



BUYER BROKER AGENCY TOOLKIT

John L. Scott
REAL ESTATE

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Best Practices for a Buyer Consultation

Before rendering buyer brokerage services and for every buyer consultation:

Ask: Are you working with an agent? Did you sign a Buyer Brokerage Services Agreement?

- Exclusive or Non-Exclusive?
 - If Exclusive – you cannot sign an Agreement with Buyer
 - If Non-Exclusive – you can enter into either an Exclusive or Non-Exclusive Agreement
 - Non-Exclusive – you will be compensated only if you represent buyer in Purchase and Sale Agreement
 - Exclusive – Explain to buyer, they may be responsible to compensate you if they purchase a property in the 'area' with you or any other non-exclusive agent.

Always, follow up with an email, confirming the buyer's understanding of their choices.

Meet with buyer in person or have a phone conversation and send all documents electronically. Obtain initials on the Agency Pamphlet, [Real Estate Brokerage in Washington](#). Complete Buyer Brokerages Services Agreement or the John L. Scott Buyer Representation Agreement and obtain buyer's initials. You also must sign the written services agreement.

Provide buyer with:

- [Your Real Estate Agency Guide](#)
- **Agency Pamphlet** ([Real Estate Brokerage in Washington](#)) – must provide before client signs anything; have buyer acknowledge receipt with initials and date (not required by law)
- **John L. Scott Buyer Representation Agreement** ([JLSAF WA Form 41](#)) – buyer signs before broker offers brokerage services
- [Buyer Advisory: Risks and Considerations with Certain Offer Terms](#) and [JLS Affiliated Business Disclosure](#)

Explain Buyer Representation Agreement terms:

- Area,
- Appointment of Buyer Broker,
- Services Rendered,
- Term,
- Agency Relationship – Exclusive vs Non-Exclusive,
- Limited Dual Agency – reference Agency Pamphlet (Real Estate Brokerage in Washington),
- Compensation for Broker's Services,
- Seller's Offer of Compensation,
- Compensation Terms,
- Excluded Properties, and
- VA Financing, if applicable

Value Proposition – Services Offered

- Spell out your services; articulate your value
- Use the Home Buying Advantage Buyer's Guide

Turn in paperwork

- All paperwork must be submitted to office within 2 days of signatures
- Follow office procedures for turning in paperwork
 - Company-Owned Offices – Email to Skyslope
 - Including any offers presented and not accepted

WHAT HAS CHANGED?

Washington State's Agency Law was revised effective January 1, 2024. The revised law codifies the best industry practices into law for both buyers and sellers. Brokers representing sellers AND buyers are now required to negotiate and enter into a written contract with you, as the client, ensuring you have a clear understanding of your agency relationship and the cost of real estate brokerage services. Brokers must enter this contract before providing significant services to you.

WHAT CAN I EXPECT?

Whether you are selling your home or looking to purchase, you can expect your real estate broker to explain your agency relationship and the cost of the broker's services. Once you decide to work with a real estate broker, they will provide you with a written Agency Agreement that defines your agency relationship, the cost of the broker's services, and how the broker's compensation will be paid. In the agreement, you will find:

- The terms of the agreement;
- The name of the broker appointed as your agent;
- Whether the agency relationship is exclusive or non-exclusive;
- A provision that allows you to choose whether you consent to your agent representing the other party in your same transaction (referred to as "limited dual agency");
- A provision that allows you to consent to your agent's designated broker/ managing broker's limited dual agency if the other party is represented by another broker in your agent's real estate firm;
- The amount the firm will be compensated and who will pay the compensation; and
- Any other agreements between you and your broker.

WHAT DID WASHINGTON REALTORS® HAVE TO DO WITH THE AGENCY LAW REVISIONS?

Washington REALTORS® sifted broker practices across the nation, rejected those that lead to consumer confusion and embraced those practices that create clarity for consumers when buying or selling real estate. These consumer-friendly practices prioritize fairness, transparency and flexibility for the consumer. We collaborated closely with legislators to elevate these practices to legal mandates, ensuring that these changes serve the best interests of consumers and brokers. Our advocacy and dedication led to the unanimous passage of this legislation during the 2023 Legislative Session.



YOUR REAL ESTATE AGENCY GUIDE

Whether you're taking the first step towards owning a home or preparing to sell your property, REALTORS® work to ensure a smooth and transparent process.

Recently, Washington REALTORS® advocated for a change in Washington law to protect consumers by requiring real estate brokers to disclose their rate of compensation and contract with consumers before providing services. With the latest updates in Agency Law, REALTORS® pledge to provide clarity and fair practice in all of your real property transactions!

WHAT IS AGENCY LAW?

The Washington law titled "Real Estate Brokerage Relationships" (RCW 18.86) is commonly referred to as the "Agency Law". It is the state law that addresses requirements associated with the relationship between real estate brokers and consumers.



Washington REALTORS® is a statewide trade association that advocates for REALTORS® and their clients with a focus on providing services to help our members prosper while promoting expertise in real estate. Washington REALTORS® are the lead advocates for homeownership and represent the interests of home buyers, sellers and property owners throughout the state of Washington.

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REAL ESTATE BROKERAGE IN WASHINGTON

Introduction

This pamphlet provides general information about real estate brokerage and summarizes the laws related to real estate brokerage relationships. It describes a real estate broker's duties to the seller/landlord and buyer/tenant. Detailed and complete information about real estate brokerage relationships is available in chapter 18.86 RCW.

If you have any questions about the information in this pamphlet, contact your broker or the designated broker of your broker's firm.

Licensing and Supervision of Brokers

To provide real estate brokerage services in Washington, a broker must be licensed under chapter 18.85 RCW and licensed with a real estate firm, which also must be licensed. Each real estate firm has a designated broker who is responsible for supervising the brokers licensed with the firm. Some firms may have branch offices that are supervised by a branch manager and some firms may delegate certain supervisory duties to one or more managing brokers.

The Washington State Department of Licensing is responsible for enforcing all laws and rules relating to the conduct of real estate firms and brokers.

Agency Relationship

In an agency relationship, a broker is referred to as an “agent” and the seller/landlord and buyer/tenant is referred to as the “principal.” For simplicity, in this pamphlet, seller includes landlord, and buyer includes tenant.



For Sellers

A real estate firm and broker must enter into a written services agreement with a seller to establish an agency relationship. The firm will then appoint one or more brokers to be agents of the seller. The firm’s designated broker and any managing broker responsible for the supervision of those brokers are also agents of the seller.



For Buyers

A real estate firm and broker(s) who perform real estate brokerage services for a buyer establish an agency relationship by performing those services. The firm’s designated broker and any managing broker responsible for the supervision of that broker are also agents of the buyer. A written services agreement between the buyer and the firm must be entered into before, or as soon as reasonably practical after, a broker begins rendering real estate brokerage services to the buyer.



For both Buyer and Seller - as a Limited Dual Agent

A limited dual agent provides limited representation to both the buyer and the seller in a transaction. Limited dual agency requires the consent of each principal in a written services agreement and may occur in two situations: (1) When the buyer and the seller are represented by the same broker, in which case the broker’s designated broker and any managing broker responsible for the supervision of that broker are also limited dual agents; and (2) when the buyer and the seller are represented by different brokers in the same firm, in which case each broker solely represents the principal the broker was appointed to represent, but the broker’s designated broker and any managing broker responsible for the supervision of those brokers are limited dual agents.



Duration of Agency Relationship

Once established, an agency relationship continues until the earliest of the following:

1. Completion of performance by the broker;
2. Expiration of the term agreed upon by the parties;
3. Termination of the relationship by mutual agreement of the parties; or
4. Termination of the relationship by notice from either party to the other. However, such a termination does not affect the contractual rights of either party.

Written Services Agreement

A written services agreement between the firm and principal must contain the following:

1. The term (duration) of the agreement;
2. Name of the broker(s) appointed to act as an agent for the principal;
3. Whether the agency relationship is exclusive (which does not allow the principal to enter into an agency relationship with another firm during the term) or nonexclusive (which allows the principal to enter into an agency relationship with multiple firms at the same time);
4. Whether the principal consents to limited dual agency;
5. The terms of compensation;
6. In an agreement with a buyer, whether the broker agrees to show a property when there is no agreement or offer by any party or firm to pay compensation to the broker's firm; and
7. Any other agreements between the parties.

A Broker's Duties to All Parties

A broker owes the following duties to all parties in a transaction:

1. To exercise reasonable skill and care;
2. To deal honestly and in good faith;
3. To timely present all written offers, written notices, and other written communications to and from either party;
4. To disclose all existing material facts known by the broker and not apparent or readily ascertainable to a party. A material fact includes information that substantially adversely affects the value of the property or a party's ability to perform its obligations in a transaction, or operates to materially impair or defeat the purpose of the transaction. However, a broker does not have any duty to investigate matters that the broker has not agreed to investigate;
5. To account in a timely manner for all money and property received from or on behalf of either party;
6. To provide this pamphlet to all parties to whom the broker renders real estate brokerage services and to any unrepresented party;
7. To disclose in writing who the broker represents; and
8. To disclose in writing any terms of compensation offered by a party or a real estate firm to a real estate firm representing another party.

A Broker's Duties to the Buyer or Seller

A broker owes the following duties to their principal (either the buyer or seller):

1. To be loyal to their principal by taking no action that is adverse or detrimental to their principal's interest in a transaction;
2. To timely disclose to their principal any conflicts of interest;
3. To advise their principal to seek expert advice on matters relating to the transaction that are beyond the broker's expertise;
4. To not disclose any confidential information from or about their principal; and
5. To make a good faith and continuous effort to find a property for the buyer or to find a buyer for the seller's property, until the principal has entered a contract for the purchase or sale of property or as agreed otherwise in writing.

Limited Dual Agent Duties

A limited dual agent may not advocate terms favorable to one principal to the detriment of the other principal. A broker, acting as a limited dual agent, owes the following duties to both the buyer and seller:

1. To take no action that is adverse or detrimental to either principal's interest in a transaction;
2. To timely disclose to both principals any conflicts of interest;
3. To advise both principals to seek expert advice on matters relating to the transaction that are beyond the limited dual agent's expertise;
4. To not disclose any confidential information from or about either principal; and
5. To make a good faith and continuous effort to find a property for the buyer and to find a buyer for the seller's property, until the principals have entered a contract for the purchase or sale of property or as agreed otherwise in writing.

Compensation

In any real estate transaction, a firm's compensation may be paid by the seller, the buyer, a third party, or by sharing the compensation between firms. To receive compensation from any party, a firm must have a written services agreement with the party the firm represents (or provide a "Compensation Disclosure" to the buyer in a transaction for commercial real estate).

A services agreement must contain the following regarding compensation:

1. The amount the principal agrees to compensate the firm for broker's services as an agent or limited dual agent;
2. The principal's consent, if any, and any terms of such consent, to compensation sharing between firms and parties; and
3. The principal's consent, if any, and any terms of such consent, to compensation of the firm by more than one party.

Short Sales

A "short sale" is a transaction where the seller's proceeds from the sale are insufficient to cover seller's obligations at closing (e.g., the seller's outstanding mortgage is greater than the sale price). If a sale is a short sale, the seller's real estate firm must disclose to the seller that the decision by any beneficiary or mortgagee, to release its interest in the property for less than the amount the seller owes to allow the sale to proceed, does not automatically relieve the seller of the obligation to pay any debt or costs remaining at closing, including real estate firms' compensation.



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Northwest Multiple Listing Service
Revised January 1, 2024
RCW 18.86.120

▶ John L. Scott Real Estate Buyer Representation Agreement

(Washington Brokerage Services Agreement)

This Buyer Representation Agreement (“Agreement”) is made between _____ (“Firm”) and _____ (“Buyer” or “You”) and is effective as of _____, _____ (the “Effective Date”) for real property located in the following area(s) _____ (unlimited if not filled in) (“Area”).

We are providing You with this Agreement to establish the terms of our relationship and the compensation that Firm and your broker will receive for representing You in the purchase of real property. For purposes of this Agreement, “purchase” includes a contract to purchase, an exchange or contract to exchange, or an option to purchase. Your rights and your broker’s duties are explained further in the pamphlet entitled “Real Estate Brokerage in Washington” (“Pamphlet”), which You acknowledge receiving. We encourage You to read the Pamphlet in detail and ask your broker any questions You may have.

1. CONGRATULATIONS! You have taken the first of many important steps in your home-buying journey by partnering with John L. Scott Real Estate. We are committed to guiding You through the entire home buying experience. Accordingly, Firm appoints _____ (“Buyer Broker,” and together with Firm, “John L. Scott”) to represent You as we navigate this important transaction together.

2. EXCEPTIONAL SERVICE – EXCEPTIONAL RESULTS. John L. Scott is dedicated to helping You make informed, educated, and confident choices throughout the homebuying process. This may include: evaluating the current market & developing a corresponding pricing and offer strategy; partnering You with a lender to enhance your position with competing offers; negotiating a purchase and sale agreement with a price and other terms that work for You; working with You through any contingencies that are part of your contract with a seller; and working together with the other professionals who will be involved in a successful home closing, including the loan officer, underwriter, inspector(s), appraiser, title company, and escrow.



3. TERM. This Agreement will terminate _____ days (60 days if blank) after the Effective Date (the "Term"). If You are a party to a purchase agreement at the end of the Term, and represented by Firm in the transaction, the Term will automatically extend until the later of the closing of the purchase or termination of the purchase agreement.

4. AGENCY RELATIONSHIP. This Agreement creates an agency relationship with Buyer Broker(s) and any of Firm's brokers who supervise Buyer Broker's performance as Buyer's agent ("Supervising Broker"). No other brokers affiliated with Firm are representatives or agents of Buyer.

The agency relationship created by this Agreement is (non-exclusive if neither box is checked):

- a. an **exclusive agency relationship** meaning that John L. Scott has the exclusive right to act as your agent during the Term to locate a property in the Area and negotiate a purchase, and You may not work with other brokers or firms during the Term for the purchase of real property in the Area ("Exclusive Agency"); or
- b. a **non-exclusive agency relationship** meaning that You may hire another real estate firm to help You find a property and enter into a non-exclusive agency relationship with other firms during the Term ("Non-Exclusive Agency").

5. INTERESTED IN A HOME LISTED BY JOHN L. SCOTT? GREAT! LET'S TALK ABOUT LIMITED DUAL AGENCY. Limited dual agency arises in two situations:

- a. Property Listed by Buyer Broker (single agent limited dual agency). If the property You are interested in is listed by Buyer Broker, Buyer Broker and Supervising Broker will act as limited dual agents in the transaction. In this situation, RCW 18.86.060 prohibits Buyer Broker from advocating terms favorable to one client to the detriment of the other and further limits Buyer Broker's representation of You. Please consult the Pamphlet for more information.

By initialing below, You consent to Buyer Broker and Supervising Broker acting as limited dual agents and representing You and the seller in the same transaction. **You understand that Buyer Broker cannot advocate terms favorable to You to the detriment of the seller:**

_____	_____
Buyer's Initials Date	Buyer's Initials Date

- b. Property Listed by Another Firm Broker (firm limited dual agency). If You are interested in properties listed by another broker with the Firm, Buyer Broker will represent You, the listing broker will represent the seller, and any Supervising Broker who also supervises the listing broker will act as a limited dual agent. By signing this Agreement, You consent to such Supervising Broker acting as a limited dual agent.
- c. Compensation Acknowledgement. By signing this Agreement, You understand and agree that if any of Firm's brokers, including Buyer Broker, act as a limited dual agent, Firm may receive compensation as both the listing brokerage firm and the buyer brokerage firm.

6. COMPENSATION FOR BROKER'S SERVICES. The compensation for Firm's services is set forth below. There are no standard compensation rates, no minimums, and compensation is not set or required by law. You are free to negotiate the amount of compensation with Firm and Buyer Broker. Firm may not receive compensation for brokerage services provided to You greater than the amount in this Agreement or in an amendment to this Agreement.

- a. Compensation to Firm. If You purchase a property covered by this Agreement, You agree to pay Firm the following compensation (the "Buyer Brokerage Compensation") at closing:
 - i. _____% of the purchase price; \$ _____; or other: _____.
 - ii. If Buyer Broker is a limited dual agent and represents both You and the seller, then the Buyer Brokerage Compensation for representing You will be (equal to the amount set forth in Subsection 6(a)(i) if not filled in) or: _____% of the purchase price; \$ _____; or other: _____.

iii. If seller is not represented by a licensed real estate firm (aka "For Sale By Owner"), then the Buyer Brokerage Compensation shall be (equal to the amount set forth in Subsection 6(a)(i) if not filled in) or: ____% of the purchase price; \$ _____; or other: _____.

b. Requesting that Seller Pay the Buyer Brokerage Compensation. You may request as part of your offer that seller pay the Buyer Brokerage Compensation to Firm. Any amounts paid by the seller towards the Buyer Brokerage Compensation will reduce your obligations under this Agreement. Any amount not paid by seller shall be paid by You at closing.

c. Additional Consent. By signing below, You consent to Firm receiving compensation from more than one party provided that the terms of that compensation are disclosed as required by RCW 18.86.030 and any amounts paid to Firm for representing You reduce your obligations to Firm.

7. SELLER'S OFFER OF COMPENSATION.

a. Seller's Offer. A seller may, but is not required to, offer compensation to a buyer brokerage firm representing the buyer in the purchase of seller's property ("Seller's Offer"). Seller's Offer, if any, will be stated in the purchase and sale agreement. If Seller's Offer is greater than the Buyer Brokerage Compensation set forth in Section 6(a), You may request in your offer that the excess amount be credited to You (to the extent allowed by your lender).

b. Listings. Regardless of the amount or existence of Seller's Offer of compensation, Buyer Broker will bring all relevant listings to your attention.

8. COMPENSATION TERMS.

a. Except as otherwise agreed herein, the Buyer Brokerage Compensation is due at closing when You purchase real property located in the Area during the Term and:

i. Exclusive Agency: the property has not been excluded from this Agreement.

ii. Non-Exclusive Agency: the Firm represents You in the transaction, as indicated on the purchase agreement.

b. Compensation After Expiration or Termination. If You purchase a property in the Area within _____ days (60 days if not filled in) after the Term, You shall pay Firm the Buyer Brokerage Compensation at closing if:

i. Exclusive Agency: the property was brought to your attention during the Term by the efforts or actions of, or through information secured directly or indirectly from or through, Firm or Buyer Broker, or that You inquired about to Firm or Buyer Broker.

ii. Non-Exclusive Agency: during the Term, Firm presented a written offer to purchase the property to the seller on your behalf.

c. Cancellation Without Legal Cause. For Exclusive Agency, if You cancel this Agreement without legal cause, You may be liable to Firm and Buyer Broker for damages incurred as a result of such cancellation.

9. EXCLUDED PROPERTIES. If You do not want this Agreement to apply to certain properties, or to properties subject to a prior or existing brokerage services agreement(s), You should identify such properties in this section. Failure to exclude a property subject to another brokerage services agreement(s) may result in You owing compensation under each agreement. Excluded properties:

_____.

10. VA FINANCING. If You are obtaining VA financing, VA regulations may require that the Buyer Brokerage Compensation be paid by the seller.

11. NO WARRANTIES OR REPRESENTATIONS. John L. Scott makes no warranties or representations regarding the value or suitability of any property for your purposes. You agree to be responsible for making all inspections, inquiries, and investigations necessary to satisfy yourself as to a property's suitability and value.

12. INSPECTIONS RECOMMENDED. John L. Scott recommends that any offer to purchase a property be conditioned on an inspection of the property and its improvements by a licensed inspector. You are solely responsible for interviewing and selecting inspectors. John L. Scott has no expertise in these matters.

13. NO DISTRESSED HOME CONVEYANCE. Firm will not represent or assist You in a transaction that is a “Distressed Home Conveyance” as defined by Chapter 61.34 RCW unless otherwise agreed in writing. A “Distressed Home Conveyance” is a transaction where a buyer purchases property from a “Distressed Homeowner” (defined by Chapter 61.34 RCW), allows the Distressed Homeowner to continue to occupy the property, and promises to convey the property back to the Distressed Homeowner or promises the Distressed Homeowner an interest in, or portion of the proceeds from a resale of the property.

14. FAIR HOUSING. Local, state, and federal fair housing laws prohibit discrimination based on sex, marital status, sexual orientation, gender identity, race, caste, creed, color, religion, national origin, citizenship or immigration status, families with children status, familial status, honorable discharged veteran or military status, the presence of any sensory, mental, or physical disability, or the use of a support or service animal by a person with a disability.

15. INTEGRATION. This Agreement constitutes the entire understanding between the parties and supersedes all prior or contemporaneous understandings and representations. No modification of this Agreement shall be effective unless agreed in writing and signed by Buyer and Firm.

16. ATTORNEYS’ FEES AND LIMITATIONS PERIOD. In the event of suit to enforce the terms of this Agreement, the prevailing party shall be entitled to expenses and reasonable attorneys’ fees. The venue of any suit shall be the county in which the property giving rise to such suit is located. The parties agree that no claim arising out of or related to this Agreement shall be asserted more than three years after the occurrence of the act or omission giving rise to such claim.

17. OTHER AGREEMENTS (none if not filled in).

Buyer(s) have read and approve this Agreement and hereby acknowledge receipt of a copy.

Buyer Date

John L. Scott Real Estate

Buyer Date

By: Buyer Broker Date

Address

City, State, Zip

Phone Fax

E-mail Address

AMENDMENT TO BUYER REPRESENTATION AGREEMENT
(Brokerage Services Agreement)

This Amendment to Buyer Representation Agreement (this "Amendment") is made as of the date below by and between John L. Scott, Inc. ("Firm") and _____ ("Buyer") and modifies and amends that certain Buyer Representation Agreement between Firm and Buyer dated _____ (the "Agreement").

1. **Term Extended.** The Term of the Agreement is extended until midnight on _____.

2. **Agency Relationship.** The agency relationship created by the Agreement is amended to be:
a. an Exclusive Agency Relationship. John L. Scott has the exclusive right to act as Buyer's agent to locate a property in the Area and negotiate a sale, and Buyer may not work with another real estate firm for the purchase of real property in the Area during the Term; or
b. a Non-Exclusive Agency Relationship. Buyer may enter into a non-exclusive agency relationship with other real estate firms during the Term.

3. **Additional Buyer Brokers.** Firm appoints the following broker(s) ("Co-Buyer Broker(s)") to represent Buyer with Buyer Broker:

_____. This Amendment creates an agency relationship with Co-Buyer Broker and any of Firm's brokers who supervise Co-Buyer Broker ("CB Supervising Broker"). The agency relationship with Co-Buyer Broker will terminate (upon termination of the Agreement if not competed):
 upon termination of the Agreement; or
 other: _____.

4. **Limited Dual Agency.**
a. Buyer Broker as limited dual agent. By initialing below, Buyer consents to Buyer Broker and Supervising Broker acting as limited dual agents and representing Buyer and the seller in the same transaction. Buyer understands and acknowledges that RCW 18.86.060 limits Buyer Broker's representation of Buyer and that Buyer Broker cannot advocate terms favorable to Buyer to the detriment of the seller:

_____	_____	_____	_____
Buyer's Initials	Date	Buyer's Initials	Date

b. Co-Buyer Broker as limited dual agent. By initialing below, Buyer consents to Co-Buyer Broker and CB Supervising Broker acting as limited dual agents and representing Buyer and the seller in the same transaction. Buyer understands and acknowledges that RCW 18.86.060 limits Co-Buyer Broker's representation of Buyer and that Co-Buyer Broker cannot advocate terms favorable to Buyer to the detriment of the seller:

_____	_____	_____	_____
Buyer's Initials	Date	Buyer's Initials	Date

5. **Compensation.** The Compensation for Firm's services is amended as follows:

_____.

6. **OTHER:**

All other terms and conditions of the Agreement remain the same.

Buyer's Signature: _____
Date

Buyer's Signature: _____
Date

John L. Scott, Inc.

By: _____
Buyer Broker Date

SAMPLE

TERMINATION OF BUYER REPRESENTATION AGREEMENT

Buyer: _____

Buyer Brokerage Firm: John L. Scott, Inc.

Buyer Broker(s): _____

1. TERMINATION. The Buyer Representation Agreement between Firm and Buyer dated _____ (“Agreement”) and the agency relationship created thereby are hereby terminated.

2. COMPENSATION AFTER TERMINATION. If Buyer purchases a property within _____ days (60 days if not filled in) after termination, Buyer agrees to pay Firm compensation of _____ (the amount set forth in Section 5 of the Agreement if not filled in) if during the term of the Agreement:

- i. Exclusive Agency: the property was brought to Buyer’s attention by the efforts or actions of, or through information secured directly or indirectly from or through, Firm or Buyer Broker, or that Buyer inquired about to Firm or Buyer Broker.
- ii. Non-Exclusive Agency: Firm presented a written offer to purchase the property to the seller on Buyer’s behalf.

Buyer: _____ Dated: _____

Buyer: _____ Dated: _____

John L. Scott, Inc.

By: _____ Dated: _____
Buyer Broker

BUYER ADVISORY: Risks and Considerations with Certain Offer Terms

Many prospective buyers are hearing about tactics to make an offer more enticing to a seller when competing in multiple offer scenarios. While some tactics may persuade a seller to accept a buyer's offer, it is important to understand there are advantages you as a buyer may be forfeiting or risks you may be taking on with each tactic. As your trusted real estate advisor, your John L. Scott broker wants you to be an informed buyer in the marketplace. This advisory is to provide you with some of the risks involved so that you can weigh these risks prior to submitting an offer. It is not legal or tax advice and is not a comprehensive list of all the issues and concerns associated with omitting/including certain terms.

CONTINGENCIES	
<p>What is a contingency? A contingency allows you to get out of a contract and obtain a refund of your earnest money deposit under certain conditions.</p>	
<p>If you have NO contingencies and/or WAIVE your contingencies:</p> <ul style="list-style-type: none"> • You may forfeit your earnest money or seller may have other remedies against you if you cannot close. • You may have to come up with additional funds at closing or risk losing your earnest money. • You may unknowingly purchase a property with material defects in the home or other systems on the property. • You may purchase a property and learn after closing that the property cannot be used as intended because of title, land use or other restrictions. 	
EXAMPLES OF CONTINGENCIES AND SOME CONSIDERATIONS FOR BUYERS	
<p>Financing Contingency conditions the sale on buyer obtaining a loan. If the buyer is unable to obtain a loan and has complied with the contingency terms, the contract terminates and buyer is entitled to a return of the earnest money.</p> <p>Without this contingency, if the buyer cannot close because a loan is not approved, the buyer forfeits the earnest money.</p>	<p>Appraisal Contingency allows a buyer to terminate the contract if lender's appraisal is less than the purchase price and seller does not either reduce the purchase price or provide an appraisal at a purchase price that lender accepts.</p> <p>Without this contingency, a buyer may be unable to close and seller keeps the earnest money, or loan type, amount, interest rate, or buyer contribution may change in order to cover the purchase price.</p>
<p>Inspection Contingency allows a buyer to have the property inspected and to terminate the contract or ask for seller concessions (repairs or credits) if dissatisfied with the condition of the property.</p> <p>Without this contingency, a buyer may fail to identify material defects in the home before closing.</p>	<p>Septic and/or Well Inspection Contingencies allow buyer to review seller's septic inspection reports and to have the well inspected.</p> <p>Without these contingencies, a buyer may fail to identify problems with the functioning, capacity or environmental quality of the systems.</p>
<p>Title Contingency allows a buyer to review title for easements, covenants or restrictions that affect buyer's intended use of the property. If seller does not cure buyer's disapproved title issues, then buyer can terminate the contract with earnest money returned to buyer.</p> <p>Without this contingency, a buyer may fail to identify title restrictions that prevent buyer from using the property as buyer had intended.</p>	<p>Sale of Property Contingency or Pending Sale of Property Contingency allows a buyer to disclose a contingent source of funds and to condition the offer on the sale of buyer's other property.</p> <p>Without these contingencies, if buyer's property does not sell or close, buyer will either need to find the funds to close or will need to terminate the contract and forfeit the earnest money.</p>

EXAMPLES OF SELLER-FAVORABLE TERMS AND SOME CONSIDERATIONS FOR BUYERS	
<p>All Cash Offer or No Contingent Funds. Some buyers offer to pay all cash or need financing but do not disclose that to the seller.</p> <p>Consider:</p> <ul style="list-style-type: none"> • Buyer needs to have the funds and be able to deliver the full amount to escrow at closing. • Seller may require buyer to provide evidence of funds as a condition to accepting the offer. • If a buyer offers to pay all cash but will rely on contingent funds (e.g., loan, a gift, withdrawal of amounts from a 401(k)), a buyer must disclose these in the offer and deliver on time. • If a buyer cannot close, then buyer may forfeit earnest money or seller may pursue other remedies against the buyer. 	<p>Offer Price Greater Than List Price, or Escalation Addendum. Some buyers offer a purchase price greater than the list price, or submit an offer with an escalation addendum.</p> <p>Consider:</p> <ul style="list-style-type: none"> • The offer price may exceed the appraised price, and buyer will need sufficient funds to pay a larger down payment. • Lender may not fund the amount above the list price or appraised price. • With an escalation addendum, buyer's highest amount will tip seller as to the greatest amount buyer is willing to pay.
<p>High Earnest Money Amount. Some buyers include a high earnest money amount to show that they are serious about purchasing the property.</p> <p>Consider:</p> <ul style="list-style-type: none"> • If there are no contingencies and buyer terminates the contract or cannot close, buyer may forfeit the earnest money. • Even if the buyer terminates the contract under a contingency, the seller may attempt to keep the earnest money by disputing buyer's right to terminate. 	<p>Non-Refundable "Earnest Money". Some buyers make earnest money non-refundable. In doing so, the deposit is no longer earnest money and is not refundable to the buyer.</p> <p>Consider:</p> <ul style="list-style-type: none"> • Even if seller defaults and deal does not close, seller may be able to retain the funds. • Even if the transaction does not close through no fault of buyer, seller may be able to retain the funds.
<p>Pre-Inspection. Some buyers arrange a pre-inspection before submitting an offer without an inspection contingency. This provides the buyer with information about material defects without including the inspection contingency in the purchase agreement.</p> <p>Consider:</p> <ul style="list-style-type: none"> • Sellers may not allow pre-inspections. • Seller may allow a pre-inspection but still not accept the offer. • An inspector may recommend additional inspections by specialists, but buyer will not have the right to those additional inspections if waiving the inspection contingency. 	<p>Lease Back To Seller. Some buyers offer to lease the property back to seller after closing. This allows the seller time to purchase another property without finding interim housing.</p> <p>Consider:</p> <ul style="list-style-type: none"> • This may involve loan and insurance issues. • There may be disputes about repairs and whether they arose before or after closing. • Seller may refuse to vacate or may delay. • Buyer may become a landlord subject to state and local landlord-tenant laws. • If seller won't pay, this is a cost to buyer. • If a buyer delays closing in lieu of a lease back, buyer needs to discuss the delay with lender and availability and cost of an extended interest rate lock.

While removal of contingencies or including seller-favorable terms may be attractive to a seller and aid in the buyer's offer being accepted in a multiple offer situation, buyers are advised to consider that there are risks they take by not including contingencies or by including seller-favorable terms in the offer. For a more complete understanding of how contract terms operate and to draft any changes to the terms in the statewide residential purchase forms, you are advised to seek the counsel of a real estate attorney.

To confirm you are aware that there may be monetary, due diligence and other risks to you as a buyer in excluding contingencies or including seller-favorable terms in a purchase offer, please initial below:

 Initial Initial Buyer acknowledges there are risks
 in excluding contingencies

 Initial Initial Buyer acknowledges there are risks in
 including seller-favorable terms

AFFILIATED BUSINESS ARRANGEMENTS
DISCLOSURE STATEMENT

Date: _____
From: John L. Scott, Inc.
Consumer: _____
Property Address: _____

Priority Home Lending and Access Home Closing:

This is to give you notice that John L. Scott, Inc., John L. Scott Oregon, Inc., and Bend OR RE LLC, d/b/a John L. Scott – Bend (each a "JLS Entity" and collectively, "JLS Entities") have business relationships with each of Priority Home Lending, LLC ("Priority Home Lending") and Access Home Closing, LLC ("Access Home Closing"). The principal owner of the JLS Entities has indirect ownership interests in JLS Mortgage Venture III LLC, and JLS Title and Escrow LLC, which own 49% interests in Priority Home Lending and Access Home Closing, respectively. Because of these relationships, referrals to Priority Home Lending and Access Home Closing may provide the JLS Entities a financial or other benefit.

Set forth below are the estimated charges or range of charges for the settlement services listed. You are **NOT** required to use the listed providers as a condition for the sale or purchase of the Property. **THERE ARE FREQUENTLY OTHER SETTLEMENT-SERVICE PROVIDERS AVAILABLE WITH SIMILAR SERVICES; YOU ARE FREE TO SHOP AROUND TO DETERMINE THAT YOU ARE RECEIVING THE BEST SERVICES AND THE BEST RATE FOR THESE SERVICES.**

Service Provider	Settlement Services	Charges or Range of Charges
Priority Home Lending, LLC	Processing Fee	\$800.00
Priority Home Lending, LLC	Underwriting Fee	\$795.00
Access Home Closing, LLC	Escrow Fee	\$1200.00
Access Home Closing, LLC	Title Fee	Between \$500.00 and \$8,500.00, depending upon the purchase price of property priced at or below \$5,000,000.00

Old Republic Home Protection:

This is to give you notice that the JLS Entities perform advertising services for Old Republic Home Protection Company, Inc. ("ORHP"), a home services contract provider. ORHP pays the JLS Entities fair market value for such services actually performed and substantiated. Because of this contractual relationship, a referral to ORHP may provide the JLS Entities a financial benefit.

The JLS Entities and ORHP are separate and unaffiliated legal entities, and the JLS Entities assume no responsibility for ORHP's performance of the home services contract obligations. All underwriting and coverage determinations are made by ORHP, and not by the JLS Entities.

The JLS Entities do not require that you purchase a home services contract in connection with your home purchase or sale transaction. And if you do decide to purchase a home services contract, you are free to purchase from a provider other than ORHP.

You are encouraged to carefully review the terms of the ORHP home services contract and to contact ORHP directly at 800-445-6999 if you have questions regarding coverage or exclusions from coverage, fees, or any other aspect of the home services contract.

Acknowledgement

I/we have read this disclosure form and understand that a JLS Entity is referring me/us to purchase the above-described settlement services and may receive a financial or other benefit as the result of these referrals.

Consumer Date

Consumer Date

Update your Buyer Consultation and Incorporate the New Agency Law Information and Dialogue (for JLS Form 41)

BUYER DIALOGUE SCRIPT

"Before we get started, I must legally provide you with paperwork and disclosures."

Your Real Estate Agency Guide (present flyer)

"First, here is information about our new 2024 Agency Law."

"Our Agency Law was revised and effective January 1, 2024. It was revised to provide additional transparency and consumer protection, and to acknowledge the importance of buyer protection. In essence, as of January 1, 2024, I must enter into a written brokerages services agreement with you and disclose buyer representation and buyer agency relationships."

Real Estate Brokerage in Washington State (present pamphlet)

"In the agency pamphlet, [Real Estate Brokerage in Washington](#), it clearly explains agency relationships, and limited dual agency representation. It explains the duration of agency relationships as well as the requirements of a written services agreement, broker's duties, and compensation."

John L. Scott Buyer Representation Agreement (present Agreement – JLS Form 41)

"Before I can offer buyer brokerage services, we will need to complete and sign the John L. Scott Buyer Representation Agreement (Brokerage Services Agreement). This Buyer Representation Agreement is made between the firm and you effective as of today's date for real property located in the following area/s." (List the area/s you will represent buyer.)

"This agreement will establish the terms of our relationship and the compensation that firm will receive for representing you. I have already provided you with the pamphlet, 'Real Estate Brokerage in Washington', which explains buyer broker duties and agency relationships." (Reference the pamphlet and point out the area of buyer broker duties and agency relationships.)

Exceptional Service – Exceptional Results

"My services as your buyer broker include helping you make informed, educated, and confident choices throughout the homebuying process. I will share current market trends to help you create pricing and offer strategies. I will negotiate on your behalf the best price and terms including working through any contingencies. I will manage all aspects of the process including working with other professionals involved in the transaction. As you can see there are quite a few steps to finding

the right home at the right price. Do you have any questions about any of the steps? Are you working with a lender?"

Term and Termination

"The term, I would like to make for 120 days which automatically is extended if we are involved in a purchase agreement."

Agency Relationship

"I will be representing you as your buyer broker and anyone supervising me will also represent you as a buyer agent in a transaction."

Exclusive

"I would like to enter into an exclusive agency relationship with you which means that once we sign the agreement today, you agree to work me exclusively and not with any other broker with another firm during the term or duration of our agreement. And once we find a property, I will be your buyer broker and agent for the transaction."

Non-Exclusive

"We can check this box for our showings today if that makes you feel more comfortable. However, if you would like me to continue to perform buyer brokerage services for you and bring listings to your attention after today, I would like to change this to an Exclusive Agency Relationship."

Limited Dual Agency

"In the event you ask me to write an offer on one of my listings, you are consenting to me and any supervising brokers as your buyer broker to act as a limited dual agent providing limited representation to both the buyer and the seller in a transaction."

"Furthermore, if we find a property listed with another broker in our firm you consent to supervising brokers acting as limited dual agents."

Compensation for Broker's Services

"There are no standard compensation rates, no minimums, and the compensation in this agreement is fully negotiable and not set by law. For my buyer brokerage services, if you purchase a property covered by this agreement, you agree to pay firm [X%] even if I am a limited dual agent. However, if we agree to non-exclusive agency, you are obligated to pay compensation only if the Firm represents you in a transaction."

"Compensation is due to firm when the purchase closes if we choose exclusive agency."

"If we choose Non-Exclusive Agency, compensation is due if I and my Firm represent you and the purchase closes."

Compensation After Expiration or Termination

"If within 60 days after the expiration of our buyer broker services agreement, if we choose exclusive agency, and you purchase a property that was brought to your attention through me or firm or you inquired about to firm, compensation is due."

"If we choose non-exclusive agency, compensation is due if you purchase a property within 60 days after expiration of our buyer broker services agreement, for which I or firm presented a written offer for that property during the term set forth in this agreement."

Compensation Offered by Seller

"Even though I am charging you compensation, the seller or listing broker may offer compensation to firm. The seller's offer of compensation may be published on public websites, flyers, or social media and I will disclose this information to you as well as state it in the purchase and sale agreement, including any compensation offered by listing broker. Any amount offered by seller or listing broker will offset any amount we agree to here in the agreement."

"If seller's offer of compensation is equal to or greater than the compensation amount we agree to in this agreement, you won't be obligated to pay firm separately."

"If seller's offer of compensation is greater than the amount we agree to here in this agreement, you may request with your offer that the excess amount be credited to you at closing to the extent allowed by your lender."

"If seller's offer of compensation is less than the amount we agree to here in this agreement, or if there is no seller's offer, you may request as part of your offer that seller fund some or all of the compensation through a credit to you at closing or that seller directly pay the compensation to firm at closing."

"Any amounts paid by the seller toward the compensation will reduce your obligations and any amount not paid by the seller shall be paid by you at closing."

"Regardless of the amount of seller's offer, if any, I will bring all listings to your attention."

Excluded Properties

"We can exclude certain properties which you were shown while working with other Firms or Brokers. Are there any properties you would like to exclude from this Agreement?"

VA Financing

"If you are obtaining VA Financing, VA regulations may require that the Compensation be paid by the seller."

No Warranties or Representations

"Firm makes now warranties or representations regarding value or suitability of any property and we recommend having inspections and investigations to satisfy suitability and value."

Inspections Recommended

"I will recommend inspectors and negotiate for repairs on your behalf, but it is up to you to interview and select all inspectors."

No Distressed Home Conveyance

"Firm will not represent or assist buyer in a transaction that is a Distressed Home Conveyance."

Fair Housing

"Fair Housing laws prohibit discrimination based on the following classes."

Integration

"This agreement shall control, and no modifications shall be effective unless agreed in writing."

Attorneys' Fees and Limitations Period

"In the event either party employs an attorney to enforce any terms of this agreement and is successful, the other party agrees to pay reasonable attorneys' fees."

"Do you have any questions?"

(Have buyer sign and turn in paperwork.)

BE PREPARED FOR

TODAY'S MARKET

UNDERSTAND YOUR OPTIONS

HOME BUYER FAQ

I want to buy a home, where do I start?

There is so much to consider when buying a home:

- How do you find the right home and make sure you don't miss anything?
- How do you make sure you don't lose the property in a competitive market?
- How do you know if you are paying too much?
- What if there are major issues or repairs needed?
- What is a Buyer Agency Services Agreement and do I have to sign?

These are common concerns for today's buyer.

However, your FIRST STEP in the home buying process is to decide how to plan to fund the purchase for your home. If you are going to take out a mortgage, you will need to contact a lender. They will help you identify your price point and work with you to help you understand the loan programs most suitable for you and your situation.

- Do you have enough funds for the down payment and closing costs?
- Do you need to sell your current home to purchase your next home?
- Are you relying on any contingent source of funds?
 - Future earnings (stock market)?
 - Retirement funds (401K)?
 - Gift money?
 - Funds from another country?
- Can you provide proof of funds if requested?

To be in the best position possible when presenting an offer on a home, it is best to have underwriting approval and a letter from your lender stating the fact and that you have sufficient funds to close on the purchase of your home. With underwriting approval, the lender has verified your credit report, income, job, and any other conditions. All the lender needs to fund your loan is the identification of the property, the purchase amount, clean title, and an appraisal at or below the purchase price.

You want to be in the most favorable position possible when your offer is presented to any seller. By having underwriting approval, you will provide a higher sense of certainty for the seller when receiving your offer.

What is a Written Services Agreement?

A Written Services Agreement is an agreement between a real estate firm, real estate broker, and any party that they are providing real estate services to. For example, seller's sign a listing agreement, and buyers sign a buyer representation agreement. These agreements are beneficial for all parties to agree on services provided and compensation for services. Before a party can sign a "brokerage service agreement," they must review a state's agency pamphlet (names vary, examples include: "Law of Real Estate Agency" or "Real Estate Brokerage in Washington")

Do I have to sign a Buyer Representation Agreement?

As of August 17, 2024, a real estate broker and their firm must have a signed Written Services Agreement (otherwise known as a Buyer Representation Agreement) with any party the firm represents (all sellers and buyers). All parties must sign this agreement before, or as soon as reasonably practical after, a broker begins rendering real estate brokerage services to the buyer.

What is the difference between exclusive versus non-exclusive agency relationships?

An *exclusive agency relationship* means the firm you sign with has the exclusive right to act as your agent to locate a property in the Area and negotiate a sale, and you may not work with other brokers or firms for the purchase of real property in the area other than with respect to properties excluded from the agreement.

A *non-exclusive agency relationship* means you can have a non-exclusive agreement with one firm and you may hire another real estate firm to help you find a property and enter a non-exclusive agency relationship with that other firm during the team.

What is earnest money?

Earnest money is a deposit made to a seller that represents a buyer's good faith to purchase their home. Typically, the earnest money is deposited into an escrow account representing that the buyer is acting in good faith as the buyer applies for financing, reviews title, orders inspections, etc.

Earnest money is negotiable between the buyer and the seller and ranges from 1-10% of the purchase price. If the buyer fails to perform the terms of the purchase agreement, the earnest money may be in jeopardy and forfeited to the seller.

If, however, the buyer terminates the purchase agreement for legal cause, then the earnest money shall be refunded to the buyer.

At the time of closing, the earnest money shall be used as a credit toward the buyer's down payment and closing costs.

What is an additional down payment?

An additional down payment is when a buyer agrees to pay additional funds toward buyer's down payment if the appraisal is less than the purchase price. This commitment could give a buyer a negotiating advantage in a multiple-offer situation.

By including an additional down payment provision or addendum to the agreement, not only does it make the buyer's offer stronger, but it also protects the buyer in the event the difference in appraised value and purchase price is greater than the amount of additional down payment.

The buyer represents that they have the funds necessary to close the sale as required by the provision or addendum which includes funds for the down payment and the additional funds set forth in the provision or addendum if the appraisal is less than the purchase price.

If the additional funds are not sufficient to cover the difference between the appraised value and the purchase price, upon the buyer's notice of low appraisal, the seller has the option of reducing the purchase price to the amount equal to the appraised value plus the additional funds. Or, the seller may terminate the agreement, in which event the earnest money shall be refunded to the buyer.

What if I need my net proceeds from my current home to purchase my next home?

Buyer's Pending Sale of Property Contingency

Make an offer subject to the successful closing of the buyer's pending home sale.

The buyer already has an offer on their home and is making the offer subject to the successful closing of the buyer's home. In the event the buyer's home does not successfully close, the buyer may terminate the agreement and retain earnest money. The buyer also has the right to waive their contingency and proceed with the agreement if the buyer has another source of funds such as a bridge loan.

Buyer's Sale of Property Contingency

Make an offer subject to selling the buyer's home.

The buyer makes an offer on a home subject to receiving an offer on their home. The buyer may or may not have already listed their current home at the time of submitting an offer to purchase. The buyer has a certain number of days to receive an offer on their current home. If the buyer does not receive an offer within the agreed upon stated time, then the buyer's offer will terminate, and the buyer may retain their earnest money. The buyer also has the right to waive their contingency and proceed with the agreement if the buyer has another source of funds such as a bridge loan.

Pros: The buyer chooses their next home before they list their current home, avoiding the situation of not finding the right home after the buyer receives an offer on their current home.

Cons: This type of contingency is not favorable to many sellers due to the uncertainties of the buyer receiving an offer on their home and successfully closing. Also, the seller's home remains on the market and the buyer can be bumped by another buyer. However, the buyer may waive their contingency during the bump period and proceed with the sale if the buyer has another source of funds.

Tip: The buyer should list their home prior to submitting a Buyer's Sale of Property Contingency so the seller can make an educated choice whether to accept the buyer's offer based on the buyer's list price, condition of home and current local market conditions. The buyer should also have underwriting approval with their lender to give the seller confidence in the buyer's financing. The buyer may want to have a bridge loan ready in the event the buyer is bumped.

What if I am competing with other offers?

In some situations, sellers may have several competing offers to consider. Sellers have several ways to deal with multiple offers. Sellers can accept the best offer, they can inform all potential purchasers that other offers are 'on the table' and submit their highest and best offer; they can counter one offer while putting the other offers to the side, awaiting a decision on the counter-offer, they can counter one offer and reject the others, or they can simultaneously counter more than one offer.

While the listing broker can offer suggestions and advice, decisions about how offers will be presented and dealt with are made by the seller, not by the listing broker.

There are advantages and disadvantages to the various negotiating strategies you can employ in multiple offer negotiations. A low initial offer may result in buying the property you desire for less than the listed price or it may result in another buyer's offer being accepted. On the other hand, an above full price offer may result in paying more than the seller might have required. In some cases, there can be several full price offers competing for the seller's attention and acceptance.

Purchase offers may not always be kept confidential by the seller. In some cases, sellers may make other buyers aware that your offer is in hand, and even disclose details about your offer to another buyer in hope of convincing the other buyer to make a better offer. In some cases, sellers will instruct their listing broker to disclose an offer to all other buyers on their behalf, creating a bidding war. Timing in presenting your offer could be critical.

Some competing purchase offers may have escalation clauses, where the buyer is willing to pay a higher price than any competing offer 'escalated' in increments, not to exceed a 'cap'.

Some buyers may exclude financing, appraisal and home inspection contingencies in their offers in order to make them more appealing to the seller. Others may include high earnest money amounts.

Listing brokers are required to follow lawful and ethical instructions from their seller clients even though it may appear or seem unfair on how the seller responds to any offers presented to seller. There is no guarantee as to how any seller will respond in a specific multiple-offer situation.

What if I am competing with other offers? Should I use an escalation clause?

When a buyer wants to submit an offer on a property where there may be competing offers, the buyer may provide an 'escalation' of their offer price in order to compete against the other offers. The escalation addendum is used to establish the terms by which the buyer's offer will escalate, including the maximum price the buyer is willing to pay for the property.

An escalation clause is not binding until the offer containing it is fully executed, the competing offer is provided, and mutual acceptance has occurred. Until mutual acceptance is reached, the seller is free to negotiate with competing buyers. The seller may disclose the terms of your offer to other buyers, may make a counteroffer (often at the maximum price established by the escalation agreement), or may reject all offers and demand that all interested parties make their highest and best offer without escalation provisions.

If the seller is using a competing offer to escalate your offer, the seller must provide a copy of the competing offer in its entirety, including all addenda and any escalation provisions contained in the competing offer.

Pros: The buyer may be in a better negotiating position when competing with other buyers in a multiple-offer situation.

Cons: The buyer is showing the seller all their cards and the seller may counter the buyer at the buyer's 'maximum price', the buyer may pay more than necessary to purchase the property, the buyer's escalated amount may be leverage for the seller to negotiate with other buyers, and the escalated price may exceed the appraised price and the buyer will need sufficient funds to pay a larger down payment.

What if the appraisal is lower than the purchase price?

Typically, a buyer's offer is conditioned upon the appraisal being at or below the purchase price. The provisions on the appraisal are part of the financing contingency. Such provisions provide for a process for notice of low appraisal by the buyer, a seller's response to the notice, and a buyer's reply to the seller's response.

Buyer's Notice: If the lender's appraisal is less than the purchase price, the buyer may give notice to the Seller of that fact.

Seller's Response: After the buyer's notice, the seller may have options per the provisions. The seller may, at the seller's expense, deliver a reappraisal of the property that is acceptable to the lender, reduce the purchase price to an amount specified in the appraisal, propose to reduce the price to an amount more than the appraised value, or reject the buyer's notice.

If the seller delivers notice to the buyer of reappraisal, reconsideration of value or consents to reduce the purchase price to an amount not more than the amount specified in the appraisal, and the lender accepts the seller's response, then the buyer shall be bound to the seller's response.

If the seller proposes to reduce the purchase price to an amount more than the appraised value, or if the seller rejects the buyer's notice, then the buyer shall have the right to reply to the seller's response.

Buyer's Reply:

IF THE SELLER PROPOSES TO REDUCE PURCHASE PRICE TO AN AMOUNT MORE THAN THE APPRAISED VALUE, the buyer shall either accept the seller's response and represent the buyer has sufficient funds to close the sale in accordance with this provision or terminate the agreement, in which event the earnest money shall be refunded to the buyer.

IF THE SELLER GIVES NOTICE OF REJECTION OF LOW APPRAISAL, the buyer can either waive the financing contingency and appraisal portion of the financing contingency and provide an additional down payment or terminate the agreement, in which event the earnest money shall be refunded to the buyer.

What is a back-up offer?

A back-up offer occurs when the property has already been sold and is 'under contract' with another buyer that has not yet closed. This is referred to as the first sale. The backup offer is a binding agreement between a second buyer and a seller that becomes a 'sale' only if the first sale fails to close.

Both buyer and seller agree to the terms of their agreement and this second sale, and all timelines do not commence unless the first sale fails to close. Prior to receiving notice from the seller that the first sale has failed to close, the buyer is free to view other properties and if the buyer finds another property to purchase, the buyer can give notice to the seller canceling the back-up offer at no penalty to the buyer.

This usually occurs when the second buyer loses in a multiple-offer situation and is willing to wait to see if the first buyer can perform and close.

Why do I need a home inspection?

When purchasing a home, the buyer may want to make sure there are no hidden surprises before closing and moving into the home. To do this, the buyer makes their offer contingent upon the satisfaction of a home inspection. Typically, a home inspection is ordered and performed by an inspector of the buyer's choice and paid for at the time of the inspection. This is done early in the transaction, usually in the first 10 days.

The inspector will prepare a report for the buyer on the home, which usually includes a diagnosis of the structure and mechanical items, which could include a sewer scope.

Sometimes, the inspector will recommend an additional inspection by an inspector who specializes in the area of concern. The buyer will then be allowed an opportunity to obtain the additional inspection upon giving proper notice to the seller.

Once the buyer has received the inspection report(s), the buyer has an opportunity to request the seller to make repairs to the home or modifications to the purchase agreement.

The seller then has an opportunity to respond and negotiate the buyer's request for repairs or modifications.

Upon receipt of the seller's response, the buyer has an opportunity to reply and further negotiate.

If the buyer and seller do not mutually agree to the requests or modifications, then the buyer may terminate the agreement, in which event the earnest money shall be refunded to the buyer.

All timelines for notices are mutually agreed upon in the purchase agreement.

What is a title contingency?

A title contingency gives the buyer an opportunity to review the property's preliminary commitment for title insurance, easements, and CC&Rs (covenants, conditions, and restrictions) of record to their sole satisfaction.

The buyer shall have an opportunity to give notice to the seller of their disapproval of exceptions contained in the preliminary commitment.

Upon the buyer's notice, the seller shall have an opportunity to reply to give the buyer notice that the seller will clear all disapproved exceptions. If the seller does not give timely notice that the seller will clear all disapproved exceptions, the buyer may terminate, and earnest money shall be refunded to the buyer.

Should I include a title contingency?

It is not uncommon for a condominium project or even a home development to have CC&Rs. In the CC&Rs, there may be restrictions on the number of pets you may have and even how large they can be. Other restrictions may include the right to rent your condominium or what modifications you can make to a balcony.

In home developments, there may be restrictions that prevent you from parking a motor home or boat on your property or they may limit the duration they can be parked in the street. Other restrictions may include animals, the type or height of fencing, etc.

Other restrictions may be governed by an architectural committee. For example, the color of the home may be governed by the architectural committee, and you may need to obtain approval before painting your home or installing awnings or shading to block the sun.

What are some general do's and don'ts when getting mortgage ready?

Do

- Get your documents in order (tax records, pay stubs, bank and financial statements, etc.)
- Be realistic about what you can afford
- Prepare a personal budget
- Consider your long-term real estate goals
- Consult with a mortgage advisor

Don't

- Change jobs, become self-employed, or quit your job
- Get a car loan or add another large debt during the transaction process
- Use credit cards excessively or let current accounts fall behind
- Spend the money you have set aside for closing
- Originate any additional inquiries into your credit

How do I vest in title?

There are three common ways to hold title together through community property, tenancy in common, and joint tenancy with right of survivorship.

TITLE TYPE	PARTIES	CREATION	CONVEYANCE BY ONE OWNER	CREDITORS' RIGHTS	DIVISION	TITLE	DEATH
COMMUNITY PROPERTY	Community property is presumed by any deed to married persons or to registered domestic partners.	The grantee language should include "married persons," "husband and wife" or "registered domestic partners."	Both co-owners must convey real property jointly. One co-owner cannot convey separately.	Co-owner's interest cannot be seized and sold separately for most separate debts.	Ownership interests are equal.	Title is in the "community." There is one estate, not two half interests.	The decedent's half may be given by will, or it passes to descendants by laws of succession. The spouse or domestic partner is the primary heir.
TENANCY IN COMMON	Any number of persons. Married persons or registered domestic partners may also.	The deed should state "as tenants in common." The shares are presumed to be equal if not stated.	Each co-owner's interest may be conveyed separately.	Co-owner's interest may be sold on execution sale to satisfy creditors.	Ownership can be divided into any number of different percentages.	Each co-owner has a separate legal title to their undivided interest.	The decedent's interest may be given by will, or it passes to descendants by laws of succession. No right of survivorship.
JOINT TENANCY WITH RIGHT OF SURVIVORSHIP	Any number of persons. Married persons or registered domestic partners may also.	All owners must acquire in one deed stating "as joint tenants." The grantees should also sign to confirm their intention to hold title with survivorship rights.	A conveyance by one co-owner without the others breaks the joint tenancy. The Grantee is a tenant in common with the other owners and the interest does not pass to survivors.	Co-owner's interest may be sold on execution sale to satisfy creditors. The joint tenancy is then broken.	All owners must have equal interests and equal rights of possession.	Each co-owner has a separate legal title to their undivided interest.	The decedent's interest terminates. All survivors own equal shares of the decedent's interest by right of survivorship.

This is provided as information only and should not be relied upon as legal advice. If you have any questions on how you should take title, please consult your real estate attorney for guidance.