generally re-assess the property after closing, this development can result in forcing [Seller and Buyer](#) to renegotiate the new assessment at the last minute.]
20. **SPECIAL ASSESSMENTS/DEFERRALS.** Farm/Forest Historic Other: _____
[For specific special assessment program, go first to the following general link: See, ORS Chapter 308, https://www.oregonlegislature.gov/bills_laws/ors/ors308.html] Senior Citizen Disabled Other: _____ [For information regarding Oregon property tax deferral programs go to: ORS Ch. 338, https://www.oregonlegislature.gov/bills_laws/ors/ors308.html.] Note: If there are one or more deferrals, the issue must be researched to find out: (a) If Seller is in compliance; (b) Whether the

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deferral will continue following closing; (c) What is necessary to maintain the deferral after closing; (d) If the deferral is not going to continue, what are the consequences? And (e) Will there be a recapture of deferred taxes?]

21. LOCAL IMPROVEMENT DISTRICTS (“LIDS”). Amount: \$ _____ Remaining payments and frequency: _____ [For discussion of LIDs, see discussion at following link for example: <http://www.portlandoregon.gov/transportation/article/82642>.]

22. INSURANCE. Has Buyer requested a C.L.U.E. Report? Yes No
(<http://www.lexisnexis.com/risk/solutions/clue-home-seller.aspx>)

FIRE/CASUALTY.⁵ Has Buyer obtained coverage commencing on day of closing? Yes No

Amount of Coverage: \$ _____

Buyer's Annual Premium \$ _____

Buyer's Insurance Agent: _____ Phone: _____ E-mail: _____

Has Seller agreed to continue coverage through the closing date? Yes No

[Caution: From a risk of loss perspective, Seller is responsible in the event the structure burns down on the day of closing. See, ORS 93.290, <http://www.oregonlaws.org/ors/93.290>. Seller should always insure “through” the day of closing.]

FLOOD. Is the Property in a flood hazard zone? Yes No

Has an Elevation Certificate (“E.C.”) been obtained? Yes No

[See following link for discussion of E.C.s: <http://www.fema.gov/elevation-certificate>. If the subject property is, or may be, located in a flood plain, lender will likely require an E.C. as a condition to obtaining financing. It is suggested that Seller verify the need for an E.C. before marketing their property, due to the time it may take a Buyer to secure it.]

Flood Insurance Agent: _____ Phone: _____ E-mail: _____

[Note: Flood insurance is a specialized type of insurance and not all general lines brokers are familiar with it. Secure competent broker advice on flood insurance issues and simple improvements to reduce rates.]

Has Buyer obtained one or more reliable quotes for flood insurance coverage? Yes No

[Caveat: Buyer's counsel should make sure Buyer understands maximum amount of coverage available, the possibility of purchasing excess insurance, and the risk of increasing rates in the future. See: <http://www.fema.gov/flood-insurance-reform>, for a discussion of the FEMA program, and potential premium increases, new rates and flood map updates.]

23. POTENTIAL TAX ISSUES. Are there any potential tax issues for Client (e.g. capital gains; income tax)?

Yes No If Yes, describe: _____

Client's Tax Advisor: _____ Phone: _____ E-mail: _____

⁵ Make sure seller continues casualty insurance coverage *through* the date of closing.

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Note: If Seller is out of state resident, Oregon law requires title insurance company to withhold a portion of proceeds and submit to Department of Revenue. [See: ORS 314.258 <http://www.oregonlaws.org/ors/314.258>]

If Seller is a "foreign person", federal law requires withholding of up to 10% - 15% of gross sale proceeds to be remitted to the IRS within 20 days of closing; if withholding required and not done, Buyer can be liable. Most – but not all – title companies will assist. Counsel for both parties should inquire of the selected company to determine the extent of their involvement if FIRPTA will apply. Most title companies have the Seller and Buyer sign a release of liability from any FIRPTA issues. For this reason, Buyers and Seller attorneys, have to be vigilant in vetting the issue in advance. Expect this issue to arise increasingly as foreign investors purchase and sell US property. [See: <https://www.irs.gov/Individuals/International-Taxpayers/FIRPTA-Withholding.>]

24. **ZONING.** Will current use remain the same? Yes No

New Proposed Use: _____

Is current use of the property permissible under the current zoning? Yes No

If the proposed use will be different from the current use is it permissible under the current zoning? Yes No

Does Buyer intend to use the property for short term rentals or as an accessory dwelling unit? Yes No. If Yes, Buyer's counsel should verify that the property complies with local ordinances, and that there are no deed restrictions or CC&Rs that impose limitations.

Have there been any boundary line adjustments? Yes No Explain: _____

Is subject property a legal lot or parcel? Yes No

Zoning Authority: _____

Contact Person: _____ Phone: _____ E-mail: _____

[Note: Mandatory statements under ORS 90.0340, <http://www.oregonlaws.org/ors/93.040>, in all sale agreements and deeds of conveyance, advise Buyers to check with city and county planning departments regarding zoning and land use laws. This places a due diligence burden on buyers, and limits duties of sellers regarding these issues.]

25. **SEWER.** Is subject property connected to any of the following systems: Public sewer Septic Tank and Drain Field [For more information on Oregon regulation of septic systems, go to link here: <http://www.deg.state.or.us/wq/onsite/aboutseptic.htm>] Note, in the City of Portland, if the property is on a shared sewer line, it will either need an approved easement over the neighboring land (or vice versa). If a new connection is required, the parties should negotiate this cost item as a part of the transaction. See: <https://www.portlandoregon.gov/bes/58594>.

Other Describe: _____

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[Consider making inspection of system and/or sewer scope for public system, conditions of purchase; See, <https://www.portlandoregon.gov/bes/article/422744>.]

26. WATER.

DRINKING WATER. Is subject property connected to: Public System Private Well Shared Well
 Other (e.g., surface springs, cistern, etc.)? Describe: _____

Are there any known issues with drinking water? Yes No If Yes, specify issue and solutions: _____

If private well, shared well or other, is supply adequate for household use? Yes No

If share well, is there a recorded written agreement? Yes No

Is quality fit for human consumption? Yes No

Has/will seller had/have well tested for arsenic, nitrates and total coliform bacteria and
Such other matters in accordance with Oregon Health Authority rules? [Oregon law
requires testing by Sellers; see

<http://www.oregon.gov/oha/ph/HealthyEnvironments/DrinkingWater/SourceWater/DomesticWellSafety/Pages/Testing-Regulations.aspx>] Yes No

Has Buyer reviewed results? Yes No

Will Buyer have any additional testing conducted (e.g. flow test; lead; etc.)? Yes No

If Yes, specify: _____

Does Seller have any reports or test results regarding the quantity or quality
of the water? Yes No

Does Seller have any well log or well test reports? Yes No

IRRIGATION. Private Well Shared Well Other (e.g., surface springs, cistern, etc.)

If Shared Well or Other, describe: _____

Are there any known adverse issues with irrigation water? Yes No

If Yes, specify issue(s) and solution(s): _____

Is supply adequate for irrigation purposes? Yes No

Will Buyer have any testing conducted (e.g. flow test; lead; etc.) to
determine adequacy of water for irrigation? Yes No

If Yes, specify: _____

Does Seller have any reports or test results regarding the quantity or quality of the
irrigation water? Yes No

Does Seller have any well log or well test reports? Yes No

WATER RIGHTS. Are there any known water rights issues? Yes No

If yes, specify: _____

Has a Water Rights Information Search ("WRIS"),
<http://www.oregon.gov/owrd/pages/wr/wris.aspx> been conducted? Yes No

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- Does Seller have any Water Right/Documents? Yes No
ACCESS TO WELL(S): Located on subject property? Yes No
By private recorded easement elsewhere? Yes No
If Yes, has easement been reviewed? Yes No
Is easement adequate for access *and* maintenance? Yes No
If shared well, how is cost of maintenance to be shared? Describe: _____
-

WELL REGISTRATION: Has/have the well(s) been registered with the Water Resources Department?
 Yes No [For more information, see: http://www.oregon.gov/owrd/pages/gw/well_id.aspx.]

27. WARRANTIES AND REPRESENTATIONS. (EXAMPLES)

SELLER.

- As of the date of closing (or turnover of possession, if sooner), the property will have one or more operating smoke alarms, smoke detectors and carbon monoxide detectors as required by Oregon law;
- Seller has no knowledge of any hazardous substances in or about the property (excepting only those contained in household appliances and equipment);
- Seller knows of no material structural defects or dangerous/adverse conditions in or about the property;
- To the best of Seller's knowledge, all electrical, heating, cooling, plumbing systems, including irrigation, if applicable, are in good condition and repair;
- Seller has no notice of any pending private or public liens or assessments to be levied against the property;
- Seller has no notice from any governmental agency of any violation of law relating to the property;
- Seller is not a "foreign person" under the Foreign Investment in Real Property Tax Act ("FIRPTA"). [For more information on FIRPTA, see: <http://www.irs.gov/Individuals/International-Taxpayers/FIRPTA-Withholding>.]
- Except for Seller's express written representations in the Sale Agreement and the Seller's Property Disclosure form, if applicable, Buyer is purchasing the Property "AS-IS," in its present condition and with all defects apparent or not apparent.
- Seller knows of no encroachments onto, or from, neighboring properties (e.g. fences, hedges, plantings, structures, etc.)
- Other: _____
- Other: _____
- Other: _____

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BUYER.

- Buyer has liquid and available funds for earnest money deposit and down payment;
- If Buyer owns existing home, Buyer can qualify for loan without selling that home;
- Buyer will apply for loan and submit all necessary paperwork by _____;
- Buyer to notify Seller of identity of lender by _____;
- Buyer to provide pre-approval letter from lender by _____;
- Buyer to secure appraisal by (identify) _____;
- Buyer will not substitute lender without notifying Seller in advance;
- Buyer will keep Seller promptly informed on status of loan upon request.
- Other: _____
- Other: _____
- Other: _____

28. ENVIRONMENTAL/SAFETY CONDITIONS AND TESTING. *[If Buyer is to make test results a contingency to closing, they should be specifically included in the terms of the Sale Agreement.]*

- LEAD BASED PAINT.** ("LBP") *[Note: A federally mandated LBP disclosure form must be delivered to all buyers of homes constructed before 1978 (aka, "Target Housing") before execution of the Purchase and Sale Agreement ("PSA") or if delivery occurs after execution, the PSA must contain express language permitting the buyer to unilaterally cancel the transaction (unless the right is waived in the LBP disclosure form) up to ten (10) days (or such other period as the parties may mutually agree upon in writing) following delivery to the buyer of the fully completed and signed LBP disclosure form (together with LBP documents, if any). For more information: <http://www2.epa.gov/lead/real-estate-disclosure>.]*
- SMOKE DETECTOR(S).** Installed and Working? Verify that the number and placement of detectors comply with Oregon law. *[For more information: http://www.oregon.gov/OSP/SFM/Pages/CommEd_SA_Program.aspx]*
- CARBON MONOXIDE ALARM(S).** Installed and Working?
Required where there is a "carbon monoxide source." Verify that the number and placement of alarms comply with Oregon law. *[For more information: <http://www.oregon.gov/osp/SFM/Pages/CommedCOProg.aspx>]*
- WOOD BURNING STOVE.** If present on subject property, has it been certified by Oregon DEQ or EPA? If not, unless Buyer agrees to do so, it is Seller's responsibility to remove before closing. *[For more information: <http://www.oregon.gov/deq/Residential/Pages/woodstovesFAQ.aspx>.]*
- RADON.** Does Buyer want to have property tested for radon? *[For more information: <https://public.health.oregon.gov/HealthyEnvironments/HealthyNeighborhoods/RadonGAs/Pages/testing.aspx>.]*
- UNDERGROUND STORAGE TANKS.** Does Buyer want to have property tested to determine if there are any abandoned/unused tanks? *[For more information: <http://www.oregon.gov/deq/tanks/Pages/UST-Decommissioning.aspx>.]*

29. SOCIAL/DEMOGRAPHIC/COMMUNITY DUE DILIGENCE ISSUES. Examples: *[Census; local crime statistics; (<http://www.oregon.gov/osp/SOR/Pages/history.aspx>); PortlandMaps (<http://www.portlandmaps.com>); Portland sex offender information: <http://sexoffenders.oregon.gov/> . In cities and counties outside the*

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Portland area, check the local website to see if there are links to demographic information about the property and neighborhood. It can be quite helpful.] Describe: _____

[Note: Airbnb, <https://www.airbnb.com/>, and similar vacation and short term rental programs, can cause some neighborhood disruption. If that is an important concern to buyers, they should check out the neighborhood.]

30. Pre-Owned CONDOMINIUM/TOWNHOME/PLANNED COMMUNITY DUE DILIGENCE (EXAMPLES).

[Note: Condos and townhomes are governed by ORS Chapter 100. Planned communities are governed by [ORS 94.550 et seq.](#). See, https://www.oregonlaws.org/oregon_revised_statutes. The one thing they all have in common is that the developments contain common areas and have an association with the power to levy assessments. In addition to the standard issues relating to purchase and sale of real property, buyer-clients should be aware of the operation of the association. Here are some due diligence items to consider reviewing]:

- Conditions, covenants and restrictions (“CC&Rs”) and/or the Declaration;
- Current HOA articles of incorporation, bylaws, and rules and regulations, including any proposed revisions;
- Association policies relating to pets, parking, restrictions on rental of units and home offices;
- Documents verifying current casualty and liability insurance coverage for Association and Board of Directors;
- Verification of current Association assessments, including notices relating to potential increases or special assessments;
- Reports, studies, bids or proposals for any material structural repairs or improvements relating to safety of the property [including all common areas and limited common areas];
- All Association and Board of Director minutes for the prior 24 months;
- Any notices/issues relating to potential construction defect claims;
- Latest reserve study and documents showing current reserve levels;
- Directory of contact persons at management company and Association;
- Restrictions on rentals; How many units (and percentage of total) in complex are currently rented?
- Other [Specify]: _____

31. REMEDIES.

SELLER REMEDIES FOR BUYER’S FAILURE TO CLOSE. [Check all that apply]:

- Recovery of Buyer’s Earnest Money Deposit; Specific Performance [Note: This is not a customary Seller remedy in Oregon, since in most cases, the buyer cannot be effectively “compelled” to obtain financing, etc. If Buyer is financially capable of purchasing without third party financing, it might be a viable remedy, but is rarely used. This is why the amount of the earnest money deposit is so important, since it is commonly the easiest remedy for Sellers. [But, see, [ORS 72.7180 & cases at <http://www.oregonlaws.org/ors/72.7180>](#)]
- Other Remedies. Describe: _____

RESIDENTIAL REAL ESTATE TRANSACTION CHECKLIST

BUYER'S REMEDIES FOR SELLER'S FAILURE TO CLOSE. *[Check all that apply]:* Recovery of Buyer's Earnest Money Deposit; Specific Performance; Other Remedies. Describe: _____

32. METHODS OF DISPUTE RESOLUTION. Litigation in Court, or Mandatory Arbitration in Lieu of Court Litigation; Before going into court or arbitration, do the parties want to require good faith negotiation through a mediation provider? Yes No (If Yes, identify a local mediation and/or arbitration company, or retired judges/individual(s) to act as mediators or arbitrators): _____

33. ADDITIONAL TERMS/ISSUES. _____

Revised Courtesy of Phillip C. Querin, Querin Law LLC

IMPORTANT NOTICES

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