BUY - SELL AGREEMENT
(Including Earnest Money Receipt)

The use of this form is for REALTOR® members only (members of the Montana Association of REALTORS®) and cannot be used by any other party for any purpose. Use of these forms by other parties may result in legal action by the Montana Association of REALTORS®.

This Agreement stipulates the terms of sale of this property. Read carefully before signing. This is a legally binding contract. If not understood, seek competent advice.

Montana, (date)

□ joint tenants with rights of a survivorship, □ tenants in common, □ single in his/her own right.
□ Other ____________________________ (hereinafter called "Buyer") agrees to purchase, and the Seller agrees to sell the following described real property (hereinafter referred to as "Property") commonly known as ____________________________
in the City of ____________________________, County of ____________________________.

TOGETHER with all interest of Seller in vacated streets and alleys adjacent thereto, all easements and other appurtenances thereto, and all improvements thereon. All permanently installed fixtures and fittings that are attached to the Property are included in the purchase price, such as electrical, plumbing and heating fixtures, wood stoves, built-in appliances, screens, storm doors, storm windows, curtain rods and hardware, attached floor coverings, T.V. antennas, air cooler or conditioner, garage door openers and controls, attached fireplace equipment, mailbox, and trees and shrubs attached to the Property and attached buildings or structures except:

PERSONAL PROPERTY: The following items of personal property, free of liens and without warranty of condition, are included:

PURCHASE PRICE AND TERMS:
Total purchase price is ____________________________ U.S. Dollars

$__________ of earnest money to be applied at closing.
$__________ as additional cash payment, payable on or before closing.
$__________ balance of the purchase price will be financed as follows:

☐ Conventional  ☐ MBOH  ☐ Seller Financing
☐ FHA  ☐ USDA-RD  ☐ Assumption of Existing Loans
☐ VA  ☐ Other Institutional Financing

This Agreement is contingent upon Buyer obtaining the financing specified herein. If financing cannot be obtained within the time set forth in the TIME FOR COMPLETION section, this Agreement is terminated and the earnest money will be refunded to the Buyer.

CLOSING DATE: The date of closing shall be ____________________________ . The parties may, by mutual agreement, close the transaction anticipated by this Agreement at any time prior to the date specified. The Buyer and Seller will deposit with the closing agent all instruments and monies necessary to complete the purchase in accordance with this Agreement.

POSSESSION: Seller shall deliver to Buyer possession of the property and allow occupancy: ☐ when all required documents have been signed by all parties and delivered to closing agent, OR ☐ on the date of recording the deed or notice of purchaser's interest, OR

Property shall be vacant unless otherwise agreed in writing. Seller shall provide keys and/or means to operate locks, mailboxes, security systems, alarms, garage door opener(s), and

Exhibit #9
RECEIPT OF EARNEST MONEY: The undersigned Broker or Salesperson hereby acknowledges receipt from Buyer of earnest money in the amount of U.S. Dollars ($ ) as evidenced by □ cash □ check □ or □ .

All parties to this transaction agree, unless otherwise provided herein, that the earnest money will be deposited pursuant to Montana Law OR within (__________ ) business days of the date all parties have signed the Agreement or and such funds will be held in a trust account by .

Parties agree that interest accruing on earnest money, if any, while deposited shall be payable to:

If interest is payable to the Broker it is agreed that sums so paid are consideration for services rendered.

(Selling Real Estate Firm/Phone Number) (Signature of Salesperson)

The parties authorize the holder of the earnest money to forward to the closing agent, upon its request, all or any portion of the earnest money required to complete the closing of the transaction.

FINANCING CONDITIONS AND OBLIGATIONS:

BUYER’S REPRESENTATION OF FUNDS: Buyer represents that they have sufficient funds for the down payment and closing costs to close this sale in accordance with this Agreement and are not relying upon any contingent source of such funds unless otherwise expressly set forth herein.

TIME FOR COMPLETION: If third party financing of the type specified herein is required by the terms of this Agreement (includes assumptions, contracts for deed, and lender financing), the closing shall occur on the date specified or as soon thereafter as financing is completed, but no later than ____________ days after the stated closing date.

LOAN APPLICATION: If Buyer fails to make written application for financing and pay to the lender any required fees, apply for assumption of an existing loan or contract, or initiate any action required for completion of a contract for deed by 5:00 P.M. (Mountain Time) (date) Buyer will be in breach of this Agreement and Seller can exercise Seller’s remedies under this Agreement.

DISCOUNT POINTS: If a Buyer obtains financing from a lender requiring discount points, Seller agrees to pay discount points up to a maximum of ______________ percent (%) of the Buyer’s loan. Seller’s obligation will not exceed $ ______________. Any funds paid by Seller as set forth above shall not be used for the origination fee, closing costs, reserves, or any other costs. Buyer shall pay all other discount points.

V.A. BUYERS: It is expressly agreed that, notwithstanding any other provisions of this contract, the Buyer shall not incur any penalty by forfeiture of earnest money or otherwise be obligated to complete the purchase of the Property if the contract purchase price or cost exceeds the reasonable value of the Property established by the Veteran’s Administration. The Buyer shall, however, have the privilege and option of proceeding with the consummation of this Agreement without regard to the amount of the reasonable value established by the Veteran’s Administration.

F.H.A. BUYERS: In the event funds for the transaction anticipated by this Agreement are to be derived from an F.H.A. insured loan, it is expressly agreed that, notwithstanding any other provisions of this Agreement, the Buyer shall not be obligated to complete the purchase of the property described herein or to incur any penalty by forfeiture of earnest money deposits or otherwise, unless the Buyer has received a written statement issued by the Federal Housing Commissioner, Veteran’s Administration, or a Direct Endorsement lender setting forth the appraised value of the Property for mortgage insurance purposes of not less than the amount set forth in the APPRAISAL PROVISION section, which amount is incorporated herein by reference.

The Buyer shall have the privilege and option of proceeding with the consummation of this Agreement without regard to the amount of the appraised valuation made by the Federal Housing Commissioner. The appraised valuation is arrived at to determine the maximum mortgage the Department of Housing and Urban Development (HUD) will insure. HUD does not warrant the value nor the condition of the Property. The Buyer should satisfy himself/herself that the price and condition of the Property are acceptable.

APPRaisal PROVISION: Property must appraise for at least $( )

If the property does not appraise for at least the specified amount, this Agreement is terminated and earnest money refunded to the Buyer unless the Buyer elects to proceed with closing this Agreement without regard to appraised value. Written notice of Buyer’s election to proceed shall be given to Seller or Seller’s Broker/Salesperson within ____________ days of Buyer or Buyer’s Broker/Salesperson receiving notice of appraised value.

SMoke DETECTOR(S): Property has # __________ Smoke Detector(s).

MOBILE HOME(S): If a MOBILE HOME is included in the sale of this Property: Title will be conveyed at time of closing. Year __________ Make/Model __________

Serial Number __________ Title Number __________

Buyer’s Initials ____________________________ Seller’s Initials ____________________________
WATER: Description of water rights, if any, to be transferred:

Filing or transfer fees will be paid by ☐ Seller, ☐ Buyer, ☐ split equally between Buyer and Seller.

Documents for transfer will be prepared by 

PROPERTIES INSPECTIONS: The Buyer is aware that any Brokerage Firm(s) and Salespersons involved in the transaction anticipated by this Agreement have not conducted an expert inspection or analysis of the Property or its condition and make no representations to the Buyer as to its condition, do not assure that the house and/or buildings will be satisfactory to the Buyer in all respects, that all equipment will operate properly or that the Property and/or improvements comply with current building and zoning codes and ARE NOT building inspectors, building contractors, structural engineers, electricians, plumbers, sanitarians, septic or cesspool experts, well drillers or well experts, land surveyors, civil engineers, flood plain or water drainage experts, roofing contractors or roofing experts, accountants, attorneys, or title examiners, or experts in identifying hazardous waste and/or toxic materials.

INSPECTION CONTINGENCY:
☐ This Agreement is contingent upon Buyer’s acceptance of the Property conditions identified through any inspections or advice requested below. Buyer agrees to acquire, at Buyer’s own expense, independent inspections or advice from qualified inspectors or advisors of the Buyer’s choice. Buyer agrees that any investigations or inspections undertaken by Buyer or on his/her behalf shall not damage or destroy the property, without the prior written consent of Seller. Further, Buyer agrees to return the property to its original condition and to indemnify Seller from any damage or destruction to the property caused by the Buyer’s investigations or inspections, if Buyer does not purchase the property.

☐ Home Inspection
☐ Seller’s Property Disclosure
☐ Roof Inspection*
☐ Structural/Foundation Inspection*
☐ Electrical Inspection*
☐ Plumbing Inspection*
☐ Heating, ventilation, cooling system - Inspection
☐ Wood Stove/Fireplace Inspection*
☐ Pest/Rodent Inspection
☐ Well Inspection for condition of Well and Quantity of Water
☐ Accounting Advice
☐ Survey Required or Corner Pins
☐ Located ☐ Reset
☐ Access to Property
☐ Verification of # of code compliant bedrooms
☐ Verification of square footage of improvements
☐ Water Rights
☐ Other

☐ Zoning Determination
☐ Review and Approval of Protective Covenants
☐ Easements
☐ Flood Plain Determination
☐ Water Sample Test
☐ Septic or Cesspool Inspection
☐ Mineral Rights Search
☐ Radon
☐ Asbestos
☐ Wild Fire Risk
☐ Legal Advice
☐ Toxic Waste/Hazardous Material
☐ Underground Storage Tanks
☐ Sanitary Approval
☐ Mold
☐ Verification of lot size

*Generally covered by a home inspection along with other items too numerous to list.

Unless Buyer delivers written notice of Buyer’s disapproval of the Property conditions on or before (date) , this contingency shall be of no further force or effect. If Buyer disapproves of the property condition, Buyer shall deliver written notice to the Seller or the Seller’s Broker/Salesperson on or before the date specified above, together with a copy of the inspection or report upon which the disapproval is based. Buyer shall also state whether Buyer elects to immediately terminate the Agreement or negotiate a resolution of the conditions noted.

If Buyer elects to negotiate a resolution of the conditions noted, the notice must contain all of Buyer’s objections and requested remedies. If the parties enter into a written agreement in satisfaction of the conditions noted, this contingency shall be of no further force or effect. If the parties cannot come to written agreement in satisfaction of the conditions noted or if the Buyer does not withdraw, in writing, his/her disapproval of the condition noted, on or before (date) , the earnest money shall be returned to the Buyer, and the agreement then terminated.

WAIVER OF INSPECTION: ☐ I DO NOT REQUEST ANY INSPECTION OR ADVICE. My waiver of any inspection or advice is not based upon any assurances by a Salesperson and/or the Seller as to the condition of the Property or that if I were to request such inspections or advice, it would reduce the potential that my offer would be accepted.
CONTINGENCIES: The inspection contingency and the contingencies listed below in additional provisions or on
attached addenda shall be deemed to have been released, waived, or satisfied, and the Agreement shall continue to
closing, unless, by the date specified for each contingency, the party requesting that contingency has notified the other
party or the other party's Broker/Salesperson in writing that the contingency is not released, waived, or satisfied. If a
party has notified the other party prior to the release date that a contingency is not released, waived, or satisfied, this
Agreement is terminated, and the earnest money will be returned to the Buyer, unless the parties negotiate other terms
or provisions.

TITLE CONTINGENCY: This Agreement is contingent upon Buyer's receipt and approval (to Buyer's
satisfaction) of the preliminary title commitment. Release Date: ____________________ business days from
Buyer's or Buyer's representative's receipt of preliminary title commitment.

INSURANCE CONTINGENCY: This Agreement is contingent upon Buyer's ability to acquire, at a rate
acceptable to the Buyer, hazard insurance on the property. Release Date: ____________________
This Agreement is contingent upon ____________________

ADDITIONAL PROVISIONS:

CONVEYANCE: The Seller shall convey the Property by ____________________ deed, free of
all liens and encumbrances except those described in the preliminary title commitment, as approved by the Buyer.
The Seller shall convey the personal property by bill of sale.

CLOSING AGENTS FEES: Closing agents fee will be paid by □ Seller □ Buyer □ Equally Shared.

TITLE INSURANCE: Seller, at Seller's expense, shall furnish Buyer with an ALTA Standard Coverage Owners Title
Insurance Policy (as evidenced by a standard form American Land Title Association title insurance commitment) in an
amount equal to the purchase price. Buyer may purchase additional owner's title insurance coverage in the form of
"Extended Coverage" or "Enhanced Coverage" for an additional cost to the buyer. It is recommended that buyer obtain
details from a title company.

CONDITION OF TITLE: All mortgages, judgments and liens shall be paid or satisfied by the Seller at or prior to
closing unless otherwise provided herein. Seller agrees that no additional encumbrances, restrictions, easements
or other adverse title conditions will be placed against the title to the Property subsequent to the effective date of
the preliminary title commitment approved by the Buyer.

SPECIAL IMPROVEMENT DISTRICTS: All Special Improvement Districts (including rural SIDs), including those
that have been noticed to Seller by City/County but not yet spread or currently assessed, will be:

□ paid off by Seller at closing;
□ assumed by Buyer at closing; OR

□ ____________________

All perpetual SIDs shall be assumed by Buyer.

PRORATION OF TAXES AND ASSESSMENTS: Seller and Buyer agree to prorate taxes, Special Improvement
District assessments for the current tax year, as well as prepaid rents, water and sewer system charges, heating
fuel and tank rental, irrigation assessments, Homeowner's Association dues and/or common maintenance fees,
as of the date of closing unless otherwise agreed as set forth in the additional provisions.

CONDITION OF PROPERTY: Seller agrees that the Property shall be in the same condition, normal wear and
tear excepted, from the date of the execution of this Agreement up to the time Buyer takes possession of the
Property. Seller agrees to leave the Property in broom clean or better condition and allow Buyer a walk-through
inspection of said Property prior to closing to insure that all appurtenances and appliances included in the sale
remain on the Property.
225 NOXIOUS WEEDS DISCLOSURE: Buyers of property in the State of Montana should be aware that some properties contain noxious weeds. The laws of the State of Montana require owners of property within this state to control, and to the extent possible, eradicate noxious weeds. For information concerning noxious weeds and your obligations as an owner of property, contact either your local County extension agent or Weed Control Board.

230 MEGAN’S LAW DISCLOSURE: Pursuant to the provisions of Title 46, Chapter 23, Part 5 of the Montana Code Annotated, certain individuals are required to register their address with the local law enforcement agencies as part of Montana’s Sexual and Violent Offender Registration Act. In some communities, law enforcement offices will make the information concerning registered offenders available to the public. If you desire further information, please contact the local County Sheriff’s office, the Montana Department of Justice, in Helena, Montana, and/or the probation officers assigned to the area.

237 RADON DISCLOSURE STATEMENT: The following disclosure is given pursuant to the Montana Radon Control Act, Montana Code Annotated Section 75-3-606. RADON GAS: RADON IS A NATURALLY OCCurring RADIOACTIVE GAS THAT, WHEN IT HAS ACCUMULATED IN A BUILDING IN SUFFICIENT QUANTITIES, MAY PRESENT HEALTH RISKS TO PERSONS WHO ARE EXPOSED TO IT OVER TIME. LEVELS OF RADON THAT EXCEED FEDERAL GUIDELINES HAVE BEEN FOUND IN BUILDINGS IN MONTANA. ADDITIONAL INFORMATION REGARDING RADON AND RADON TESTING MAY BE OBTAINED FROM YOUR COUNTY OR STATE PUBLIC HEALTH UNIT. If the Property has been tested for radon, the Seller will provide a copy of the test results concurrent with an executed copy of this Agreement. If the property has received radon mitigation treatment, the Seller will provide the evidence of the mitigation treatment concurrent with an executed copy of this Agreement.

247 BUYER’S REMEDIES:

248 (A) If the Seller fails to accept the offer contained in this Agreement within the time period provided in the BUYER’S COMMITMENT section, all earnest monies shall be returned to the Buyer.

249 (B) If the Seller accepts the offer contained in this Agreement, but refuses or neglects to consummate the transaction anticipated by this Agreement within the time period provided in this Agreement, the Buyer may:

250 (1) Demand immediate repayment of all monies that Buyer has paid as earnest money, and upon the return of such money, the rights and duties of Buyer and Seller under this Agreement shall be terminated;

251 OR (2) Demand that Seller specifically perform Seller’s obligation under this Agreement;

252 OR (3) Demand monetary damages from Seller for Seller’s failure to perform the terms of this Agreement.

257 SELLER’S REMEDIES:

258 If the Seller accepts the offer contained in this Agreement and Buyer refuses or neglects to consummate the transaction anticipated by this Agreement within the time period provided in this Agreement, the Seller may:

259 (1) Declare the earnest money paid by Buyer be forfeited;

260 OR (2) Demand that Buyer specifically perform Buyer’s duties and obligations under this Agreement;

261 OR (3) Demand that Buyer pay monetary damages for Buyer’s failure to perform the terms of this Agreement.

264 BUYER’S AND SELLER’S CERTIFICATION: By entering into this Agreement, each person or persons executing this Agreement, as Buyer or Seller, represents that he/she is eighteen (18) years of age or older, of sound mind, and legally competent to own or transfer real property in the State of Montana; and, if acting on behalf of a corporation, partnership, or other non-human entity, that he/she is duly authorized to enter into this Agreement on behalf of such entity.

270 CONSENT TO DISCLOSE INFORMATION: Buyer and Seller hereby consent to the procurement and disclosure by Buyer, Seller, and Salespersons and their attorneys, agent, and other parties having interests essential to this Agreement, of any and all information reasonably necessary to consummate the transaction anticipated by this Agreement, specifically including access to escrows for review of contracts, deeds, trust indentures, or similar documents concerning this property or underlying obligations pertaining thereto.

276 RISK OF LOSS: All loss or damage to any of the above-described Property or personal property to any cause is assumed by Seller through the time of closing unless otherwise specified.

279 TIME IS OF THE ESSENCE: Time is of the essence as to the terms and provisions of this Agreement.
280 BINDING EFFECT AND NON-ASSIGNABILITY: The Agreement is binding upon the heirs, successors and assigns of each of the parties hereto; however, Buyer's rights under this Agreement are not assignable without the Seller's express written consent.

284 ATTORNEY FEE: In any action brought by the Buyer or the Seller to enforce any of the terms of this Agreement, the prevailing party in such action shall be entitled to such reasonable attorney fees as the court or arbitrator shall determine just.

288 COMMISSION: The Seller's and/or Buyer's commitment to pay a commission in connection with the transaction anticipated by this Agreement is an integral part of this Agreement.

291 FACSIMILE: The parties agree that a facsimile copy of this Agreement to Sell and Purchase which contains the parties' signatures may be used as the original.

294 ENTIRE AGREEMENT: This Agreement, together with any attached exhibits and any addenda or amendments signed by the parties, shall constitute the entire agreement between Seller and Buyer, and supersedes any other written or oral agreements between Seller and Buyer. This Agreement can be modified only in writing, signed by the Seller and Buyer.

299 COUNTERPARTS: A copy of this Agreement may be executed by each individual/entity separately, and when each has executed a copy thereof, such copies, taken together, shall be deemed to be a full and complete Agreement between the parties.

303 EARNEST MONEY DISPUTES: Buyer and Seller agree that, in the event of any controversy regarding the earnest money and things of value held by the Broker, closing agent, or any person or entity holding such money or property, unless mutual written instructions are received by the holder of the earnest money and things of value, Broker or closing agent shall not be required to take any action, but may await any proceedings, or, at Broker's or closing agent's option and sole discretion, may Interplead all parties and deposit any monies or things of value in a Court of competent jurisdiction and may utilize as much of the earnest money deposit as may be necessary to advance the cost and fees required for filing such action.

311 ALTERNATIVE DISPUTE RESOLUTION: At any time, the parties may agree to submit any dispute arising out of this Agreement to mediation or arbitration. Parties, by agreement, shall specify mediation OR binding arbitration.

314 ADDENDA AND/OR DISCLOSURES ATTACHED: (check all that apply):
- [ ] Lead Based Paint Disclosure
- [ ] Sale of Buyer's Property
- [ ] Addendum for Additional Provisions
- [ ] 1031 Tax Deferred Exchange
- [ ] Back-up Offer
- [ ] Multi-Family Disclosure
- [ ] Mold Disclosure
- [ ] Water Rights Acknowledgement
- [ ] 

321 RELATIONSHIP CONFIRMATION: The parties to this Agreement confirm that the real estate licensees identified hereafter have been involved in the capacities indicated below and the parties have previously received the required statutory disclosures setting forth the licensees duties and the limits of their obligations to each party:

(name of licensee) (name of Brokerage company)
327 is acting as
- [ ] Seller's Agent/Salesperson
- [ ] Dual Agent/Salesperson
- [ ] Statutory Broker.

(name of Brokerage company)
331 (name of licensee) is acting as
- [ ] Buyer's Agent/Salesperson
- [ ] Dual Agent/Salesperson
- [ ] Statutory Broker.
- [ ] Seller's Agent/Salesperson (including Seller's Sub-Agent or Salesperson)
BUYER'S ACKNOWLEDGMENT: Buyer acknowledges that prior verbal representations by the Seller or Seller's representatives do not modify or affect this Agreement. Buyer acknowledges that by signing this Agreement he/she has examined the subject real and personal Property; has entered into this Agreement in full reliance upon his/her independent investigation and judgments; and has read and understood this entire Agreement.

BUYER'S COMMITMENT: I/we agree to purchase the above-described Property on the terms and conditions set forth in this Agreement and grant to said Salesperson until (date) ________________________ at ________ am or pm (Mountain Time) to secure Seller's written acceptance. Buyer may withdraw his/her offer at any time prior to Buyer's being notified of Seller's written acceptance. If Seller has not accepted by the time specified, the Buyer's offer is automatically withdrawn.

The parties hereto, all agree that the transaction contemplated by this document may be conducted by electronic means in accordance with the Montana Uniform Electronic Transaction Act.

I/WE HEREBY ACKNOWLEDGE receipt of a copy of this Agreement bearing my/our signature(s).

Buyer's Address: ______________________________ City ______________________________
State ______________________________, Zip Code ________________ Phone Number ______________________________

Buyer's Name Printed: ______________________________

Dated this ________________, at ________ am or pm (Mountain Time).

(Buyer's Signature) ______________________________

(Other Party's Signature) ______________________________

OFFER PRESENTATION: This offer was presented to the Seller(s) on ______________________________

Date: ________________, Time ________________ □ am □ pm By: ______________________________

(Signature of person presenting the offer)

SELLER'S COMMITMENT: I/We agree to sell and convey to Buyer the above-described Property on the terms and conditions herein above stated. I/We acknowledge a receipt of a copy of this Agreement bearing my/our signature(s) and that of the Buyer(s) named above.

Seller's Address: ______________________________ City ______________________________
State ______________________________, Zip Code ________________ Phone Number ______________________________

Seller's Name Printed: ______________________________

Dated this ________________, at ________ am or pm (Mountain Time).

(Seller's Signature) ______________________________

(Other Party's Signature) ______________________________

ACTION TAKEN, IF OTHER THAN ACCEPTANCE:

□ Rejected by Seller, / ______________________________ ____________________ / ______________________________ ____________________

□ Modified per Attached Counter / ______________________________ ____________________ / ______________________________ ____________________

Seller's Initials Date Seller's Initials Date

NOTE: Any performance which is required to be completed on a Saturday, Sunday or a Holiday can be performed on the next business day.

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Buy/Sell, April 2005