

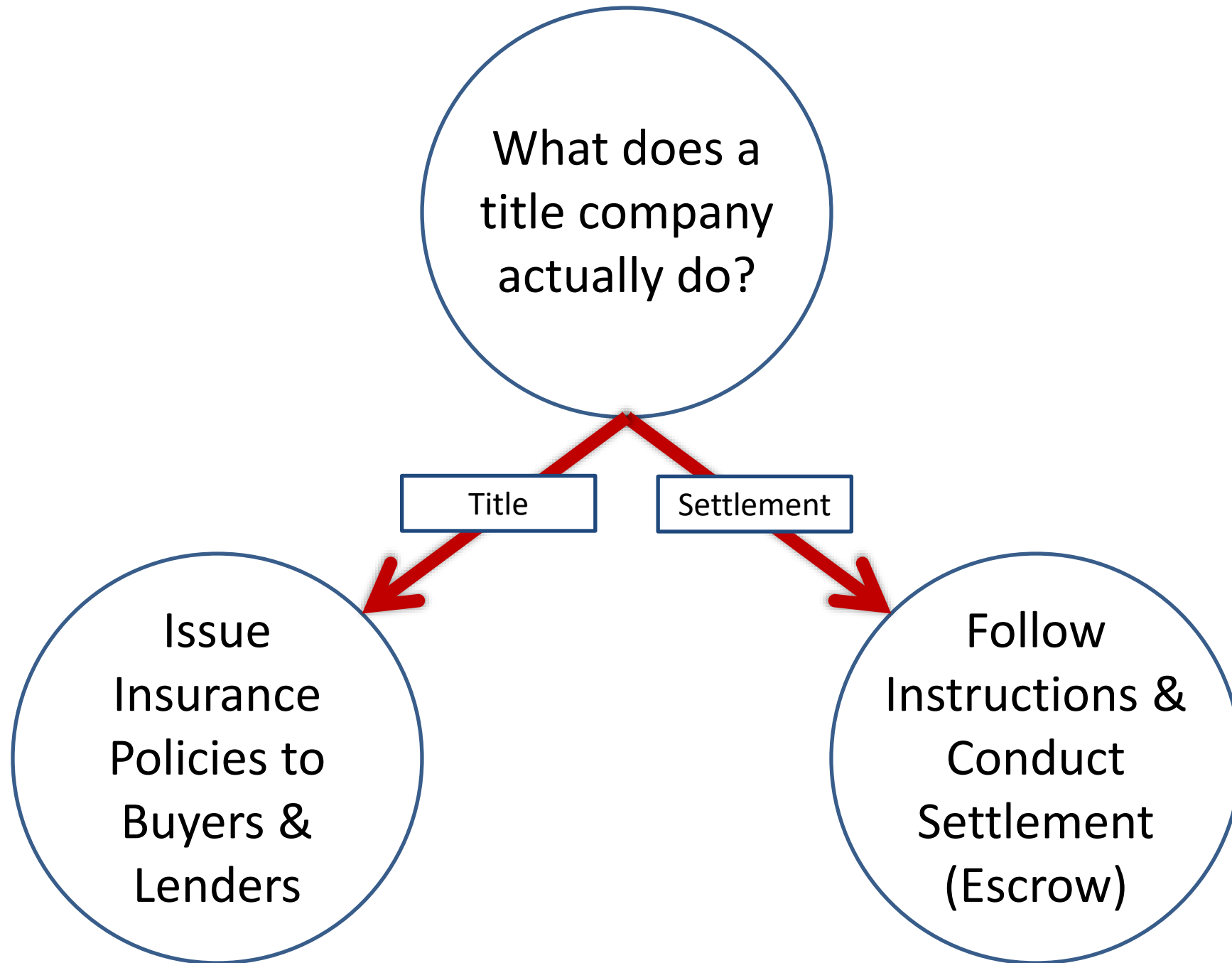


Title & Settlement Essential Elements (CORE)

Tucker Hodgson-
Continuing Education Instructor #6728570-CEI0

RC251108





What goes on at the title company?

1. Title Insurance

1. Research property history
2. Identifying & Evaluating Risks & Problems (7 areas)
 - Property Characteristics
 - People in chain/ownership/ transaction
3. Setting up Requirements
4. Preparing the Preliminary Report
5. Manage Requirements
 - (Curative & Clearing)
6. Recording
7. Issue title policy

2. Settlement/Escrow

1. Act as neutral party
2. Follow Written Instructions
3. Prepare Closing Documents
4. Prepare Settlement Statement
5. Conduct Settlement
6. Receive & Verify Funds
7. Deliver (record) Deed
8. Disburse Funds

Who does what?

Insurance Exams & Licensing

- Title Search
 - **100** Questions- 120 Minutes
 - 10% Insurance Regulation, 5% General Insurance, **35% Real Property, 18% Title Insurance, 22% Title Exceptions & Procedures for Clearing Title, 10% Real Estate Transactions.**
- Title Escrow
 - **100** Questions- 120 Minutes
 - 10% Insurance Regulation, 5% General Insurance, 15% Real Property, 15% Title Insurance, **20% Title Exceptions and Procedures for Clearing Title, 35% Real Estate Transactions.**
- Title Marketing Representative
 - **50** Questions- 60 Minutes
 - 10% Insurance Regulation, 5% General Insurance, **40% Title Insurance, 45% Marketing Title Insurance.**

CE Requirements

- (II) Title producers shall comply with the following C.E. requirements.
- **A total of 12 hours of continuing education are required**, of which:
 - 6 hours must be in the classroom or classroom equivalent type courses
 - No more than 6 hours may be from courses provided by insurers
 - **3 hours must be in ethics training; and the remaining 9 hours can be in any line of insurance**
 - All 12 hours must be from courses approved by the Utah Insurance Department
 - If licensed for 20 or more consecutive years, a total of 6 hours is required, with 3 of ethics
- Proof of completion of continuing education hours must be kept on file with the producer. The Department may conduct random audits of producers by mail to verify their C.E. hours.

<https://insurance.utah.gov/agent/producers/education.php>

Class Goals

Title Insurance

- Basic Insurance Principles
- History of Abstracts & Title Insurance
 - “Old” way vs. “New” way
- Title Insurance 101
 - Licensing requirements
 - The Title Search
 - Identify Risk
 - Structuring the Report
- Owner’s Policy
 - Owner’s policy types
 - Basic, Extended, Homeowner’s
 - What do the policies cover?
- Lender’s policy
 - Why is it required?
 - The role of CPL’s

Settlement (Escrow)

- Basic Settlement Principles
 - Defining Fiduciary & Escrow
 - Settlement Duties & Title Insurance (symbiotic relationship)
- Instructions as Ingredients
 - Title Report (people & property), Contract, Payoff/Lien Releases, Leases/Rental Agreements, Survey, Commission instructions, Net proceed instructions, IRS (1031 & 1099)
- Settlement missteps vs. Title Insurance claims

Let's start at the very beginning



A very good place to start

Salt Lake Base & Meridian



<http://www.howderfamily.com/travel/utah/great-salt-lake-base-and-meridian.html>

Accessed June 29, 2017



By Ricardo630 - Own work, CC BY-SA 3.0,

<https://commons.wikimedia.org/w/index.php?curid=27131468>

Accessed June 29, 2017



Uintah Special Meridian



All photos from Salt Lake Tribune story first published September 18, 2009 “**Bittersweet history revisited in eastern Utah**”

by Brandon Loomis accessed June 29, 2017

http://archive.sltrib.com/story.php?ref=/news/ci_13370054

Before Title Insurance

BACK ←
To
The **PAST**

DANGER

FLUX
CAPACITOR

1.21 JIGAWATTS





Title Insurance

In this fast paced economy and whirlwind of land development, the question often arises about the fees associated with buying and selling property. "What is this title insurance premium and why do I need it?"

One of the first things a person should learn about real estate titles is that they are precarious and that many times when a person buys land he does not get title to it like he is "supposed to." While it may seem a distinction without a difference, it is true that what you actually get when you buy land is the title and not the land itself. No one can pick up piece of land and hand it to you. You can't put it in your pocket and carry it away. All that you get is the title, and the title gives you the right to enter upon the land and to possess, occupy, use, control, enjoy and dispose of the land.

The word "title" is applicable to virtually every estate and interest in real estate which a person may own. If a person can own it, he can hold title to it, for title to anything constitutes rights of ownership recognized and protected by the law.

Due to the complexities in the laws that govern real estate, people have sought assurances to guarantee their "title rights." In Utah alone, the laws governing the attachment of judgments to real property have changed a half dozen times in the last six years. And laws governing liens for labor and materials have been amended twice in the last two years. The concept of title insurance is simply the latest step in the evolutionary development of title assurance. Title insurance has progressively changed in concept, form, and coverage since its inception.

Over 100 years ago, the Pennsylvania case of *Watson vs. Muirhead* (57 Pa. State 161) shook the public into realizing a secure form of title assurance was needed. Charles Muirhead was a Philadelphia conveyancer. The term "conveyancer" applied at that time to a layman who made a business of searching titles and reporting their condition.) Watson, who was about to purchase real estate, employed Muirhead to search and report on the title of the vendor. A judgment by default was outstanding against the vendor. Muirhead seemed to think the judgment did not constitute a lien upon the property in question. He obtained a confirming opinion from an eminent lawyer. Muirhead then reported the title to Watson as being, good, free and clear. Watson purchased the real estate. Later the judgment was held to encumber the real estate, and the property was sold at judicial sale to pay the judgment. Watson lost the property and sued Muirhead for the damage sustained. Here was a case where a purchaser lost his real estate and his entire investment because of an examiner's mistake of judgment.

The court held that the same rules of liability which applied to lawyers and doctors also applied to conveyancers - a conveyancer was not liable for his honest mistakes or errors of judgment except in cases of manifest negligence or failure to exercise reasonable professional skill, and that Muirhead was not liable under either circumstance. As a practical matter, this case made it clear that a title examiner was not a guarantor or insurer of title and that little, if any financial responsibility existed behind the opinions of conveyancers and their counterparts in other states.

Title insurance is in many ways casualty insurance. It protects against a host of risks that may not be detectable even with the most careful search of records. These include forgery, fraudulent releases, disputed powers of attorney, incompetence or lack of capacity of a person who's signed a document, ambiguous or erroneous legal descriptions, ambiguous judgment liens, mis-indexing of documents in public records or databases, and federal estate tax liens.

Extended coverage policies are available to protect against off-record interest, including claims by third parties based on adverse possession or past use, which in turn may involve rights to access adjoining lands, to maintain underground pipelines, or encroaching improvements constructed by neighbors. The newest extended coverage forms even include coverage against building permit violations, post-policy forgeries, and post-policy encroachments.

Title insurance insures the process of closing, also known as the "escrow" or "settlement," by protecting against risk from erroneous payoffs, intervening liens and mortgages (recording just before, or after, closing), defective documents going to record, and failure to get releases for paid-off debts. And, it provides for a legal defense, if needed, against threatening claims.

Title insurance and escrow services have evolved into a mainstream product for the rapidly changing real estate market. I can't imagine what anyone would do if they had to go through the process without a professional to smooth it all out for them and give the assurances needed to sleep at night when it's all said and done.

-Tim C. Grubb, licensed Title and Escrow manager

Conveyancers & Abstractors- The way things used to be...

Watson v. Muirhead, Pennsylvania Supreme Court.
1868.

"In 1868, the case of [*Watson v. Muirhead*](#) was heard by the [Pennsylvania Supreme Court](#). Plaintiff Watson had lost his investment in a real estate transaction as the result of a prior [lien](#) on the property. Defendant Muirhead, the [conveyancer](#), had discovered the lien prior to the sale but told Watson the title was clear after his lawyer had (erroneously) determined that the lien was not valid.

The courts ruled that Muirhead (and others in similar situations) was not liable for mistakes based on professional opinions."

From:

https://en.wikipedia.org/wiki/Title_insurance Accessed July 26, 2017

Opinions v. Insurance



Abstractors & Conveyancers

Title Insurance



As long as we're talking
about insurance
we might as well get the
basics down...

Basic Principle 1

Insurance is a contract under which one party (the insurer) agrees to indemnify another (the insured) for a possible loss under specific conditions.



Basic Principle 2

Elements of an insurance contract

- a) **Offer & Acceptance**- The expression of an offer by one party and the indication of acceptance of those terms.
- b) **Consideration**- The price or value paid or given by one party to another.
- c) **Competent Parties**- Of majority (legal age), not with undue influence. Legally & mentally capable.
- d) **Legal Purpose**- The contact is not illegal and is sound.



Basic Principle 3

Title Insurance Contract Features

Aleatory- The outcome of the contract is dependent upon an uncertain event (we will give you money if your house burns down) The timing of the event must be uncertain.

Adhesion- A unilateral contract (take it or leave it)

Conditional- The obligations of a contract are subject to the occurrence of an event, (IE the payment of a claim is subject to the loss suffered by the insured.)



Basic Principle 4

Insurance Vocabulary

Risk- The danger or hazard of a loss

Exposure- The level of risk

Hazard- Probability that a loss may happen

Peril- a naturally occurring event

Loss- whatever is destroyed ruined or given up in an event

Insurance companies deal with risk in the following ways: Retention (Acceptance of some losses), Transfer (Moving risk to another party) , Sharing (losses are paid by a group of policy holders), **Reduction** (measures to reduce frequency & severity of loss), **Avoidance** (removing hazards & ending specific exposure).



Order No. 20039036

WARRANTY DEED

LAVAR SPENCER AND MARY LYNNE SPENCER, HUSBAND AND WIFE AS JOINT TENANTS

of KAYSVILLE
State of UTAH

, County of DAVIS

GRANTOR

hereby CONVEY(S) AND WARRANT(S) to
AND MICHELLE HODGSON, HUSBAND AND WIFE AS JOINT TENANTS

TUCKER HODGSON

Grantor (seller) Conveys and Warrants to Grantee (buyer)

1. The grantor lawfully owns fee simple title to and has the right to immediate possession of the premises;
2. The grantor has good right to convey the premises;
3. The grantor guarantees the grantee, the grantee's heirs, and assigns in the quiet possession of the premises;
4. The premises are free from all encumbrances
5. The grantor, the grantor's heirs, and personal representatives will forever warrant and defend the title of the premises in the grantee, the grantee's heirs, and assigns against all lawful claims whatsoever.

www.le.utah.gov/xcode/Title57/Chapter1/57-1-S12.html

Deed of Trust Covenants

LOAN #: 5656147

BORROWER COVENANTS That Borrower is **lawfully seised** of the estate hereby conveyed and **has the right to grant, convey and warrant** the Property and that **the Property is unencumbered**, except for encumbrances of record. Borrower further **warrants and will defend generally the title to the Property against all claims and demands**, subject to any encumbrances of record.



Deed of Trust Covenants

LOAN #: 5656147

of the Property; (iii) conveyance in lieu of condemnation; or (iv) misrepresentations of, or omissions as to, the value and/or condition of the Property.
(O) "Mortgage Insurance" means insurance protecting Lender against the nonpayment of, or default on, the Loan.

TRANSFER OF RIGHT IN THE PROPERTY

The beneficiary of this Security Instrument is MERS (solely as nominee or Lender and Lender's successors and assigns) and the successors and assigns of MERS. **This Security Instrument secures to Lender: (i) the repayment of the Loan**, and all renewals, extensions and modifications of the Note; and **(ii) the performance of Borrower's covenants and agreements under this Security Instrument and Note.** For this purpose, Borrower irrevocably grants, conveys and warrants to Trustee, in trust, with power of sale the following describe property in the County of...



Deed of Trust Covenants

LOAN #: 5656147

of the Property; (iii) conveyance in lieu of condemnation; or (iv) misrepresentations of, or omissions as to, the value and/or condition of the Property.
(O) "Mortgage Insurance" means insurance protecting Lender against the nonpayment of, or default on, the Loan.

TRANSFER OF RIGHT IN THE PROPERTY

The beneficiary of this Security Instrument is MERS (solely as nominee or Lender and Lender's successors and assigns) and the successors and assigns of MERS. This Security Instrument secures to Lender: (i) the repayment of the Loan, and all renewals, extensions and modifications of the Note; and (ii) the performance of Borrower's covenants and agreements under this Security Instrument and Note. For this purpose, **Borrower irrevocably grants, conveys and warrants to Trustee, in trust, with power of sale the following describe property** in the County of...



Warranty Deed (Seller) vs. Trust Deed (Borrower)

Warranty Deed Covenants

1. **Against Encumbrances**-A claim, lien, charge, or liability attached to and binding a real property
2. **Good Title**-The property is clear of all encumbrances
3. **Quiet Enjoyment**-Covenant to the grantee that they shall enjoy possession of the property without disturbance caused by defective title.
4. **Right to Convey**-the grantee has legal right to convey the property.
5. **Covenant of Fee Simple Title** with a right to possession of the property (Seisin)

Trust Deed Covenants

1. The property is unencumbered, except for encumbrances of record
2. Borrower warrants and will defend generally the title to the property against all claims and demands
3. Has the right to grant and convey
4. Borrower is lawfully siezed

***NO Quiet enjoyment**

Title Insurance Types



Grantor Covenants with Warranty Deed

1. Against Encumbrances
2. Good Title
3. Quiet Enjoyment
4. Right to Convey
5. Covenant of Fee Simple Title



Borrower Covenants made with Deed of Trust

1. Against Encumbrances
2. Good Title
3. Right to Convey
4. Covenant of Fee Simple Title

There are several types of owner's & lender's policies, each with specific coverages & exclusions



HOMEOWNER'S POLICY OF TITLE INSURANCE

For a one-to-four family residence

ISSUED BY: **ALLIANT NATIONAL TITLE INSURANCE COMPANY**

POLICY NUMBER:

OWNER'S INFORMATION SHEET

Your Title Insurance Policy is a legal contract between You and Us.

It applies only to a one-to-four family residence and only if each insured named in Schedule A is a Natural Person. If the Land described in Schedule A of the Policy is not an improved residential lot on which there is located a one-to-four family residence, or if each insured named in Schedule A is not a Natural Person, contact Us immediately.

The Policy insures You against actual loss resulting from certain Covered Risks. These Covered Risks are listed beginning on page 3 of the Policy. The Policy is limited by:

- Provisions of Schedule A.
- Exceptions in Schedule B
- Our Duty To Defend Against Legal Actions On Page 4
- Exclusions on page 5
- Conditions on pages 5 and 6.

You should keep the Policy even if You transfer Your Title to the Land. It may protect against claims made against You by someone else after You transfer Your Title.

IF YOU WANT TO MAKE A CLAIM, SEE SECTION 3 UNDER CONDITIONS ON PAGE 5.

The premium for this Policy is paid once. No additional premium is owed for the Policy.

This sheet is not Your insurance Policy. It is only a brief outline of some of the important Policy features. The Policy explains in detail Your rights and obligations and Our rights and obligations. Since the Policy--and not this sheet--is the legal document,

YOU SHOULD READ THE POLICY VERY CAREFULLY.

If You have any questions about Your Policy, contact:

ALLIANT NATIONAL TITLE INSURANCE COMPANY
1831 Lefthand Circle, Suite G
Longmont, CO 80501





Owner's Policy Types

1. Standard or Basic Owner's Policy

1	Someone else owns an interest in your title	X
2	A document is not properly signed	X
3	Forgery, Fraud, Duress	X
4	Defective recording of any document	X
5	There are restrictive covenants	X
6	There is a lien on your title because there is: a) a deed of trust, b) a judgment tax of special assessment, c) a charge by the Homeowners Association	X
7	Title is unmarketable	X

- Available for Commercial & Residential Transactions (underwriter approval necessary in some cases.)
- **Default policy for land, new construction, metes and bounds parcels.**
- Standard Exceptions (1-8) are not deleted (off record risks).
- Mechanic Lien coverage not included.

Land REPC

 **REAL ESTATE PURCHASE CONTRACT FOR LAND** 
This is a legally binding contract. If you desire legal or tax advice, consult your attorney or tax advisor.
EARNEST MONEY RECEIPT

Buyer _____ offers to purchase the Property described below and hereby delivers to the Brokerage, as Earnest Money, the amount of \$ _____ in the form of _____ which, upon Acceptance of this offer by all parties (as defined in Section 23), shall be deposited in accordance with state law.

Received by: _____ on _____ (Date)
(Signature of agent/broker acknowledges receipt of Earnest Money)

6. TITLE INSURANCE. At Settlement, Seller agrees to pay for a **standard-coverage owner's policy of title insurance** insuring Buyer in the amount of the Purchase Price. **Any additional title insurance coverage shall be at Buyer's expense.**

required by this Contract, by the Lender, by written escrow instructions or by applicable law, (b) any monies required to be paid by Buyer under these documents (except for the proceeds of any new loan) have been delivered by Buyer to Seller or to the escrow/closing office in the form of collected or cleared funds; and (c) any monies required to be paid by Seller under these documents have been delivered by Seller to Buyer or to the escrow/closing office in the form of collected or cleared funds. Seller and Buyer shall each pay one-half (½) of the fee charged by the escrow/closing office for its services in the settlement/closing process. Taxes and assessments for the current year, rents, and interest on assumed obligations shall be prorated at Settlement as set forth in this Section. Prorations set forth in this Section shall be made as of the Settlement Deadline date referenced in Section 24(c), unless otherwise agreed to in writing by the parties. Such writing could include the settlement statement. The transaction will be considered closed when Settlement has been completed, and when all of the following have been completed: (i) the proceeds of any new loan have been delivered by the Lender to Seller or to the escrow/closing office; and (ii) the applicable Closing documents have been recorded in the office of the county recorder. The actions described in parts (i) and (ii) of the preceding sentence shall be completed within four calendar days of Settlement.

4. POSSESSION. Seller shall deliver physical possession to Buyer within: Upon Closing Other (specify) _____

Page 1 of 5 pages Seller's Initials _____ Date _____ Buyer's Initials _____ Date _____

New Construction REPC

REAL ESTATE PURCHASE CONTRACT FOR RESIDENTIAL CONSTRUCTION

6. TITLE INSURANCE. Unless Buyer owns the Lot on the date of Acceptance Seller agrees to pay at Settlement for a **standard-coverage owner's policy of title insurance** insuring Buyer in the amount of the Purchase Price. Buyer acknowledges **that additional title insurance coverage against mechanic's liens may be available, at Buyer's expense**, through an extended coverage or plain language title policy. Buyer is advised to consult with a title insurance company during Buyer's Evaluations & Inspections regarding the availability and cost of such coverage.

Settlement vs. Closing Commercial



Utah Association
of REALTORS®

COMMERCIAL REAL ESTATE PURCHASE CONTRACT



This is a legally binding contract. It has been prepared by the Utah Association of REALTORS® for the use of its members only, in their transactions with clients and customers. Parties to this Commercial Real Estate Contract ("Contract") may agree, in writing, to alter or delete provisions of this Contract. Seek advice from your attorney or tax advisor before entering into a binding contract.

EARNEST MONEY RECEIPT

pay one-half (1/2) of the fee charged by the escrow/closing office for its services in the settlement/closing process. Taxes and assessments for the current year, rents, and interest on assumed obligations shall be prorated at Settlement as set forth in this Section. Tenant deposits (including, but not limited to, security deposits and prepaid rents) shall be paid or credited by Seller to Buyer at Settlement. Prorations set forth in this Section shall be made as of the Settlement Deadline date referenced in Section 24(c), unless otherwise agreed to in writing by the parties. Such writing could include the settlement statement. For purposes of this Contract, "Closing" means that: (i) Settlement has been completed; (ii) the proceeds of any new loan have been delivered by the lender to Seller or to the escrow/closing office; and (iii) the applicable Closing documents have been recorded in the office of the county recorder.

6. TITLE TO PROPERTY & TITLE INSURANCE.

(a) Seller represents that Seller has fee simple title to the Property and will convey good and marketable title to Buyer at Closing by: **GENERAL WARRANTY DEED** **SPECIAL WARRANTY DEED**, free of financial encumbrances except as provided under *Section 10.1*.

(b) At Settlement, Seller agrees to pay for a **standard-coverage owner's policy of title insurance** insuring Buyer in the amount of the Purchase Price. The title policy shall conform with Seller's obligations under *Section 10.1* and with the *Commitment for Title Insurance* as agreed to by Buyer under *Section 8*.

(c) **BUYER ELECTS TO OBTAIN A FULL-COVERAGE EXTENDED ALTA POLICY OF TITLE INSURANCE.** The cost of this coverage (**including the ALTA survey**), above that of the standard-coverage Owner's policy, shall be paid for at Settlement by: **BUYER** **SELLER** **OTHER** _____.

(a) Buyer and Seller have signed and delivered to each other or to the escrow/closing office all documents required by this Contract, by the lender, by written escrow instructions or by applicable law; (b) any monies required to be paid by Buyer under these documents (except for the proceeds of any new loan) have been delivered by Buyer to Seller or to the escrow/closing office in the form of collected or cleared funds; and (c) any monies required to be paid by Seller under these documents have been delivered by Seller to Buyer or to the escrow/closing office in the form of collected or cleared funds. Seller and Buyer shall each

Page 1 of 6

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

(c) **IS** **IS NOT** conditioned upon Buyer's approval of a survey of the Property by a licensed surveyor ("Survey").
(d) **IS** **IS NOT** conditioned upon Buyer's approval of applicable federal, state and local governmental laws, ordinances and regulations affecting the Property; and any applicable deed restrictions and/or CC&R's (covenants, conditions and restrictions) affecting the Property;

Page 2 of 6

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

ALTA Extended Owner's Policy

Coverage		ALTA Standard	ALTA Extended Owner's
1	Someone else owns an interest in your title	X	X
2	A document is not properly signed	X	X
3	Forgery, Fraud, Duress	X	X
4	Defective recording of any document	X	X
5	There are restrictive covenants	X	X
6	There is a lien on your title because there is: a) a deed of trust, b) a judgment tax of special assessment, c) a charge by the Homeowners Association	X	X
7	Title is unmarketable	X	X
8	Mechanic's lien protection		X
9	Unrecorded liens by a homeowner's association		X
10	Unrecorded easements		X
11	Rights under unrecorded leases, contracts, or options		X

Things to remember

1. Underwriters Require an ALTA survey



ALTA Survey

- Minimum Standards for ALTA Surveys were first established in 1962
- ALTA specifies the data to be shown on the survey and this includes boundary lines, location of the main building including improvements, location of ancillary buildings, the identification of easements (access rights by service companies such as water, gas, telephone, railways and other utilities).

<http://www.landsurveyors.com/resources/definition-of-an-alta-survey/>

ALTA Extended Owner's Policy

Things to remember

1. Underwriters require an ALTA survey
2. The standard exceptions may be deleted
3. The cost is higher than a standard policy (usually ~150% of a standard policy)



Owner's Policy Types- ALTA Extended Owner's Policy

STANDARD EXCEPTIONS

1. Taxes or assessments which are not now payable or which are not shown as existing liens by the records of any taxing authority that levies taxes or assessment on real property or by the public records.
2. Any facts, rights, interest, or claims which are not shown by the public records but which could be ascertained by an inspection of said land or by making inquiry of persons in possession, or claiming to be in possession, thereof.
3. Easements, liens, encumbrances, or claims of easements, liens or encumbrances which are not shown by the public records.
4. Discrepancies, conflicts in boundary lines, shortage in area, encroachments, or any other facts which a correct survey would disclose, and which are not shown by the public records.
5. Unpatented mining claims, reservations or exceptions in patents or in acts authorizing the issuance thereof, Indian treaty or aboriginal rights, including, but not limited to, easements or equitable servitudes, water rights, or claims or title to water.
6. Any lien, or right to a lien, for services, labor or material theretofore or hereafter furnished, imposed by law and not shown by the public records.
7. Any service, installation, connection, maintenance, or construction charges for sewer, water, electricity, or garbage.
8. Any adverse claim based upon the assertion that (a) Some portion of the land forms the bed or bank of a navigable river or lake, or lies below the mean high water mark thereof; (b) The boundary of the land has been affected by a change in the course or water level of a navigable river or lake; (c) The land is subject to water rights, claims or title to water and to any law or governmental regulation pertaining to wetlands.

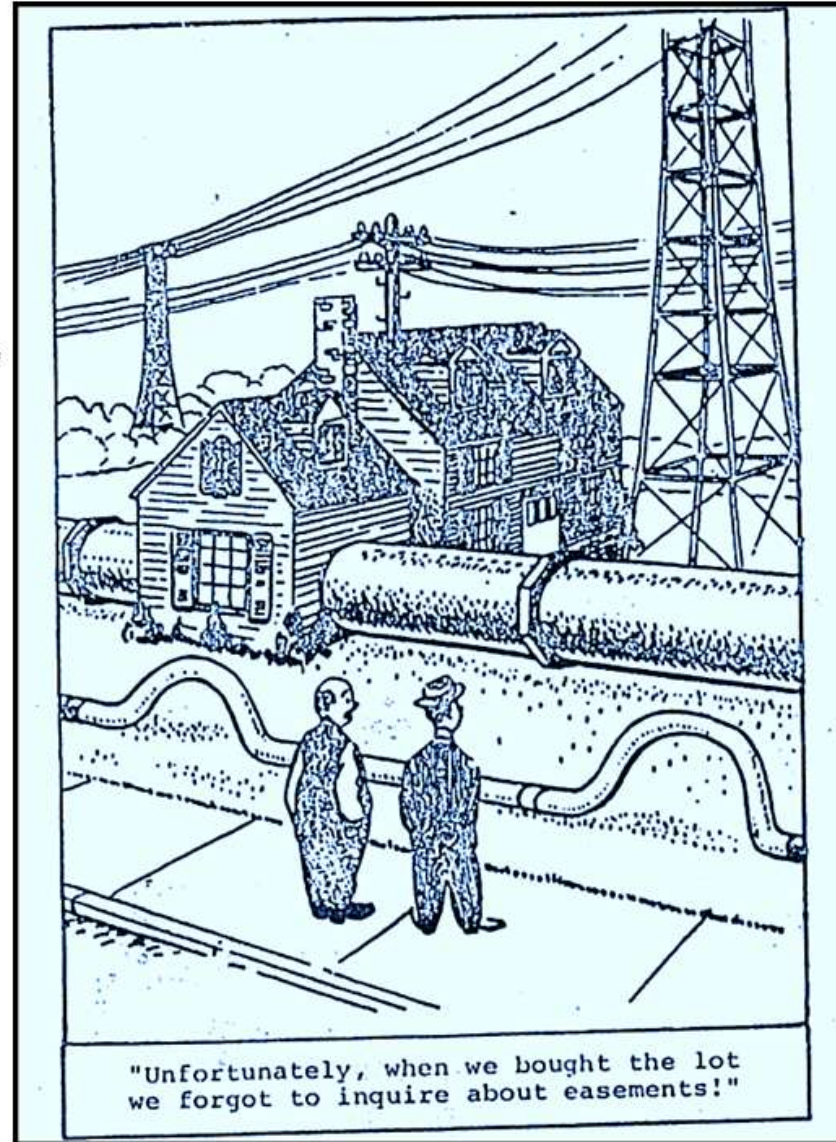
1. Taxes or assessments which are **not** now payable or which are **not** shown as existing liens by the records of any taxing authority that levies taxes or assessment on real property or by the public records.



2. Any facts, rights, interest, or claims which are not shown by the public records but **which could be ascertained by an inspection of said land** or by making inquiry of persons in possession, or claiming to be in possession, thereof.



3. Easements,
liens,
encumbrances, or
claims of
easements, liens
or encumbrances
which are not
shown by the
public records.



4. Discrepancies, conflicts in boundary lines, shortage in area, encroachments, or any other facts **which a correct survey would disclose**, and which are not shown by the public records.



5. **Unpatented mining claims**, reservations or exceptions in patents or in acts authorizing the issuance thereof, Indian treaty or aboriginal rights, including, but not limited to, easements or equitable servitudes, water rights, or claims or title to water.



6. Any lien, or right to a lien, for services, labor or material theretofore or hereafter furnished, imposed by law and not shown by the public records.



7. Any service, installation, connection, maintenance, or construction charges for sewer, water, electricity, or garbage.



8. Any adverse claim based upon the assertion that (a) Some portion of the land forms the bed or bank of a navigable river or lake, or lies below the mean high water mark thereof; (b) The boundary of the land has been affected by a change in the course or water level of a navigable river or lake; (c) The land is subject to water rights, claims or title to water and to any law or governmental regulation pertaining to **wetlands**.



Homeowner's Policy

REAL ESTATE PURCHASE CONTRACT

This is a legally binding Real Estate Purchase Contract ("REPC"). Utah law requires real estate licensees to use this form. Buyer and Seller, however, may agree to alter or delete its provisions or to use a different form. If you desire legal or tax advice, consult your attorney or tax advisor.

EARNEST MONEY DEPOSIT

On this _____ day of _____, 20____ ("Offer Reference Date") _____ ("Buyer") offers to purchase from _____ ("Seller") the Property described below and agrees to deliver no later than four (4) calendar days after Acceptance (as defined in Section 23), an Earnest Money Deposit in the amount of \$_____ in the form of_____. After Acceptance of the REPC by Buyer and Seller, and receipt of the Earnest Money by the Brokerage, the Brokerage shall have four (4) calendar days in which to deposit the Earnest Money into the Brokerage Real Estate Trust Account.

OFFER TO PURCHASE

1. **PROPERTY:** _____
City of _____, County of _____, State of Utah, Zip _____, Tax ID No. _____
(the "Property"). Any reference below to the term "Property" shall include the Property described above, together with the Included Items and water rights/water shares, if any, referenced in Sections 1.1, 1.2 and 1.4.

1.1 **Included Items.** Unless excluded herein, this sale includes the following items if presently owned and in place on the Property: plumbing, heating, air conditioning fixtures and equipment; solar panels; ovens, ranges and hoods; cook tops; dishwashers; ceiling fans; water heaters; water softeners; light fixtures and bulbs; bathroom fixtures and bathroom mirrors; all window coverings including curtains, draperies, rods, window blinds and shutters; window and door screens; storm doors and windows; awnings; satellite dishes; all installed TV mounting brackets; all wall and ceiling mounted speakers; affixed carpets; automatic garage door openers and accompanying transmitters; security system; fencing and any landscaping.

1.2 **Other Included Items.** The following items that are presently owned and in place on the Property have been left for the convenience of the parties and are also included in this sale (check applicable box): washers dryers refrigerators microwave ovens other (specify) _____

The above checked items shall be conveyed to Buyer under separate bill of sale with warranties as to title. In addition to any boxes checked in this Section 1.2 above, there ARE ARE NOT additional items of personal property Buyer intends to acquire from Seller at Closing by separate written agreement.

1.3 **Excluded Items.** The following items are excluded from this sale: _____

1.4 **Water Service.** The Purchase Price for the Property shall include all water rights/water shares, if any, that are the legal source for Seller's current culinary water service and irrigation water service, if any, to the Property. The water rights/water shares will be conveyed or otherwise transferred to Buyer at Closing by applicable deed or legal instruments. The following water rights/water shares, if applicable, are specifically excluded from this sale: _____

2. PURCHASE PRICE.

2.1 **Payment of Purchase Price.** The Purchase Price for the Property is \$ _____. Except as provided in this Section, the Purchase Price shall be paid as provided in Sections 2.1(a) through 2.1(e) below. Any amounts shown in Sections 2.1(c) and 2.1(e) may be adjusted as deemed necessary by Buyer and the Lender (the "Lender").

\$ _____ (a) **Earnest Money Deposit.** Under certain conditions described in the REPC, this deposit may become totally non-refundable.

\$ _____ (b) **Additional Earnest Money Deposit** (see Section 8.4 if applicable)

\$ _____ (c) **New Loan.** Buyer may apply for mortgage loan financing (the "Loan") on terms acceptable to Buyer. If an FHAVA loan applies, see attached FHAVA Loan Addendum.

\$ _____ (d) **Seller Financing** (see attached Seller Financing Addendum)

\$ _____ (e) **Balance of Purchase Price in Cash at Settlement**

\$ _____ **PURCHASE PRICE. Total of lines (a) through (e)**

2.2 **Sale of Buyer's Property.** Buyer's ability to purchase the Property, to obtain the Loan referenced in Section 2.1(c) above, and/or any portion of the cash referenced in Section 2.1(e) above IS IS NOT conditioned upon the sale of real estate owned by Buyer. If checked in the affirmative, the terms of the attached subject to sale of Buyer's property addendum apply.

3. SETTLEMENT AND CLOSING.

3.1 **Settlement.** Settlement shall take place no later than the Settlement Deadline referenced in Section 24(d), or as otherwise mutually agreed by Buyer and Seller in writing. "Settlement" shall occur only when all of the following have been completed: (a) Buyer and Seller have signed

Page 1 of 6 pages Buyer's Initials _____ Date _____ Seller's Initials _____ Date _____

6.2 Title Insurance. At Settlement, Seller agrees to pay for and cause to be issued in favor of Buyer, through the title insurance agency that issued the Commitment (the "Issuing Agent"), **the most current version of the ALTA Homeowner's Policy of Title Insurance** (the "Homeowner's Policy"). If the Homeowner's Policy is not available through the Issuing Agent, Buyer and Seller further agree as follows: (a) Seller agrees to pay for the Homeowner's Policy if available through any other title insurance agency selected by Buyer; (b) if the *Homeowner's Policy* is not available either through the Issuing Agent or any other title insurance agency, then Seller agrees to pay for, and Buyer agrees to accept, the most current available version of an *ALTA Owner's Policy of Title Insurance* ("Standard Coverage Owner's Policy") available through the Issuing Agent.

Owner's Policy Comparison*

Coverage		ALTA basic	ALTA Extended Owner's	ALTA Home owner's
1	Someone else owns an interest in your title	X	X	X
2	A document is not properly signed	X	X	X
3	Forgery, Fraud, Duress	X	X	X
4	Defective recording of any document	X	X	X
5	There are restrictive covenants	X	X	X
6	There is a lien on your title because there is: a) a deed of trust, b) a judgment tax of special assessment, c) a charge by the Homeowners Association	X	X	X
7	Title is unmarketable	X	X	X
8	Mechanic's lien protection		X	X
9	Unrecorded liens by a homeowner's association		X	X
10	Unrecorded easements		X	X
11	Rights under unrecorded leases, contracts, or options		X	X
12	Forced removal of a structure because it: a) extends onto other land or onto an easement, b) violates a restriction in schedule B, c) violates existing zoning law*			X
13	Can't use land for SFD because the use violates a restriction in schedule B or Zoning			X
14	Pays rent for substitute land or facilities			X
15	Plain Language			X
16	Building permit violations*			X
17	Compliance with Subdivision Map Act*			X
18	Restrictive covenant violations			X
19	Post Policy forgery			X
20	Post Policy encroachment			X
21	Post Policy damage from mineral/water extraction			X
22	Post Policy living trust coverage			X
23	Enhanced Access- Vehicular & Pedestrian			X
24	Map not consistent with legal description			X
25	Post Policy automatic increase in value up to 150%			X
26	Post Policy adverse possession			X
27	Post Policy cloud on title			X
28	Post Policy prescriptive easement resulting in reversion			X
29	Covenant violation resulting in reversion			X
30	Boundary walls and fence encroachment*			X
31	Enhanced marketability			X
32	Violations of building setbacks			X
33	Discriminatory covenants			X
34	Insurance coverage forever			X

*Subject to a deductible

Coverage		ALTA basic	ALTA Extended Owner's	ALTA Home- owner's
1	Someone else owns an interest in your title	X	X	X
2	A document is not properly signed	X	X	X
3	Forgery, Fraud, Duress	X	X	X
4	Defective recording of any document	X	X	X
5	There are restrictive covenants	X	X	X
6	There is a lien on your title because there is: a) a deed of trust, b) a judgment tax of special assessment, c) a charge by the Homeowners Association	X	X	X
7	Title is unmarketable	X	X	X
8	Mechanic's lien protection		X	X
9	Unrecorded liens by a homeowner's association		X	X
10	Unrecorded easements		X	X
11	Rights under unrecorded leases, contracts, or options		X	X
12	Forced removal of a structure because it: a) extends onto other land or onto an easement, b) violates a restriction in schedule B, c) violates existing zoning law*			X
13	Can't use land for SFD because the use violates a restriction in schedule B or Zoning			X
14	Pays rent for substitute land or facilities			X

		ALTA basic	ALTA Extended Owner's	ALTA Home- owner's
15	Plain Language			X
16	Building permit violations*			X
17	Compliance with Subdivision Map Act*			X
18	Restrictive covenant violations			X
19	Post Policy forgery			X
20	Post Policy encroachment			X
21	Post Policy damage from mineral/water extraction			X
22	Post Policy living trust coverage			X
23	Enhanced Access- Vehicular & Pedestrian			X
24	Map not consistent with legal description			X
25	Post Policy automatic increase in value up to 150%			X
26	Post Policy adverse possession			X
27	Post Policy cloud on title			X
28	Post Policy prescriptive easement resulting in reversion			X
29	Covenant violation resulting in reversion			X
30	Boundary walls and fence encroachment*			X
31	Enhanced marketability			X
32	Violations of building setbacks			X
33	Discriminatory covenants			X
34	Insurance coverage forever			X

Highlighted Features in Homeowner's Policy*

- Post policy increase in value up to 150%
- Enhanced Access: Pedestrian and vehicular access
- Building permit violations
- Post policy living trust coverage
- Mechanic's lien protection

*Subject to a deductible and a maximum indemnity liability, which may be less than the policy amount

What is a Closing Protection Letter?

The lender's policy is issued as an indemnification related to borrower covenants and insures the lender's desired lien position. The policy is mainly provided to insure against defects and liens from the past. A lender's policy is only issued after a loan has funded and recorded and the effective date is based on when the deed of trust is recorded.

A CPL gives the insured extra coverage for events that may happen before, during and after settlement. While protection for the lender's begins after the securing document is recorded, coverage from the CPL becomes effective upon the delivery of the title commitment.

A CPL is also different because the underwriter insures the lender against actions of their title agency. Lenders request CPL's because the actions of a title agency prior to the issuing of the policy can affect the ability to enforce a lien. It is also true that some agency actions can also put a lender's funds at risk.

When the CPL is issued the underwriter backs up actions made by an individual title agent. Among other things, and subject to certain exclusions, the underwriter indemnifies against certain actions or inactions of its title agent, such as the following:

- 1- Fail to comply with a lender's written closing instructions
- 2- Fail to properly record documents
- 3- Act in a negligent or fraudulent way

Another Insurance Principal

How do insurance companies deal with risk?

1. Retention
2. Transfer
3. Sharing
4. Reduction
5. Avoidance

The role of Title in reducing & avoiding risk:

The title search is the how risk is discovered and evaluated. Two areas are evaluated in every title search; **the property & the people** or entities involved in the transaction. The results of the title search and the instructions for mitigating risk are detailed in the title commitment.





Identifying The Risk

The title search is the how risk is discovered and evaluated. It can be helpful to think about a title search as a search of two areas.

1. The Property- Title & document history
2. The People- Seller, buyer, former owners

Property Search

1. The County Recorder

- Abstract of Title
 1. Deed Record
 2. Lien Record
- Grantor/Grantee Index
- Liens and Leases
- Mining Claims
- Federal Tax Liens
- Judgment Index

2. Maps/Plats & Surveys

- Subdivision dedicated plat map
- Section or $\frac{1}{4}$ section maps
- City survey maps
- Surveys

Property Search

3. The County Treasurer

- Property taxes paid or due?

4. Tax & Service Districts

- Water
- Sewer
- Garbage
- Special assessments

5. Homeowners Associations

6. Google Earth/Satellite Maps

7. The State Construction Registry

People Search

8. The District Court

- 1) Civil Judgments
- 2) Divorce Proceeding
- 3) Criminal Judgments
- 4) Judgments from the State of Utah
 - ORS
 - State tax liens
- 5) Civil Proceedings
 - Probate
 - Competency
 - Quiet Title/Lis Pendens

9. The Bankruptcy Court

10. Business Entity Search

11. The Office of Foreign Assets Control (OFAC)

County Recorder Obligations

Keeping The County's Land Records Since 1870

The Recorder's Office accepts and records legal documents pertaining to real property transactions such as purchases, sales, financing, encumbrances, and other legal transfers of real property interests. It also maintains records of military discharges, federal tax liens, and judgments arising in the local and district courts for real property purposes. The office maintains cross referenced indexes to all documents recorded.

The Recorder is statutorily required to maintain a set of ownership maps called plats, which graphically delineate all the parcels of real property in the county, represented by their deed lines, and maintains indexes which show current ownership thereto, for the purpose of taxation under provisions of the Utah State Code Annotated. These records are open for public inspection, and copies of documents and/or plats are available in the office for a nominal fee.

Davis County Recorder

Information held at the County Recorder

Abstract of Title

1. Deed Record

2. Lien Record

Grantor/Grantee Index

Liens and Leases

Mining Claims

Plat Maps

Federal Tax Liens

Judgment Index



Abstracts

- A compilation of recorded documents that *may* affect real property
 - Sometimes called a property history or chain of title
- Generally, contains Vesting and Lien History
- Abstracted documents may or may not affect the property
 - You must analyze the document to know for sure



Interpreting the Abstract (Vesting Changes)

Common Documents that Change Property Ownership

1. Warranty Deed
2. Quit Claim Deed
3. Trustee's Deed
4. Personal Representatives Deed
5. Decrees



Interpreting the Abstract (Common Document Definitions)

- Deed of Trust
- Assignment
- Notice of Default
- Request for Notice
- Substitution of Trustee
- Assignment
- Reconveyance
- CCR's
- Plats

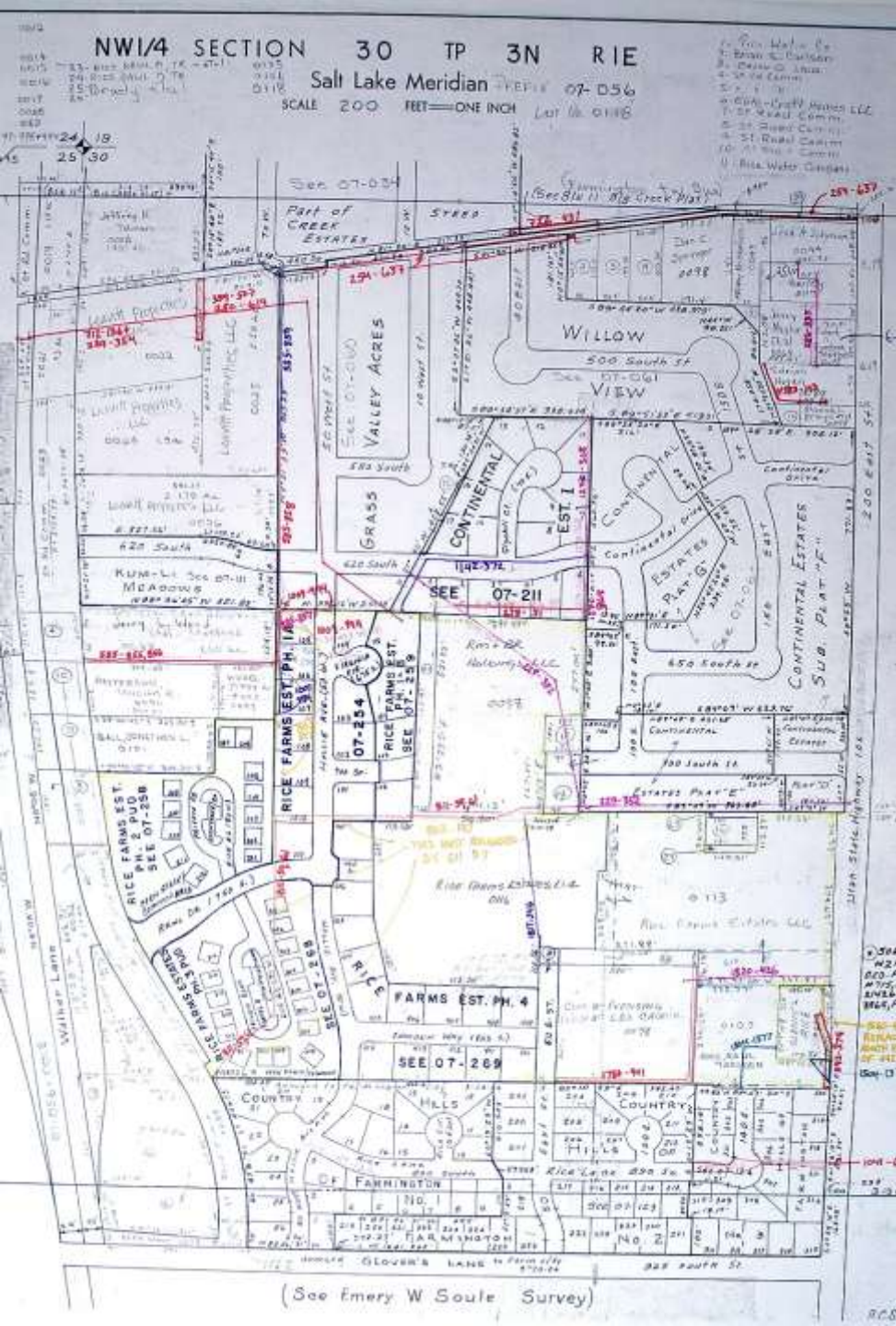


Interpreting the Abstract (Lien Information)

- Start at the most recent documents
- Look for document reference information (something that ties document together)
- Follow the “Chain” back
- After the document relationships are found the history will become more clear

The County Recorder

- The County Recorder is required to keep an index of documents recorded against individuals.
 - Grantor/Grantee Search
 - Federal Tax Liens
 - Judgments Index



Plat Maps

Reservations, Covenants, Restrictions, Easements, can be made using a plat map

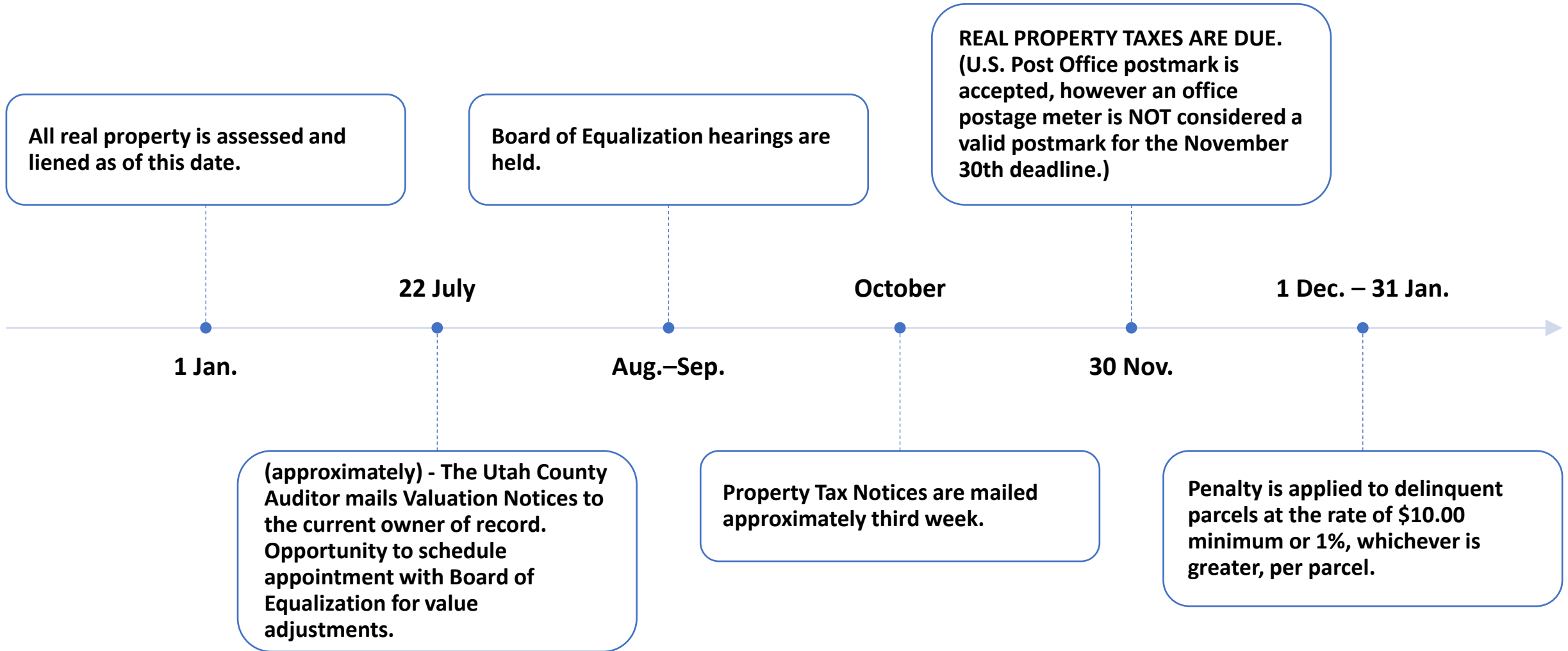
- The Section Map
- City Survey maps
- Individual Survey Maps
- Subdivision Maps



County Property Taxes

- Due November 30th
- Delinquent December 1st
- Up to January 31st are subject to a 2.5% or \$10 penalty (whichever is greater)
- Starting December 1st, the unpaid balance accrues interest at between 7-10% depending on formula (59-2-1331)

Timeline for Real Property Taxes





Tax and Service Districts

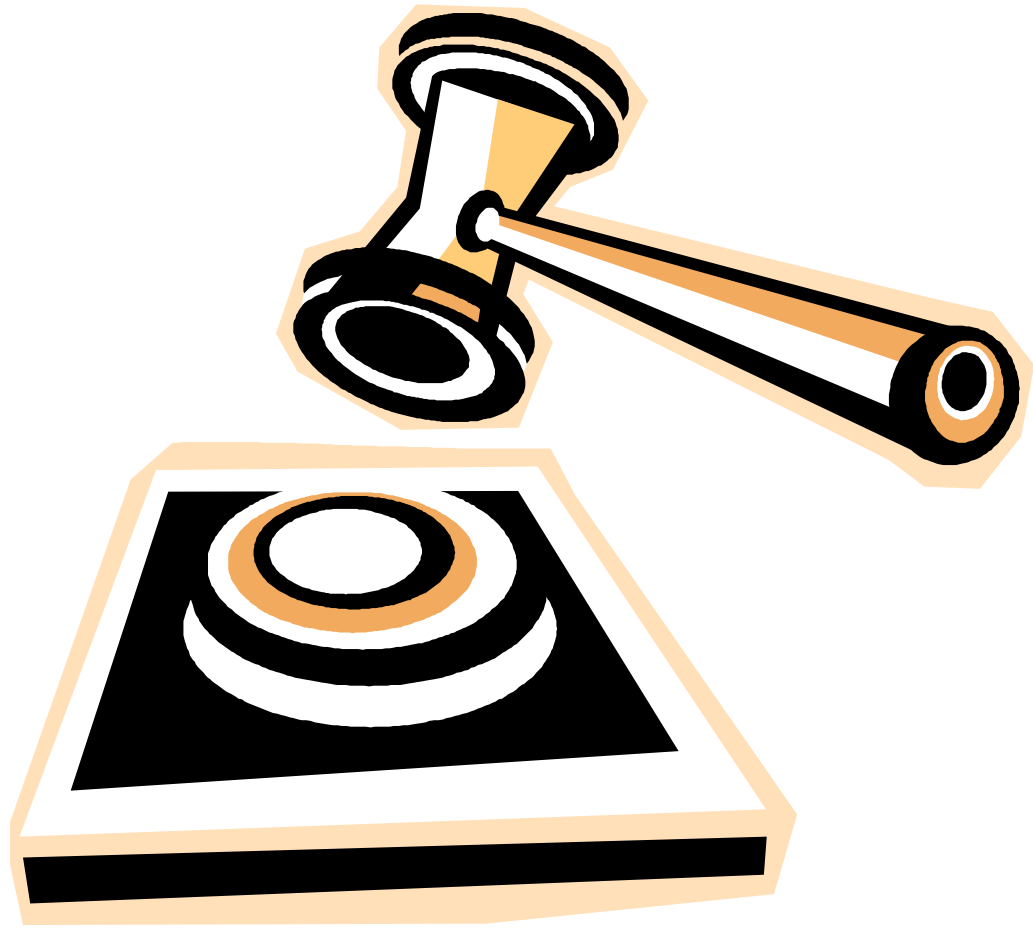
Water

Sewer

Garbage

Gas

The District Court



- Civil Judgments
- Divorce Proceedings
- Criminal Judgments
- State Judgments
 - ORS
 - State Tax Liens
- Civil Proceedings
 - Probate
 - Quiet Title
 - Competency



BANKRUPTCY

During a Bankruptcy, the debtor cannot sell, acquire or finance real property with approval from the trustee or the bankruptcy court

For Chapter 7

- Formal order from court
- An abandonment from the court for the real property

For Chapter 11 & 13

- An order from the court approving transaction and granting relief from the automatic stay (Takes longer can force payoff amounts and release liens)
- An abandonment (Does not release debt, but takes less time than a formal court order)



State Construction Registry

- Purpose: From www.scr.utah.gov, “provides general contractors ...with an easy access to a list of all parties that have provided goods, services and/or equipment to a project...and helps contractors minimize liability and risk.”

Order No.	NEWFILE			Searched by:	Tucker Hodgson		
File Type							
REFI	BUYSELL XXX		HEP	TSG	FR		PR Only
TYPE	1-4 FAM XXX	MULTI		COMM			
FA	ORT	AL XXX					
115 / 110 / BASIC 110							
Owners:	\$ 597,500	Fee:	\$ 2123				
Eagle / Expand / Extend Extended							
Lenders:	\$ 498500	Fee:	\$ 1304				
Effective Date	11/1/21	@	7:45 AM				
Judgment Search							
NAME				TO		SHOW	
Jim P. Jameson				Current		xxx	
Larry T. Guy				Current		xxx	
Melissa V. Guy				Current		xxx	
Vesting:	WD E#1604565					Fee / Eas. Fee	
Legal Desc:	WD E#1604565						
Address:	9608 South Military Drive, Bountiful, Utah 84010						
Parcel ID	475-2559-a402						
Tax Year:	2020	\$	2709.66	Paid/Sale/Due:	Paid	Greenbelt	
Imp. District:	5						

Easements					
Code:	EAS1	Purpose:	U&D	Affects:	Southwesterly 5 feet, Northeasterly 7 Feet
Code:		Purpose:		Affects:	
Code:		Purpose:		Affects:	
Code:		Purpose:		Affects:	
Code:		Purpose:		Affects:	
Code:		Purpose:		Affects:	
Covenants, Conditions, Restrictions					
Rec:		Entry:		BK/PG:	
Rec:		Entry:		BK/PG:	
Rec:		Entry:		BK/PG:	
Rec:		Entry:		BK/PG:	
Rec:		Entry:		BK/PG:	
Rec:		Entry:		BK/PG:	
B-1 Requirements					
B-2 Exceptions					
=SDMFRA 2911949					
Schedule C- Chain of Title					
None					
Other/Notes					



Compiling the Information- Title Commitment

Once the information has been gathered it is formatted and put together in a Title Commitment

The Title Commitment is organized into 5 distinct areas or schedules.

- Schedule “A”- Transaction & Property Basics
 - Legal Description
- Schedule “B”
 - Section 1 Requirements- Tasks necessary to issue clear title policy to buyer, or desired lien position to lender
 - Section 2 Exceptions- Items remaining on the property title, or exclusions from title insurance coverage
- Schedule “C”
 - Recent conveyances



When does a “PR” become a Title Commitment?



**ALTA COMMITMENT FOR TITLE INSURANCE
issued by
FIRST AMERICAN TITLE INSURANCE COMPANY**

NOTICE

IMPORTANT—READ CAREFULLY: THIS COMMITMENT IS AN OFFER TO ISSUE ONE OR MORE TITLE INSURANCE POLICIES. ALL CLAIMS OR REMEDIES SOUGHT AGAINST THE COMPANY INVOLVING THE CONTENT OF THIS COMMITMENT OR THE POLICY MUST BE BASED SOLELY IN CONTRACT.

THIS COMMITMENT IS NOT AN ABSTRACT OF TITLE, REPORT OF THE CONDITION OF TITLE, LEGAL OPINION, OPINION OF TITLE, OR OTHER REPRESENTATION OF THE STATUS OF TITLE. THE PROCEDURES USED BY THE COMPANY TO DETERMINE INSURABILITY OF THE TITLE, INCLUDING ANY SEARCH AND EXAMINATION, ARE PROPRIETARY TO THE COMPANY, WERE PERFORMED SOLELY FOR THE BENEFIT OF THE COMPANY, AND CREATE NO EXTRACTIONAL LIABILITY TO ANY PERSON, INCLUDING A PROPOSED INSURED.

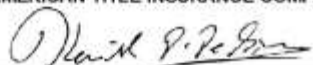
THE COMPANY'S OBLIGATION UNDER THIS COMMITMENT IS TO ISSUE A POLICY TO A PROPOSED INSURED IDENTIFIED IN SCHEDULE A IN ACCORDANCE WITH THE TERMS AND PROVISIONS OF THIS COMMITMENT. THE COMPANY HAS NO LIABILITY OR OBLIGATION INVOLVING THE CONTENT OF THIS COMMITMENT TO ANY OTHER PERSON.

COMMITMENT TO ISSUE POLICY

Subject to the Notice; Schedule B, Part I—Requirements; Schedule B, Part II—Exceptions; and the Commitment Conditions, First American Title Insurance Company, a Nebraska Corporation (the "Company"), commits to issue the Policy according to the terms and provisions of this Commitment. This Commitment is effective as of the Commitment Date shown in Schedule A for each Policy described in Schedule A, only when the Company has entered in Schedule A both the specified dollar amount as the Proposed Amount of Insurance and the name of the Proposed Insured.

If all of the Schedule B, Part I—Requirements have not been met within six months after the Commitment Date, this Commitment terminates and the Company's liability and obligation end.

FIRST AMERICAN TITLE INSURANCE COMPANY

By: 
Kenneth D. DeGiorgio, President

By: 
Lisa W. Cornelli, Secretary

Backman Title Services, Ltd.
7070 South Union Park Avenue, Suite 100
Midvale, UT 84047

BY: 
Authorized Countersignature

This page is only a part of a 2021 ALTA Commitment for Title Insurance[issued by First American Title Insurance Company]. This Commitment is not valid without the Notice; the Commitment to Issue Policy; the Commitment Conditions; Schedule A; Schedule B, Part I—Requirements; and Schedule B, Part II—Exceptions; and a counter-signature by the Company or its issuing agent that may be in electronic form).

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Commitment Date, any liability of the Company is limited by Commitment Condition 5. The Company is not liable for any other amendment to this Commitment.

5. LIMITATIONS OF LIABILITY

- a. The Company's liability under Commitment Condition 4 is limited to the Proposed Insured's actual expense incurred in the interval between the Company's delivery to the Proposed Insured of the Commitment and the delivery of the amended Commitment, resulting from the Proposed Insured's good faith reliance to:
 - i. comply with the Schedule B, Part I—Requirements;
 - ii. eliminate, with the Company's written consent, any Schedule B, Part II—Exceptions; or
 - iii. acquire the Title or create the Mortgage covered by this Commitment.
- b. The Company is not liable under Commitment Condition 5.a. if the Proposed Insured requested the amendment or had knowledge of the matter and did not notify the Company about it in writing.
- c. The Company is only liable under Commitment Condition 4 if the Proposed Insured would not have incurred the expense had the Commitment included the added matter when the Commitment was first delivered to the Proposed Insured.
- d. The Company's liability does not exceed the lesser of the Proposed Insured's actual expense incurred in good faith and described in Commitment Condition 5.a. or the Proposed Amount of Insurance.
- e. The Company is not liable for the content of the Transaction Identification Data, if any.
- f. The Company is not obligated to issue the Policy referred to in this Commitment unless all of the Schedule B, Part I—Requirements have been met to the satisfaction of the Company.
- g. The Company's liability is further limited by the terms and provisions of the Policy to be issued to the Proposed Insured.

6. LIABILITY OF THE COMPANY MUST BE BASED ON THIS COMMITMENT; CHOICE OF LAW AND CHOICE OF FORUM

- a. Only a Proposed Insured identified in Schedule A, and no other person, may make a claim under this Commitment.
- b. Any claim must be based in contract under the State law of the State where the Land is located and is restricted to the terms and provisions of this Commitment. Any litigation or other proceeding brought by the Proposed Insured against the Company must be filed only in a State or federal court having jurisdiction.
- c. This Commitment, as last revised, is the exclusive and entire agreement between the parties with respect to the subject matter of this Commitment and supersedes all prior commitment negotiations, representations, and proposals of any kind, whether written or oral, express or implied, relating to the subject matter of this Commitment.
- d. The deletion or modification of any Schedule B, Part II—Exception does not constitute an agreement or obligation to provide coverage beyond the terms and provisions of this Commitment or the Policy.
- e. Any amendment or endorsement to this Commitment must be in writing and authenticated by a person authorized by the Company.
- f. When the Policy is issued, all liability and obligation under this Commitment will end and the Company's only liability will be under the Policy.

7. IF THIS COMMITMENT IS ISSUED BY AN ISSUING AGENT

The issuing agent is the Company's agent only for the limited purpose of issuing title insurance commitments and policies. The issuing agent is not the Company's agent for closing, settlement, escrow, or any other purpose.

This page is only a part of a 2021 ALTA Commitment for Title Insurance[issued by First American Title Insurance Company]. This Commitment is not valid without the Notice; the Commitment to Issue Policy; the Commitment Conditions; Schedule A; Schedule B, Part I—Requirements; and Schedule B, Part II—Exceptions; and a counter-signature by the Company or its issuing agent that may be in electronic form).

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First American Title™



Backman Title Services

, authorized Agent

Commitment for Title Insurance
Utah - 2021 v. 01.00 (07-01-2021)

ALTA COMMITMENT FOR TITLE INSURANCE
issued by
FIRST AMERICAN TITLE INSURANCE COMPANY

NOTICE

IMPORTANT—READ CAREFULLY: THIS COMMITMENT IS AN OFFER TO ISSUE ONE OR MORE TITLE INSURANCE POLICIES. ALL CLAIMS OR REMEDIES SOUGHT AGAINST THE COMPANY INVOLVING THE CONTENT OF THIS COMMITMENT OR THE POLICY MUST BE BASED SOLELY IN CONTRACT.

THIS COMMITMENT IS NOT AN ABSTRACT OF TITLE, REPORT OF THE CONDITION OF TITLE, LEGAL OPINION, OPINION OF TITLE, OR OTHER REPRESENTATION OF THE STATUS OF TITLE. THE PROCEDURES USED BY THE COMPANY TO DETERMINE INSURABILITY OF THE TITLE, INCLUDING ANY SEARCH AND EXAMINATION, ARE PROPRIETARY TO THE COMPANY, WERE PERFORMED SOLELY FOR THE BENEFIT OF THE COMPANY, AND CREATE NO EXTRACONTRACTUAL LIABILITY TO ANY PERSON, INCLUDING A PROPOSED INSURED.

THE COMPANY'S OBLIGATION UNDER THIS COMMITMENT IS TO ISSUE A POLICY TO A PROPOSED INSURED IDENTIFIED IN SCHEDULE A IN ACCORDANCE WITH THE TERMS AND PROVISIONS OF THIS COMMITMENT. THE COMPANY HAS NO LIABILITY OR OBLIGATION INVOLVING THE CONTENT OF THIS COMMITMENT TO ANY OTHER PERSON.

Title Commitments

COMMITMENT TO ISSUE POLICY

Subject to the Notice; Schedule B, Part I—Requirements; Schedule B, Part II—Exceptions; and the Commitment Conditions, First American Title Insurance Company, a Nebraska Corporation (the “Company”), commits to issue the Policy according to the terms and provisions of this Commitment. This Commitment is effective as of the Commitment Date shown in Schedule A for each Policy described in Schedule A, only when the Company has entered in Schedule A both the specified dollar amount as the Proposed Amount of Insurance and the name of the Proposed Insured.

If all of the Schedule B, Part I—Requirements have not been met within six months after the Commitment Date, this Commitment terminates and the Company’s liability and obligation end.

Title Commitments

- 6. LIABILITY OF THE COMPANY MUST BE BASED ON THIS COMMITMENT; CHOICE OF LAW AND CHOICE OF FORUM**

 - a. Only a Proposed Insured identified in Schedule A, and no other person, may make a claim under this Commitment.
 - b. Any claim must be based in contract under the State law of the State where the Land is located and is restricted to the terms and provisions of this Commitment. Any litigation or other proceeding brought by the Proposed Insured against the Company must be filed only in a State or federal court having jurisdiction.
 - c. This Commitment, as last revised, is the exclusive and entire agreement between the parties with respect to the subject matter of this Commitment and supersedes all prior commitment negotiations, representations, and proposals of any kind, whether written or oral, express or implied, relating to the subject matter of this Commitment.
 - d. The deletion or modification of any Schedule B, Part II—Exception does not constitute an agreement or obligation to provide coverage beyond the terms and provisions of this Commitment or the Policy.
 - e. Any amendment or endorsement to this Commitment must be in writing and authenticated by a person authorized by the Company].
 - f. When the Policy is issued, all liability and obligation under this Commitment will end and the Company's only liability will be under the Policy.

- 7. IF THIS COMMITMENT IS ISSUED BY AN ISSUING AGENT**

The issuing agent is the Company's agent only for the limited purpose of issuing title insurance commitments and policies. The issuing agent is not the Company's agent for closing, settlement, escrow, or any other purpose.

- **Notice** - Abstract, Report, Legal Opinion or other Representation of the status of Title
- **Commitment to Issue Policy**



Transaction Identification Data, for which the Company assumes no liability as set forth in Commitment Condition 5.e.:

Issuing Agent: **Backman Title Services, Ltd.**

Issuing Agent License Number: **4426**

Issuing Office: **Bountiful**

Issuing Office's ALTA® Registry ID: **1071247**

Loan ID Number:

Issuing Office File Number: **6-100445**

Property Address: **787 East 575 South, Layton, UT 84041**

Revision Number: **2**

SCHEDULE A

1. Commitment Date: **3/18/2024 at 7:45 a.m.**
2. Policy to be issued:
 - a. 2021 ALTA® Homeowner Policy
Proposed Insured: **Benjamin Tolman and Robert Rapp**
Proposed Amount of Insurance: \$ **496,900.00**
 - b. 2021 ALTA® Loan Policy
Proposed Insured: **United Wholesale Mortgage, LLC ISAOA, ATIMA**
Proposed Amount of Insurance: \$ **397,520.00**
 - c. 2021 ALTA® Loan Policy
Proposed Insured:
Proposed Amount of Insurance: \$
3. The estate or interest in the Land at the Commitment Date is: **Fee Simple**
4. The Title is, at the Commitment Date, vested in:

Jacob Kunz and Lindsey Kunz, husband and wife as joint tenants
5. The Land is described as follows: **SEE ATTACHED LEGAL DESCRIPTION**

Statement of Charges

These charges are due and payable before a Policy can be issued.

Owner's Premium	\$2,465.00
Lender's Premium	\$1,272.00
9 Endorsement	\$25.00
22 Endorsement	\$10.00
8.1 Endorsement	\$25.00

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Title Commitment



Transaction Identification Data, for which the Company assumes no liability as set forth in Commitment Condition 5.e.:

Issuing Agent: **Backman Title Services, Ltd.**

Issuing Agent License Number: **4426**

Issuing Office: **Bountiful**

Issuing Office's ALTA® Registry ID: **1071247**

Loan ID Number:

Issuing Office File Number: **6-100445**

Property Address: **787 East 575 South, Layton, UT 84041**

Revision Number: **2**

SCHEDULE A

1. Commitment Date: **3/18/2024 at 7:45 a.m.**
2. Policy to be issued:
 - a. 2021 ALTA® Homeowner Policy
Proposed Insured: **Benjamin Tolman and Robert Rapp**
Proposed Amount of Insurance: **\$ 496,900.00**
 - b. 2021 ALTA® Loan Policy
Proposed Insured: **United Wholesale Mortgage, LLC (SAC) - ARMMA**
Proposed Amount of Insurance: **\$ 397,520.00**
 - c. 2021 ALTA® Loan Policy
Proposed Insured:
Proposed Amount of Insurance: \$
3. The estate or interest in the Land at the Commitment Date is: **Fee Simple**
4. The Title is, at the Commitment Date, **vested** in:

Jacob Kunz and Lindsey Kunz, husband and wife as joint tenants
5. The Land is described as follows: **SEE ATTACHED LEGAL DESCRIPTION**

Statement of Charges

These charges are due and payable before a Policy can be issued.

Owner's Premium	\$2,465.00
Lender's Premium	\$1,272.00
9 Endorsement	\$25.00
22 Endorsement	\$10.00
8.1 Endorsement	\$25.00

This page is only a part of a 2021 ALTA Commitment for Title Insurance[issued by First American Title Insurance Company]. This Commitment is not valid without the Notice; the Commitment to Issue Policy; the Commitment Conditions; Schedule A; Schedule B, Part I—Requirements;[and] Schedule B, Part II—Exceptions; and a counter-signature by the Company or its issuing agent that may be in electronic form].

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Title Commitment

- A specified dollar amount as Proposed Amount of Insurance



Transaction Identification Data, for which the Company assumes no liability as set forth in Commitment Condition 5.e.:

Issuing Agent: **Backman Title Services, Ltd.**

Issuing Agent License Number: **4426**

Issuing Office: **Bountiful**

Issuing Office's ALTA® Registry ID: **1071247**

Loan ID Number:

Issuing Office File Number: **6-100445**

Property Address: **787 East 575 South, Layton, UT 84041**

Revision Number: **2**

SCHEDULE A

1. Commitment Date: **3/18/2024 at 7:45 a.m.**
2. Policy to be issued:
 - a. 2021 ALTA® Homeowner Policy
Proposed Insured: **Benjamin Tolman and Robert Rapp**
Proposed Amount of Insurance: \$ **496,900.00**
 - b. 2021 ALTA® Loan Policy
Proposed Insured: **United Wholesale Mortgage, LLC ISAOA, ATIMA**
Proposed Amount of Insurance: \$ **397,520.00**
 - c. 2021 ALTA® Loan Policy
Proposed Insured:
Proposed Amount of Insurance: \$
3. The estate or interest in the Land at the Commitment Date is: **Fee Simple**
4. The Title is, at the Commitment Date, vested in:

Jacob Kunz and Lindsey Kunz, husband and wife as joint tenants
5. The Land is described as follows: **SEE ATTACHED LEGAL DESCRIPTION**

Statement of Charges

These charges are due and payable before a Policy can be issued.

Owner's Premium	\$2,465.00
Lender's Premium	\$1,272.00
9 Endorsement	\$25.00
22 Endorsement	\$10.00
8.1 Endorsement	\$25.00

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Title Commitment

• Schedule A includes Name/s of Proposed Insured



Transaction Identification Data, for which the Company assumes no liability as set forth in Commitment Condition 5.e.:

Issuing Agent: **Backman Title Services, Ltd.**

Issuing Agent License Number: **4426**

Issuing Office: **Bountiful**

Issuing Office's ALTA® Registry ID: **1071247**

Loan ID Number:

Issuing Office File Number: **6-100445**

Property Address: **787 East 575 South, Layton, UT 84041**

Revision Number: **2**

SCHEDULE A

1. Commitment Date: **3/18/2024 at 7:45 a.m.**
2. Policy to be issued:
 - a. 2021 ALTA® Homeowner Policy
Proposed Insured: **Benjamin Tolman and Robert Rapp**
Proposed Amount of Insurance: \$ **496,900.00**
 - b. 2021 ALTA® Loan Policy
Proposed Insured: **United Wholesale Mortgage, LLC ISAOA, ATIMA**
Proposed Amount of Insurance: \$ **397,520.00**
 - c. 2021 ALTA® Loan Policy
Proposed Insured:
Proposed Amount of Insurance: \$
3. The estate or interest in the Land at the Commitment Date is: **Fee Simple**
4. The Title is, at the Commitment Date, vested in:

Jacob Kunz and Lindsey Kunz, husband and wife as joint tenants
5. The Land is described as follows: **SEE ATTACHED LEGAL DESCRIPTION**

Statement of Charges

These charges are due and payable before a Policy can be issued.

Owner's Premium	\$2,465.00
Lender's Premium	\$1,272.00
9 Endorsement	\$25.00
22 Endorsement	\$10.00
8.1 Endorsement	\$25.00

This page is only a part of a 2021 ALTA Commitment for Title Insurance[issued by First American Title Insurance Company]. This Commitment is not valid without the Notice; the Commitment to Issue Policy; the Commitment Conditions; Schedule A; Schedule B, Part I—Requirements; [and] Schedule B, Part II—Exceptions; and a counter-signature by the Company or its issuing agent that may be in electronic form].

Title Commitment

Shelf Life



SCHEDULE A

Order Number: **NEWFILE (Revised #2)**

1. Effective date: **November 1, 2021 at 7:45 a.m.**

2. Policy or Policies to be issued:

(a) ALTA Owner's

ALTA 2010 HOMEOWNER'S POLICY

Amount of Insurance

\$597,500.00

Proposed Insured:

Larry T. Guy and Melissa V. Guy

(b) ALTA 2006 Loan

\$498,500.00

Proposed Insured:

Lender Professional, LLC

(c) ALTA Loan

\$

Proposed Insured:

Order Number

1. Effective

2. Policy or

(a) ALTA

Proposed

La

(b) ALTA

Proposed

Le

(c) ALTA

Proposed

3. The est

Fee Sin

4. Title to

Jim P.

5. The lan

SEE A

Purported A

9608 South

Bountiful, U

This page is on

Policy; the Com

Company or its

ALTA 2016 Cor

ANTIC #1346

Page 6 of 15

3. The estate or interest in the land described or referred to in this Commitment and covered herein is

Fee Simple

4. Title to the fee simple estate or interest in said land is at the effective date hereof vested in:

Jim P. Jameson, An unmarried man

5. The land referred to in this Commitment is in the State of Utah, County of **Davis** and is described as follows:

SEE ATTACHED LEGAL DESCRIPTION.

Purported Address:

**9608 South Military Drive
Bountiful, Utah 84010**

STATEMENT OF CHARGES

These charges are due and payable before a Policy can be issued.

Owners Premium (Reissue)	\$2,123.00
Lenders Premium	\$1,304.00
9 Endorsement	\$ 20.00
22 Endorsement	\$ 10.00
8.1 Endorsement	\$ 25.00

SCHEDULE A

Order Number: **NEWFILE**

LEGAL DESCRIPTION

Lot a402, Military Hills No. 3, according to the official plat thereof on file and of record in the office of the **Davis** County Recorder.

Parcel No.: **475-2559-a402**

SCHEDULE B – SECTION 1

Order Number: NEWFILE

REQUIREMENTS

The following are the requirements to be complied with:

Item (a) Payment to or for the account of the grantors or mortgagors of the full consideration for the estate or interest to be insured.

Item (b) Proper instrument(s) creating the estate or interest to be insured must be executed and duly filed for record. Written notification to the Company of anyone not referred to in this Commitment who will get an interest in the land or who will make a loan on the land is required. Any such interests may make this Commitment subject to additional requirements or exceptions as necessary.

TO-WIT:

NOTICE TO APPLICANT: The land covered herein may be serviced by districts, service companies and/or municipalities, which assess charges for water, sewer, electricity and any other utilities, etc. which are not covered by this Commitment or insured under a title insurance policy.

NOTE: If the applicant desires copies of the documents underlying any exception to coverage shown herein, the Company will furnish the same on request, if available, either with or without charge as appears appropriate.

NOTE: Any matter in dispute between you and the Company may be subject to arbitration as an alternative to court action pursuant to the Title Insurance Rules of the American Arbitration Association, a copy of which is available on request from the Company. Any decision reached by arbitration shall be binding upon both you and the Company. The arbitration award may include attorney's fees if allowed by state law and may be entered as a judgment in any court of proper jurisdiction.

1. OBTAIN AND RECORD a Warranty Deed from the vestees herein to the proposed insured.
2. OBTAIN AND RECORD a Trust Deed to secure your loan.
3. Upon compliance with the Company's underwriting requirements Items 1 – 8 on Schedule B-2 will be deleted on an ALTA Loan Policy and an Homeowners Policy.
4. PAYMENT of any taxes due and payable.
5. OBTAIN A RECONVEYANCE, EXECUTED BY THE TRUSTEE OF:
A Deed of Trust, and the terms and conditions thereof:
Stated Amount: \$198,402.00
Trustor(s): Jim P. Jameson, an unmarried man
Trustee: Inwest Title Services, Inc.
Beneficiary: Mortgage Electronic Registration Systems, Inc., acting solely as a nominee for Lender and Lender's successors and assigns
Lender: Caliber Home Loans, Inc.
Dated: January 15, 2013

This page is only a part of a 2016 ALTA® Commitment for Title Insurance. This Commitment is not valid without the Notice, the Commitment to Issue Policy, the Commitment Conditions, Schedule A, Schedule B, Part I-Requirements, and Schedule B, Part II-Exceptions, and a counter-signature by the Company or its issuing agent that may be in electronic form.



Schedule B - Section 1 Requirements-
Tasks necessary to issue clear title
policy to buyer, or desired lien position
to lender

SCHEDULE B – SECTION 1

Order Number: NEWFILE

REQUIREMENTS

The following are the requirements to be complied with:

Item (a) Payment to or for the account of the grantors or mortgagors of the full consideration for the estate or interest to be insured.

Item (b) Proper instrument(s) creating the estate or interest to be insured must be executed and duly filed for record. Written notification to the Company of anyone not referred to in this Commitment who will get an interest in the land or who will make a loan on the land is required. Any such interests may make this Commitment subject to additional requirements or exceptions as necessary.

TO-WIT:

NOTICE TO APPLICANT: The land covered herein may be serviced by districts, service companies and/or municipalities, which assess charges for water, sewer, electricity and any other utilities, etc. which are not covered

Schedule B - Section 1 Requirements-
Tasks necessary to issue clear title
policy to buyer, or desired lien position
to lender

1. OBTAIN AND RECORD a Warranty Deed from the vestees herein to the proposed insured.
2. OBTAIN AND RECORD a Trust Deed to secure your loan.
3. Upon compliance with the Company's underwriting requirements Items 1 – 8 on Schedule B-2 will be deleted on an ALTA Loan Policy and an Homeowners Policy.
4. PAYMENT of any taxes due and payable.

Beneficiary: Mortgage Electronic Registration Systems, Inc., acting solely as a nominee for Lender and Lender's successors and assigns
Lender: Caliber Home Loans, Inc.
Dated: January 15, 2013

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SCHEDULE B – SECTION 1

Order Number: NEWFILE

REQUIREMENTS

The following are the requirements to be complied with:

Item (a) Payment to or for the account of the grantors or mortgagors of the full consideration for the estate or interest to be insured.

Item (b) Proper instrument(s) creating the estate or interest to be insured must be executed and duly filed for record. Written notification to the Company of anyone not referred to in this Commitment who will get an interest in the land or who will make a loan on the land is required. Any such interests may make this Commitment subject to additional requirements or exceptions as necessary.

TO-WIT:

**Schedule B - Section 1 Requirements-
Tasks necessary to issue clear title
policy to buyer, or desired lien position
to lender**

**5. OBTAIN A RECONVEYANCE, EXECUTED BY THE TRUSTEE OF:
A Deed of Trust, and the terms and conditions thereof:**

Stated Amount: \$198,402.00

Trustor(s): Jim P. Jameson, an unmarried man

Trustee: Inwest Title Services, Inc.

**Beneficiary: Mortgage Electronic Registration Systems, Inc., acting solely as a nominee for
Lender and Lender's successors and assigns**

Lender: Caliber Home Loans, Inc.

Dated: January 15, 2013

Lender and Lender's successors and assigns
Lender: Caliber Home Loans, Inc.
Dated: January 15, 2013

This page is only a part of a 2016 ALTA® Commitment for Title Insurance. This Commitment is not valid without the Notice, the Commitment to Issue Policy, the Commitment Conditions, Schedule A, Schedule B, Part I-Requirements, and Schedule B, Part II-Exceptions, and a counter-signature by the Company or its issuing agent that may be in electronic form.



Schedule B - Section 1 Deductibles

Note: The owner's policy of title insurance committed to be issued will contain Deductible Amounts and Liability Limits relative to certain Covered Risks as follows:

- **Covered Risk 16** (Subdivision Law Violations) has a deductible of 1% of the Policy Amount shown in Schedule A or \$2,500 (whichever is less) and a Maximum Dollar Limit of Liability of \$10,000.
- **Covered Risk 18** (Building Permits) has a deductible of 1% of the Policy Amount shown in Schedule A or \$5,000 (whichever is less) and a Maximum Dollar Limit of Liability of \$25,000.
- **Covered Risk 19** (Zoning) has a deductible of 1% of the Policy Amount shown in Schedule A or \$5,000 (whichever is less) and a Maximum Dollar Limit of Liability of \$25,000.
- **Covered Risk 21** (Encroachment of Boundary Walls or Fences) has a deductible of 1% of the Policy Amount shown in Schedule A or \$2,500 (, whichever is less) and a Maximum Dollar Limit of Liability of \$5,000.

Schedule B-Section 1 also contains the name of the escrow officer

Your Order has been assigned to **Cougar Forrest** for full service escrow at **150 North Main, Suite 100, Bountiful, Utah 84010**. For any escrow/closing questions please call **(801) 295-7676**, or email backman.marketing@gmail.com

Please forward all electronic closing documents to loandocs@backmantitle.com

NOTE: The following names have been checked for Judgments, Federal Tax Liens and Bankruptcies.

Jim P. Jameson

Larry T. Guy

Melissa V. Guy

**Don't forget to make sure that everyone who is taking title has
been searched for judgments**

And the award for worst requirement...

- Survey Exception
- Federal Tax Lien
- Unreleased Deed of Trust from a private party or defunct bank
- Probate
- Interest in property from a deceased prior owner
- Boundary Line Discrepancy (Gap/Overlap)



EXCEPTIONS

The policy or policies to be issued will contain exceptions to the following unless the same are disposed of to the satisfaction of the Company:

1. Taxes or assessments which are not shown as existing liens by the records of any taxing authority that levies taxes or assessments on real property or by the public records. Proceedings by a public agency, which may result in taxes or assessments, or notices of such proceedings, whether or not shown by the records of such agency or by the public record.
2. Any facts, rights, interests or claims which are not shown by the public records, but which could be ascertained by an inspection of the land or by making inquiry of persons in possession thereof.
3. Easements, liens or encumbrances, or claims thereof, which are not shown by the public records.
4. Discrepancies, conflicts in boundary lines, shortage in area, encroachments, or any other facts which a correct survey would disclose, and which are not shown by the public records.
5. (a) Unpatented mining claims; (b) reservations or exceptions in patents, or Acts authorizing the issuance thereof; (c) water rights, claims or title to water.
6. Any lien, or right to a lien, for services, labor or material heretofore or hereafter furnished, imposed by law and not shown by the public records.
7. Any adverse claim based upon the assertion that (a) Some portion of the land forms the bed or bank of a navigable river or lake, or lies below the mean high water mark thereof; (b) The boundary of the land has been affected by a change in the course or water level of a navigable river or lake; (c) The land is subject to water rights, claims or title to water and to any law or governmental regulation pertaining to wetlands.
8. Defects, liens, encumbrances, adverse claims or other matters, if any, created, first appearing in the public records or attaching subsequent to the effective date hereof but prior to the date the proposed insured acquires of record for value the estate or interest or mortgage thereon covered by this Commitment.

Order Number: NEWFILE

The policy or policies to be satisfaction of the Company

1. Taxes or assessments w taxes or assessments on result in taxes or assess agency or by the public

2. Any facts, rights, intere by an inspection of the

3. Easements, liens or enc

4. Discrepancies, conflicts survey would disclose,

5. (a) Unpatented mining & thereof; (c) water rights

6. Any lien, or right to a li not shown by the public

7. Any adverse claim base navigable river or lake, affected by a change in rights, claims or title to

8. Defects, liens, encumbr records or attaching sub record for value the esta

9. Lien of taxes, delinquer
Year: 2
2021 Amount: 5
Parcel No.: 4
Prior year: 2

10. The land described here to any assessments levie

11. The land described here subject to any assessme

This page is only a part of a 2016 AL Policy; the Commitment Conditions, Company or its issuing agent that m

ALTA 2016 Commitment Schedules

ANTIC #1346 - Homeowner

Page 10 of 15

contains
coverage
policy

9. Lien of taxes, delinquent, if not paid:
Year: 2021
2021 Amount: \$2,709.66
Parcel No.: 475-2559-a402
Prior year: 2020 Paid

**Schedule B-Section 2 contains “permanent”
issues that effect the property title**

10. The land described herein is located within the boundaries of Davis County Taxing District No. 5, and is subject to any assessments levied thereby.
11. The land described herein is located within the boundaries of the Weber Basin Water District (771-1677), and is subject to any assessments levied thereby.
12. The land described herein is located within the boundaries of the Bountiful City District (298-6091), and is subject to any assessments levied thereby.
13. The land described herein is located within the boundaries of the South Davis Water District (295-4468), and is subject to any assessments levied thereby.
14. The land described herein is located within the boundaries of the South Davis Sewer District (295-3469), and is subject to any assessments levied thereby.

**Schedule B-Section 2 contains “permanent”
issues that effect the property title**

15. Easement, and the terms and conditions thereof:

Disclosed by: Plat of said subdivision
Purpose: Utilities, Drainage and Irrigation
Area Affected: Southwesterly 5 feet and Northeasterly 7 feet

16. The terms and conditions of that certain Certificate of Creation of the South Davis Metro Fire Service Area:

Recorded: December 23, 2015
Entry No.: 2911949
Book/Page: 6419/53

Schedule C contains any changes to the property ownership in the last 24 months

SCHEDULE C

Order Number: **NEWFILE**

Chain of Title

According to Official Records, there have been no documents conveying the land described herein within a period of 24 months prior to the date of this commitment, except as follows:

<u>Document Name</u>	<u>Recording Date</u>	<u>Entry No.</u>	<u>Book</u>	<u>Page</u>
NONE				

After the Commitment is issued - Other Title Duties

**Title Commitment is often referred to as
the Preliminary Title Report or PR**

- Verify & manage title clearing and curative requirements
- Handle recording package
- Issue title policies
- Claims



Settlement & Escrow are Fiduciary Roles

- Fiduciary- A manager entrusted to control property or to act on behalf of and for the benefit of another...or...One acting in a relationship of trust, regarding financial transactions

Definition of Escrow

1. Money or property held conditionally, an amount of money or property granted to somebody but held by a third party and only released after a specific condition has been met...or...
2. Delivery of a deed by a grantor to a third party for delivery to the grantee upon the happening of a contingent event.
3. In some states, all instruments necessary to the sale (including funds) are delivered to a third (neutral) party, with instructions at to their use.

The Purposes of Settlement & Escrow

1. Follow Written Instructions
2. Act as neutral party
3. Prepare Closing Documents
4. Conduct Settlement
5. Receive & Verify Funds
6. Deliver (record) Deed
7. Disburse Funds

From Backman's CE:

The Role of Settlement (Escrow) in reducing & avoiding risk:

Following instructions from the insurer, insured, the title report, the process of title clearing, instructions from the real estate purchase contract, lender instructions, delivery and receipt of good funds, and conducting settlement & closing.




Simile- From Wikipedia, the free encyclopedia

A **simile** ([/'sɪməli/](#)) is a [figure of speech](#) that directly *compares* two things.^{[1][2]} Although similes and [metaphors](#) are similar, similes explicitly use connecting words (such as *like, as, so, than,* or various verbs such as *resemble*),^[1] though these specific words are not always necessary.^[3] While similes are mainly used in forms of poetry that compare the inanimate and the living, there are also terms in which similes and personifications are used for humorous purposes and comparison.

<https://en.wikipedia.org/wiki/Simile>

Accessed August 22, 2017

A teal ceramic bowl is the central focus, resting on a light-colored wooden table. The background is softly blurred, showing a window with green foliage outside and a wooden chair. A white circular callout with a thin teal border is positioned in the upper left, containing text.

Instructions
are like
ingredients
in a recipe

If instructions are ingredients, does that mean
escrow officer is like a chef?



Not a good comparison!

A great Chef chooses
their own ingredients.

An escrow officer
depends on others
for ingredients.



How good are the instructions?



How good are the ingredients?

Settlement & Escrow

- Instructions as Ingredients
 - Title Report (people & property), Contract, Payoff/Lien Releases, Leases/Rental Agreements, Survey, Commission instructions, Net proceed instructions, IRS (1031 & 1099)

SCHEDULE A

Order Number: [Redacted] Revised #1)

1. Effective date: June 15, 2017 at 7:45 a.m.

2. Policy or Policies to be issued:
(a) ALTA Owner's ALTA 2010 HOMEOWNER'S POLICY \$ [Redacted] Sales Price/Policy Amt.

Proposed Insured:

[Redacted] Buyer

(b) ALTA 2006 Loan \$ [Redacted] Loan Amount/Policy Amt.

Proposed Insured:

[Redacted] Lender

(c) ALTA Loan \$

Proposed Insured:

3. The estate or interest in the land described or referred to in this Commitment and covered herein is

Fee Simple

4. Title to the fee simple estate or interest in said land is at the effective date hereof vested in:

[Redacted] Current Vested Owner

5. The land referred to in this Commitment is in the State of Utah, County of Davis and is described as follows:

SEE ATTACHED LEGAL DESCRIPTION.

Purported Address:

[Redacted] Property Address
Layton, Utah 84040

STATEMENT OF CHARGES

These charges are due and payable before a Policy can be issued.

Owners Premium	[Redacted] Cost of Owner's Policy
Lenders Premium	[Redacted] Cost of Lender's Policy
9 Endorsement	\$ 20.00
22 Endorsement	\$ 10.00
8.1 Endorsement	\$ 25.00

Instructions:

Preliminary Title Report

Schedule A

1. Summary of the property and insured parties in the transaction.
2. Effective Date
3. Parties to receive insurance
4. Policy Types/Costs
5. Vested Owner(s).

SCHEDULE A

Order Number: [REDACTED]

LEGAL DESCRIPTION

All of Lot [REDACTED] Subdivision, Unit 1, Layton City, Davis County, Utah, according to the official plat thereof.

Parcel No. [REDACTED]

Instructions: Preliminary Title Report

Schedule A

1. Legal description of the subject property.

SCHEDULE B – SECTION 1

Order Number:

REQUIREMENTS

The following are the requirements to be complied with:

Item (a) Payment to or for the account of the grantors or mortgagors of the full consideration for the estate or interest to be insured.

Item (b) Proper instrument(s) creating the estate or interest to be insured must be executed and duly filed for record. Written notification to the Company of anyone not referred to in this Commitment who will get an interest in the land or who will make a loan on the land is required. Any such interests may make this Commitment subject to additional requirements or exceptions as necessary.

TO-WIT:

NOTICE TO APPLICANT: The land covered herein may be serviced by districts, service companies and/or municipalities, which assess charges for water, sewer, electricity and any other utilities, etc. which are not covered by this Commitment or insured under a title insurance policy.

NOTE: If the applicant desires copies of the documents underlying any exception to coverage shown herein, the Company will furnish the same on request, if available, either with or without charge as appears appropriate.

NOTE: Any matter in dispute between you and the Company may be subject to arbitration as an alternative to court action pursuant to the Title Insurance Rules of the American Arbitration Association, a copy of which is available on request from the Company. Any decision reached by arbitration shall be binding upon both you and the Company. The arbitration award may include attorney's fees if allowed by state law and may be entered as a judgment in any court of proper jurisdiction.

1. OBTAIN AND RECORD a Warranty Deed from the vestees herein to the proposed insured

2. OBTAIN AND RECORD a Trust Deed to secure your loan.

3. Upon compliance with the Company's underwriting requirements Items 1 – 8 on Schedule B-2 will be deleted on an ALTA Loan Policy and an Homeowners Policy.

4. The Company may assist with but will not insure any transfer, right or title to water rights.

5. OBTAIN A RECONVEYANCE, EXECUTED BY THE TRUSTEE OF:

A Deed of Trust, and the terms and conditions thereof:

Stated Amount: \$

Trustor(s):

Trustee: Backman Title Services

Beneficiary: Mortgage Electronic Registration Systems, Inc., acting solely as a nominee for Lender and Lender's successors and assigns

Lender:

Dated: May 2015

Recorded: May 2015

Entry No.:

Book/Page:

Instructions: Preliminary Title Report

Schedule B-1

1. Requirements
 - To pass the clear title to the buyer
 - To secure the lender's loan in desired lien position

Note: The owner's policy of title insurance committed to be issued will contain Deductible Amounts and Liability Limits relative to certain Covered Risks as follows:

- Covered Risk 16 (Subdivision Law Violations) has a deductible of 1% of the Policy Amount shown in Schedule A or \$2,500 (whichever is less) and a Maximum Dollar Limit of Liability of \$10,000.
- Covered Risk 18 (Building Permits) has a deductible of 1% of the Policy Amount shown in Schedule A or \$5,000 (whichever is less) and a Maximum Dollar Limit of Liability of \$25,000.
- Covered Risk 19 (Zoning) has a deductible of 1% of the Policy Amount shown in Schedule A or \$5,000 (whichever is less) and a Maximum Dollar Limit of Liability of \$25,000.
- Covered Risk 21 (Encroachment of Boundary Walls or Fences) has a deductible of 1% of the Policy Amount shown in Schedule A or \$2,500 (, whichever is less) and a Maximum Dollar Limit of Liability of \$5,000.

Your Order has been assigned to **Escrow Officer** for full service escrow at 150 North Main, Suite 100, Bountiful, Utah 84010. For any escrow/closing questions please call (801) **phone** email

Escrow Officer Email

Please forward all electronic closing documents to loandocs@backmantitle.com

NOTE: The following names have been checked for Judgments, Federal Tax Liens and Bankruptcies.

- Seller
- Buyer
- Previous Property Owners

Instructions: Preliminary Title Report

Schedule B-1

1. Deductibles
2. Assigned escrow officer
3. List of individuals searched

Mortgage Payoffs are Escrow Instructions

What is an acceptable payoff?

- From Current Beneficiary
- In Writing
 - Verbal payoffs are never acceptable
 - Must have a good through date
 - Principal Amount
 - Per Diem (Preferably)
 - At least 5 days per diem added to payoffs

Instructions: Loan Payoffs

7/26/2016 2:54:14 PM PAGE 1/004 Fax Server



Attn: Payoff Department
425 Phillips Blvd.
Ewing, New Jersey 08618
PAYOFF STATEMENT AS OF July 26, 2016 (*Effective Date*)

Tucker M Hodgson
[REDACTED]

Property Address: [REDACTED]

Loan No.: [REDACTED] Original Loan Date: [REDACTED]
Original Loan Amount: [REDACTED] Loan Type: Conventional
FHA/VA/MI No. [REDACTED] Investor No. [REDACTED]

Statement forwarded to:
Tucker M Hodgson Phone Number (801)295-7676
[REDACTED]

IMPORTANT: Your payoff statement contains as many as three sections; each section may be multiple pages in length. If you are receiving this payoff statement via fax, please note that each section may be faxed separately. The quote to pay off your loan is contained in this first section (up to three pages in length); payoff instructions and important information are contained in section two (two pages). Section three contains all other information relating to your payoff transaction that is not contained in the first two sections. To ensure that your payoff transaction is processed efficiently, please read the entire payoff statement and follow all instructions.

ATTENTION BORROWERS USING AUTOMATIC DRAFTING: Borrowers whose monthly payments are automatically withdrawn from checking/savings accounts using our Payment Drafting Program (automatic drafting) must instruct this office to discontinue automatic drafting at least fifteen (15) business days before the next scheduled withdrawal by sending a written notice to: Drafting Department, PO Box 77417, Ewing, NJ 08628. Failure to comply may result in continued withdrawals. Please call 877-681-7316 should you have any questions.

877-681-7316 • www.loanadministration.com

7/26/2016 2:54:14 PM PAGE 3/004 Fax Server

Tucker M Hodgson
[REDACTED]

LOAN PAYOFF INFORMATION

GENERAL INSTRUCTIONS AND CONDITIONS:

- * ALL PAYOFF FIGURES PROVIDED ARE SUBJECT TO CLERICAL ERROR CORRECTION AND FINAL AUDIT.
- * The borrower must pay all interest that accrues and/or fees that are assessed after the Effective Date.
- * In the event a payment reflected in this payoff statement is reversed due to a dishonored or returned check, there will be a charge not to exceed the amount permitted by law.
- * Please note that the required payoff amount may change if a payment is returned, or if late charges or escrow advances occur on or after the Effective Date of this statement.

Since amounts may change, we recommend that you contact our office to verify payoff figures prior to remitting funds.

IF THE LOAN IS DELINQUENT, IN FORECLOSURE OR BANKRUPTCY, this office must be contacted at least 48 hours prior to payoff in order to allow us sufficient time to verify the correct amount necessary to satisfy the loan.

REMITTANCE OF FUNDS:

- * PERSONAL CHECKS WILL NOT BE ACCEPTED.
- * Payoffs are not posted on weekends and Holidays. Interest will be added to the account for those days.
- * Payoff funds must be remitted in the form of a wire, certified check, bank/cashier's check or attorney's trust check. PERSONAL CHECKS WILL NOT BE ACCEPTED.
- * Payoff remittances (wires or checks) received in our office after 2:00 p.m. ET will be processed the following business day.
- * Payoff remittances of less than the full payoff amount due will not be applied and interest will continue to accrue until the full amount is received. We will attempt to notify the sender of the amount of the shortage. If the shortage amount is not received within 48 hours of our initial receipt of the funds, the entire remittance may be returned.
- * If we must reverse the receipt and application of funds due to an error in the payoff request, a \$200.00 handling fee will be assessed.

PAYMENT BY WIRE:

- * Our preferred method of payoff remittance is by wire transfer.
- * Funds should be wired to CENLAR FS PRINCETON, TRENTON, NJ. AEA Mbr. [REDACTED]
- * The wire must include the borrower's name, loan number, and the notation ATTENTION: PAYOFF DEPARTMENT. A contact name and phone number of the originator of the wire should also be included.

Instructions: IRS 1099-S Form

DEPARTMENT OF THE TREASURY-INTERNAL REVENUE SERVICE
SUBSTITUTE

FORM 1099-S
Statement for Recipients of
Proceeds From Real Estate Transactions
Copy B for Transferee

NOTE: This is important tax information and is being furnished to the Internal Revenue Service. If you are required to file a return, a negligence penalty or other sanction will be imposed on you if this item is required to be reported and the IRS determines that it is not reported.

CORRECTED (if checked)

FILER'S name, street address, city, state, and zip code	OMB No. 1545-0047
FILER'S Federal identification number TRANSFEROR'S identification number	1 Date of Closing
2 Gross proceeds	3 Address or legal description
TRANSFEROR'S name	4 Check here if the transferee received or will receive property or services as part of the consideration: <input type="checkbox"/>
Street Address	5 Buyer's part of real estate tax
City, State and ZIP code	\$
Account number (optional)	

Received the above information this _____ day of _____ A.D. _____

TRANSFEROR(S):

NOTE: Real estate reporting person must retain this certification for four years after the sale.

CERTIFICATION FOR NO INFORMATION REPORTING (1099-S) ON PRINCIPAL RESIDENCE
(Pursuant to IRS Rev. Proc. 2007-12)

Order No.:
This form may be completed by the seller of a principal residence. This information is necessary to determine whether the sale or exchange should be reported to the seller, and to the Internal Revenue Service on Form 1099-S, Proceeds From Real Estate Transactions. If the seller properly completes Part I and Part II, and makes a "true" response to questions (1) through (6) in Part II, no information reporting to the seller or to the Service will be required for this sale. The term "seller" includes each owner of the residence that is sold or exchanged. Thus, if a residence has more than one owner, a real estate reporting person must either obtain a certification from each owner (whether married or not) or file an information return and furnish a payee statement for any owner that does not obtain the certification.

PART I SELLER INFORMATION

Name (All sellers if more than 1 seller) _____

Street (or legal description):
City, State, Zip: _____

Taxpayer Identification Number (TIN) _____

PART II SELLER ASSURANCES

Check "true" or "false" for assurances (1) thru (5), and "true", "false", or "not applicable" for assurance (6).

True	False	
<input type="checkbox"/>	<input type="checkbox"/>	(1) I owned and used the residence as my principal residence for periods aggregating 2 years or more during the 5-year period ending on the date of the sale or exchange of the residence.
<input type="checkbox"/>	<input type="checkbox"/>	(2) I have not sold or exchanged another principal residence during the 2-year period ending on the date of the sale or exchange of the residence.
<input type="checkbox"/>	<input type="checkbox"/>	(3) I (or my spouse or former spouse, if I was married at any time during the period beginning after May 6, 1997, and ending today) have not used any portion of the residence for business or rental purposes after May 6, 1997.
<input type="checkbox"/>	<input type="checkbox"/>	(4) At least one of the following three statements applies: The sale or exchange is of the entire residence for \$250,000 or less. OR I am married, the sale or exchange is of the entire residence for \$500,000 or less, and the gain on the sale or exchange of the entire residence is \$250,000 or less. OR I am married, the sale or exchange is of the entire residence for \$500,000 or less and (a) I intend to file a joint return for the year of the sale or exchange, (b) my spouse also used the residence as his or her principal residence for periods aggregating 2 years or more during the 5-year period ending on the date of the sale or exchange of the residence, and (c) my spouse also has not sold or exchanged another principal residence during the 2-year period ending on the date of the sale or exchange of the principal residence.
<input type="checkbox"/>	<input type="checkbox"/>	(5) During the 5-year period ending on the date of the sale or exchange of the residence, I did not acquire the residence in an exchange to which section 1031 of the Internal Revenue Code applied.
<input type="checkbox"/>	<input type="checkbox"/>	(6) If any basis in the residence is determined by reference to the basis in the hands of a person who acquired the residence in an exchange to which section 1031 of the Internal Revenue Code applied, the exchange to which section 1031 applied occurred more than 5 years prior to the date I sold or exchanged the residence.

PART III Seller Certification (All sellers must sign)
Under penalties of perjury, I certify that all of the above information is true as of the end of the day of the sale or exchange.

Signature of Seller _____ Date _____

Signature of Seller _____ Date _____

NOTE: Real estate reporting person must retain this certification for four years after the sale.

Settlement/Escrow-Authority of the Signers

- **AUTHORITY OF SIGNERS.** If Buyer or Seller is a corporation, partnership, trust, estate, limited liability company or other entity, the person signing the REPC on its behalf warrants his or her authority to do so and to bind Buyer and Seller.

Authority documents for Trusts & Estates

When taking a listing what documentation should you ask for?

1. Copy of Trust
- OR
2. Certification of Trust

1

Certification of Trust § 75-7-1013

Requirements

1. Statement that identifies the trust exists
 - Date the trust instrument was created
2. Identity of Settlor
3. Identity and Address of the acting trustee(s)
4. Powers of the trustee
 - How these powers relate to current transaction
5. Revocable vs. Irrevocable trust "and the identity of any person holding a power to revoke the trust"
6. The name in which title to the trust may be taken

2

Certification of Trust § 75-7-1013

- (6) **A person who acts in reliance upon a certification of trust** without knowledge that the representations contained in it are incorrect **is not liable to any person for acting and may assume without inquiry the existence of the facts contained in the certification.** Knowledge of the terms of the trust may not be inferred solely from the fact that a copy of all or part of the trust instrument is held by the person relying upon the certification.
- (7) **A person who in good faith enters into a transaction in reliance upon a certification of trust may enforce the transaction against the trust property as if the representations contained in the certification were correct.**
- (8) A person making a demand for the trust instrument in addition to a certification of trust or excerpts is liable for costs, expenses, attorney fees, and damages if the court determines that the person did not act in good faith in demanding the trust instrument.
- 3** (9) This section does not limit the right of a person to obtain a copy of the trust instrument in a judicial proceeding concerning the trust.

What happens to the real estate?



Evolving Requirements for LLC and Corporations

UNANIMOUS CONSENT
OF MEMBERS
OF
BLANK LLC

Pursuant to the authority contained in Utah Code Ann. §48-3a-407(4), the undersigned, being all of the members and managers of _____ LLC, a Utah limited liability company (the "Company"), do hereby make and ratify and adopt, in writing, the following action(s) approved without a meeting:

IT IS UNANIMOUSLY AUTHORIZED that _____ and _____ act as the managers of the Company in the purchase of property from _____ which property ("Property") is located at _____ in _____ County, Utah, and described as follows:

IT BEING ALSO UNANIMOUSLY AGREED, that _____ and _____ the managers of the Company for this purchase transaction, be and hereby are authorized, empowered and directed to execute all purchase, loan and closing documents necessary to effectuate the purchase of the Property.

Dated effective the ____ day of _____, 20__ .

_____, Member

_____, Member

_____, Member

RESOLUTION OF THE BOARD OF DIRECTORS BY UNANIMOUS
CONSENT FOR
Insert name of Corporation

Pursuant to the authority contained in Utah Code Ann. §16-10a-321 and other Company documents, the undersigned, being all of the directors of (insert name of corporation), a Utah profit corporation (the "Company"), do hereby take and ratify and adopt the following action, in writing, without a duly called meeting:

IT IS UNANIMOUSLY RESOLVED, that the Company borrow from (insert name of lender), the approximate sum of (insert loan amount) Dollars (\$ _____), and pledge, as collateral for the loan, the Company's real property located at (insert address of property).

IT BEING FURTHER UNANIMOUSLY RESOLVED, that the president, (insert name of officer signing), of the Company be, and she hereby is authorized, empowered and directed to execute and deliver the (insert other specific documents-i.e. Warranty Deed) Deed of Trust, Note, and all other documents necessary to consummate the loan transaction with (insert name of lender) to effectuate the pledging of the Company's real property as collateral for this loan with (insert name of lender).

Dated effective the ____ day of July, 2016.

Purchase Contracts, Addends, Receipts & Commission Instructions

REAL ESTATE PURCHASE CONTRACT

This is a legally binding Real Estate Purchase Contract ("REPC"). Utah law requires real estate licenses to use this form. Buyer and Seller, however, may agree to alter or create its provisions or to use a different form. If you desire legal or tax advice, consult your attorney or tax advisor.

EARNEST MONEY DEPOSIT

On this _____ day of _____, 20____ ("Offer Reference Date") _____ ("Buyer") offers to purchase from _____ ("Seller") the Property described below and agrees to deliver no later than four (4) calendar days after Acceptance (as defined in Section 2.1), an Earnest Money Deposit in the amount of \$ _____ in the form of _____ After Acceptance of the REPC by Buyer and Seller, and receipt of the Earnest Money by the Brokerage, the Brokerage shall have four (4) calendar days in which to deposit the Earnest Money into the Brokerage Real Estate Trust Account.

OFFER TO PURCHASE

1. **PROPERTY:** _____
 City of _____, County of _____, State of Utah, Zip _____, Tax ID No. _____
 (the "Property"). Any reference below to the term "Property" shall include the Property described above, together with the included items and water rights/water shares, if any, referenced in Sections 1.1, 1.2 and 1.4.

1.1 **Included Items.** Unless excluded herein, this sale includes the following items if presently owned and in place on the Property: plumbing, heating, air conditioning fixtures and equipment, solar panels, ovens, ranges and hoods, cook tops, dishwashers, ceiling fans, water heaters, water softeners, light fixtures and bulbs, bathroom fixtures and bathroom mirrors, all window coverings including curtains, draperies, rods, window blinds and shutters, window and door screens, storm doors and windows, awnings, satellite dishes, all installed TV mounting brackets, all wall and ceiling mounted speakers, affixed carpets, automatic garage door openers and accompanying transmitters, security system, fencing and any landscaping.

1.2 **Other Included Items.** The following items that are presently owned and in place on the Property have been left for the convenience of the parties and are also included in this sale (check applicable box): washers dryers refrigerators microwave ovens other (specify) _____

The above checked items shall be conveyed to Buyer under separate bill of sale with warranties as to title. In addition to any boxes checked in this Section 1.2 above, there ARE ARE NOT additional items of personal property Buyer intends to acquire from Seller at Closing by separate written agreement.

1.3 **Excluded Items.** The following items are excluded from this sale: _____

1.4 **Water Service.** The Purchase Price for the Property shall include all water rights/water shares, if any, that are the legal source for Seller's current culinary water service and irrigation water service, if any, to the Property. The water rights/water shares will be conveyed or otherwise transferred to Buyer at Closing by applicable deed or legal instruments. The following water rights/water shares, if applicable, are specifically excluded from the sale: _____

2. **PURCHASE PRICE.**

2.1 **Payment of Purchase Price.** The Purchase Price for the Property is \$ _____. Except as provided in this Section, the Purchase Price shall be paid as provided in Sections 2.1(a) through 2.1(e) below. Any amounts shown in Sections 2.1(c) and 2.1(e) may be adjusted as deemed necessary by Buyer and the Lender (the "Lender").

\$ _____ (a) **Earnest Money Deposit.** Under certain conditions described in the REPC, this deposit may become totally non-refundable.

\$ _____ (b) **Additional Earnest Money Deposit** (see Section 5.4 if applicable)

\$ _____ (c) **New Loan.** Buyer may apply for mortgage loan financing (the "Loan") on terms acceptable to Buyer. If an FHA/VA loan applies, see attached FHA/VA Loan Addendum.

\$ _____ (d) **Seller Financing** (see attached Seller Financing Addendum)

\$ _____ (e) **Balance of Purchase Price in Cash at Settlement**

\$ _____ **PURCHASE PRICE.** Total of lines (a) through (e)

2.2 **Sale of Buyer's Property.** Buyer's ability to purchase the Property, to obtain the Loan referenced in Section 2.1(c) above, and/or any portion of the cash referenced in Section 2.1(e) above IS IS NOT conditioned upon the sale of real estate owned by Buyer. If checked in the alternative, the terms of the attached subject to sale of Buyer's property addendum apply.

3. **SETTLEMENT AND CLOSING.**

3.1 **Settlement.** Settlement shall take place no later than the Settlement Deadline referenced in Section 24(d), or as otherwise mutually agreed by Buyer and Seller in writing. "Settlement" shall occur only when all of the following have been completed: (a) Buyer and Seller have signed

Page 1 of 6 pages Buyer's Initials _____ Date _____ Seller's Initials _____ Date _____

and delivered to each other or to the escrow/closing office all documents required by the REPC, by the Lender, by the title insurance and escrow/closing offices, by written escrow instructions (including any split closing instructions, if applicable), or by applicable law; (b) any monies required to be paid by Buyer or Seller under these documents (except for the proceeds of any Loan) have been delivered by Buyer or Seller to the other party, or to the escrow/closing office, in the form of cash, wire transfer, cashier's check, or other form acceptable to the escrow/closing office.

3.2 **Closing.** For purposes of the REPC, "Closing" means that: (a) Settlement has been completed; (b) the proceeds of any new Loan have been delivered by the Lender to Seller or to the escrow/closing office; and (c) the applicable Closing documents have been recorded in the office of the county recorder ("Recording"). The actions described in 3.2 (b) and (c) shall be completed no later than four calendar days after Settlement.

3.3 **Possession.** Except as provided in Section 6.1(a) and (b), Seller shall deliver physical possession of the Property to Buyer as follows: Upon Recording _____ Hours after Recording _____ Calendar Days after Recording. Any contracted rental of the Property prior to or after Closing, between Buyer and Seller, shall be by separate written agreement. Seller and Buyer shall each be responsible for any insurance coverage each party deems necessary for the Property including any personal property and belongings. The provisions of this Section 3.3 shall survive Closing.

4. **PRORATIONS / ASSESSMENTS / OTHER PAYMENT OBLIGATIONS.**

4.1 **Prorations.** All prorations, including, but not limited to, homeowner's association dues, property taxes for the current year, rents, and interest on assumed obligations, if any, shall be made as of the Settlement Deadline referenced in Section 24(d), unless otherwise agreed to in writing by the parties. Such writing could include the settlement statement. The provisions of this Section 4.1 shall survive Closing.

4.2 **Special Assessments.** Any assessments for capital improvements as approved by the homeowner's association ("HOA") (pursuant to HOA governing documents) or as assessed by a municipality or special improvement district, prior to the Settlement Deadline shall be paid for by: Seller Buyer Split Equally Between Buyer and Seller Other (explain) _____ The provisions of this Section 4.2 shall survive Closing.

4.3 **Fees/Costs/Payment Obligations.**

(a) **Escrow Fees.** Unless otherwise agreed to in writing, Seller and Buyer shall each pay their respective fees charged by the escrow/closing office for its services in the settlement/closing process. The provisions of this Section 4.3(a) shall survive Closing.

(b) **Rental Deposits/Prepaid Rents.** Rental deposits (including, but not limited to, security deposits, cleaning deposits and prepaid rents) for long-term lease or rental agreements, as defined in Section 6.1(a), and short-term rental bookings, as defined in Section 6.1(b), not expiring prior to Closing, shall be paid or credited by Seller to Buyer at Settlement. The provisions of this Section 4.3(b) shall survive Closing.

(c) **HOA/Other Entity Fees Due Upon Change of Ownership.** Some HOA's, special improvement districts and/or other specially planned areas, under their governing documents charge a fee that is due to such entity as a result of the transfer of title to the Property from Seller to Buyer. Such fees are sometimes referred to as transfer fees, community enhancement fees, HOA reinvestment fees, etc. (collectively referred to in this section as "change of ownership fees"), regardless of how the charge of ownership fee is titled in the applicable governing documents, if a change of ownership fee is due upon the transfer of title to the Property from Seller to Buyer, that change of ownership fee shall, at Settlement, be paid for by: Seller Buyer Split Equally Between Buyer and Seller Other (explain) _____ The provisions of this Section 4.3(c) shall survive Closing.

(d) **Utility Services.** Buyer agrees to be responsible for all utilities and other services provided to the Property after the Settlement Deadline. The provisions of this Section 4.3(d) shall survive Closing.

(e) **Sales Proceeds Withholding.** The escrow/closing office is authorized and directed to withhold from Seller's proceeds at Closing, sufficient funds to pay off on Seller's behalf all mortgages, trust deeds, judgments, mechanic's liens, tax liens and warrants. The provisions of this Section 4.3(e) shall survive Closing.

5. **CONFIRMATION OF AGENCY DISCLOSURE.** Buyer and Seller acknowledge prior written receipt of agency disclosure provided by their respective agent that has disclosed the agency relationships confirmed below. At the signing of the REPC:
 Seller's Agent(s) _____, represent(s) Seller both Buyer and Seller as Limited Agent(s);
 Seller's Agent(s) Utah Real Estate License Number(s) _____
 Seller's Brokerage _____, represents Seller both Buyer and Seller as Limited Agent;
 Seller's Brokerage Utah Real Estate License Number _____
 Buyer's Agent(s) _____, represent(s) Buyer both Buyer and Seller as Limited Agent(s);
 Buyer's Agent(s) Utah Real Estate License Number(s) _____
 Buyer's Brokerage _____, represents Buyer both Buyer and Seller as a Limited Agent.
 Buyer's Brokerage Utah Real Estate License Number _____

6. **TITLE & TITLE INSURANCE**

6.1 **Title to Property.** Seller represents that Seller has fee title to the Property and will convey marketable title to the Property to Buyer at Closing by general warranty deed. Buyer also agrees to accept title to the Property subject to the contents of the Commitment for Title Insurance (the "Commitment") provided by Seller under Section 7, and as reviewed and approved by Buyer under Section 8.

(a) **Long-Term Lease or Rental Agreements.** Buyer agrees to accept title to the Property subject to any long-term tenant lease or rental agreements (meaning for periods of thirty (30) or more consecutive days) affecting the Property not expiring prior to Closing. Buyer also agrees to accept title to the Property subject to any existing rental and property management agreements affecting the Property not expiring prior to Closing.

Page 2 of 6 pages Buyer's Initials _____ Date _____ Seller's Initials _____ Date _____

Confirmation of Receipt of Earnest Money

BUYER: _____

BUYER'S AGENT: _____

BUYER'S BROKERAGE: _____

SELLER: _____

SELLER'S AGENT: _____

SELLER'S BROKERAGE: _____

PROPERTY: _____

CITY _____, COUNTY _____, UTAH, ZIP _____

1. CONFIRMATION OF RECEIPT OF EARNEST MONEY. In reference to the Real Estate Purchase Contract (REPC) with an Offer Reference Date of _____, between Buyer and Seller regarding the above-described Property, this document confirms that on _____ (Date) the Buyer's Brokerage received Earnest Money from the Buyer in the amount of \$ _____ in the form of (check applicable box):

direct wire transfer into our Real Estate Trust Account (must be signed by authorized brokerage representative)

personal check

cashier's check

other (describe) _____

Name (Print) (Position)

Signature Date Time

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Earnest Money Receipt



Resolution of Earnest Money Dispute (Mutual Release)



BUYER: _____

BUYER'S BROKERAGE: _____

SELLER: _____

SELLER'S BROKERAGE: _____

PROPERTY: _____ CITY _____ COUNTY _____ UTAH, ZIP _____

1. **MUTUAL RELEASE.** Buyer and Seller acknowledge that the Real Estate Purchase Contract (REPC) with an *Offer Reference Date* of _____ entered into between Buyer and Seller for the purchase and sale of the above-referenced Property is cancelled. Seller, Seller's Brokerage, Buyer and Buyer's Brokerage, and their respective owners, brokers and agents, do hereby mutually release each other from all obligations, claims, liability, and demands arising out of the REPC (including any and all addenda, counteroffers, and exhibits). The Earnest Money Deposit in this transaction is being held by: Buyer's Brokerage Title Company (Name): _____ Other (Describe): _____. The above-described person/company holding the Earnest Money Deposit is authorized and directed to disburse the Earnest Money Deposit of \$ _____ as follows:

- \$ _____ to Seller;
- \$ _____ to Buyer;
- \$ _____ to Other (describe) _____

2. **ADDITIONAL TERMS.** There ARE ARE NOT exhibits/addenda attached to this Resolution of Earnest Money Dispute.

3. **COMPLETE AGREEMENT.** This Resolution of Earnest Money Dispute, together with any attached exhibits/addenda, constitutes the entire agreement between the parties and supersedes and replaces any and all prior negotiations, representations, warranties, understandings or contracts between the parties.

4. **ELECTRONIC TRANSMISSION AND COUNTERPARTS.** Electronic transmission (including email and fax) of a signed copy of this Resolution of Earnest Money Dispute shall be the same as the delivery of an original. This Resolution of Earnest Money Dispute may be executed in counterparts.

THE UNDERSIGNED agree to the above terms.

_____	_____	_____	_____
Seller	Date	Buyer	Date

_____	_____	_____	_____
Seller	Date	Buyer	Date

Seller's Brokerage		Buyer's Brokerage	
_____	_____	_____	_____
Principal/Branch Broker	Date	Principal/Branch Broker	Date

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Earnest Money Release

Regarding Earnest Money Receipt

JOINT ESCROW INSTRUCTIONS REGARDING EARNEST MONEY

TO: _____ Title Company (the "Company")

Re: Seller: _____
 Buyer: _____
 Property Address: _____

The undersigned Seller and Buyer do hereby deliver to the Company in escrow the following documents and money as hereinafter described to be held and disposed of by the Company in accordance with the following instructions and upon the following terms and conditions (the "Agreement"):

- The following documents and money have been, or will be, deposited with the Company:
 - The sum of \$ _____ (the "Earnest Money") in the form of a (check one) personal check, cashier's check, or wire, which shall be deposited into a non-interest-bearing trust account; and
 - A copy of a fully executed Real Estate Purchase Contract dated _____ (the "Purchase Agreement"), between Buyer and Seller.
- The terms of this Agreement shall control and supersede those of the Purchase Agreement with respect to the handling and eventual disbursement of the Earnest Money by the Company, including but not limited to Paragraphs 8.1(b), 8.2(a), and 8.3(b). The terms of this Agreement shall not, however, in any event be interpreted to modify the rights and remedies set forth in Paragraph 16.
- Upon the closing of the transaction contemplated by the Purchase Agreement (the "Transaction"), the Earnest Money shall be applied to the purchase price for the benefit of Buyer or as otherwise directed in writing by Buyer.
- If the Transaction is cancelled or does not close for any reason, the Company will disburse the Earnest Money only after receipt of mutual written instructions from Buyer and Seller.
- If the Company becomes aware of a dispute between Buyer and Seller or has not received mutual written instructions from Buyer and Seller within sixty (60) days after the settlement deadline, the Company shall be entitled, at the Company's sole and absolute discretion, to (i) refrain from acting until the dispute has been resolved; and/or (ii) file an action in interpleader for the purpose of having the respective rights of the claimants adjudicated and deposit with the court the Earnest Money and all documents held hereunder.
- Seller and Buyer agree that the Company shall have no liability pursuant to these instructions other than to hold and disburse the Earnest Money as set forth above. Seller and Buyer shall jointly and severally indemnify and hold the Company harmless against all claims, liability, damages, expenses, and attorney's fees that the Company may incur or sustain in connection with, or arising from, these instructions (including, without limitation, the holding of the Earnest Money) or the Transaction. Seller and Buyer further agree that in the event of a dispute, the Company may use all or a portion of the Earnest Money to cover any costs it may incur as a result of that dispute, including but not limited to attorney fees and court costs.

Buyer _____	Date _____	Seller _____	Date _____
Buyer _____	Date _____	Seller _____	Date _____
Buyer Address: _____		Seller Address: _____	

Rev. 4/2018

Escrow File Number: _____

RELEASE OF EARNEST MONEY AGREEMENT

This Release of Earnest Money Agreement (the "Agreement") is entered into by and between the undersigned Buyer(s) and Seller(s) with respect to certain real property located at _____ County of _____ State of Utah.

RECITALS

- Buyer and Seller have entered into a Real Estate Purchase Contract (the "Contract") dated the _____ of _____, 20__.
- _____ (the "Company") has been requested to perform escrow services with respect to the Contract and has been requested to hold the earnest money deposit in the amount of \$ _____ (the "Deposit"), which was delivered by or for the Buyer to the Company in connection with the Contract.
- Buyer and Seller desire that the Company release the Deposit in accordance with the terms and conditions of this Agreement.

NOW THEREFORE, Buyer and Seller do hereby agree as follows:

- The Deposit shall be released and disbursed by the Company to Buyer Seller on the _____ day of _____, 20__, in accordance with these instructions.
- Buyer and Seller jointly and severally agree to indemnify and defend the Company of and from any and all damages, claims, demands, obligations, actions, or liabilities including but not limited to attorney's fees and costs arising from or relating to the performance and compliance by the Company with this Agreement and these instructions.
- The Deposit shall be picked up at the Company; Wire Transferred; (\$_____ charge - wiring instructions will be provided); mailed; or sent by overnight courier (\$_____ charge) to the address shown below:

SELLERS:

 _____ Phone Number: _____
 _____ Phone Number: _____

Forwarding Address: _____

BUYERS:

 _____ Phone Number: _____
 _____ Phone Number: _____

Forwarding Address: _____

WITNESSED BY:

 Listing Agent

 Selling Agent

DEPOSIT OF EARNEST MONEY WITH TITLE
INSURANCE COMPANY ADDENDUM TO
REAL ESTATE PURCHASE CONTRACT
ADDENDUM # _____

Page ____ of ____

THIS IS AN ADDENDUM COUNTEROFFER to that REAL ESTATE PURCHASE CONTRACT (the "REPC") with an Offer Reference Date of _____ including all prior addenda and counteroffers, between _____ as Buyer, and _____ as Seller, regarding the Property located at _____. The following terms are hereby incorporated as part of the REPC:

1. The REPC is amended as follows: Buyer and Seller agree that the Earnest Money Deposit, or Deposits, will be held with a Title Insurance Company instead of deposited in the Buyer's Brokerage Trust Account. The Title Insurance Company is _____ located at: _____ phone number _____ and email _____.

Title Company Earnest Money Add.

ATTENTION: Buyer and Seller are advised that the Title Insurance Company may require, through separate written instructions, that **BOTH** the Buyer and Seller mutually authorize disbursement of the Earnest Money Deposit, even if the REPC states that no additional written authorization is required, which may result in additional delays and costs for either party to receive the Earnest Money Deposits

Buyer and Seller acknowledge that the Utah Division of Real Estate has no authority over the Title Insurance Company's release or disbursement of the Earnest Money Deposit.

Buyer Seller Signature (Date) (Time) Buyer Seller Signature (Date) (Time)

ACCEPTANCE/COUNTEROFFER/REJECTION

CHECK ONE:

ACCEPTANCE: Seller Buyer hereby accepts the terms of this ADDENDUM.

COUNTEROFFER: Seller Buyer presents as a counteroffer the terms of attached ADDENDUM NO. _____.

REJECTION: Seller Buyer rejects the foregoing ADDENDUM.

(Signature) (Date) (Time) (Signature) (Date) (Time)

(Signature) (Date) (Time) (Signature) (Date) (Time)

THIS FORM APPROVED BY THE UTAH REAL ESTATE COMMISSION AND THE OFFICE OF THE UTAH ATTORNEY GENERAL,
EFFECTIVE JANUARY 1, 2018

Purchase Contracts, Addends, Receipts & Commission Instructions

1.1 Included Items. Unless excluded herein, this sale includes the following items if presently owned and in place on the Property: plumbing, heating, air conditioning fixtures and equipment; solar panels; ovens, ranges and hoods; cook tops; dishwashers; ceiling fans; water heaters; water softeners; light fixtures and bulbs; bathroom fixtures and bathroom mirrors; all window coverings including curtains, draperies, rods, window blinds and shutters; window and door screens; storm doors and windows; awnings; satellite dishes; all installed TV mounting brackets; all wall and ceiling mounted speakers; affixed carpets; automatic garage door openers and accompanying transmitters; security system; fencing and any landscaping.

1.2 Other Included Items. The following items that are presently owned and in place on the Property have been left for the convenience of the parties and are also included in this sale (check applicable box): washers dryers refrigerators microwave ovens other (specify) _____

The above checked items shall be conveyed to Buyer under separate bill of sale with warranties as to title. In addition to any boxes checked in this Section 1.2 above, there ARE ARE NOT additional items of personal property Buyer intends to acquire from Seller at Closing by separate written agreement.

Who prepares the bill of sale?
(The REPC *is* instructions)

Purchase Contracts, Addends, Receipts & Commission Instructions

1.4 Water Service. The Purchase Price for the Property shall include all water rights/water shares, if any, that are the legal source for Seller's current culinary water service and irrigation water service, if any, to the Property. The water rights/water shares will be conveyed or otherwise transferred to Buyer at Closing by applicable deed or legal instruments. The following water rights/water shares, if applicable, are specifically excluded from this sale: _____

- Nothing new here...but: ***The following water rights/water shares, if applicable, are specifically excluded from this sale:***
- In other words...if not specifically excluded, the water shares for culinary water and irrigation water are included.

Water Right Use

- **M**: Municipal
 - **I**: Irrigation
 - **D**: Domestic
 - **P**: Power
 - **O**: Other
 - **X**: Mining
 - **S**: Stockwatering
- The REPC calls for culinary & irrigation water to transfer.

OFFER TO PURCHASE

1. PROPERTY:

City of Croydon, County of Morgan, State of Utah, Zip 84018 Tax ID No. (the "Property"). Any reference below to the term "Property" shall include the Property described above, together with the Included Items and water rights/water shares, if any, referenced in Sections 1.1, 1.2 and 1.4.

1.1 Included Items. Unless excluded herein, this sale includes the following items if presently owned and in place on the Property: plumbing, heating, air conditioning fixtures and equipment; solar panels; ovens, ranges and hoods; cook tops; dishwashers; ceiling fans; water heaters; water softeners; light fixtures and bulbs; bathroom fixtures and bathroom mirrors; all window coverings including curtains, draperies, rods, window blinds and shutters; window and door screens; storm doors and windows; awnings; satellite dishes; all installed TV mounting brackets; ~~all installed security systems; all installed fire alarm systems; all installed intercom systems; all installed door openers and accompanying transmitters; security systems; fencing~~

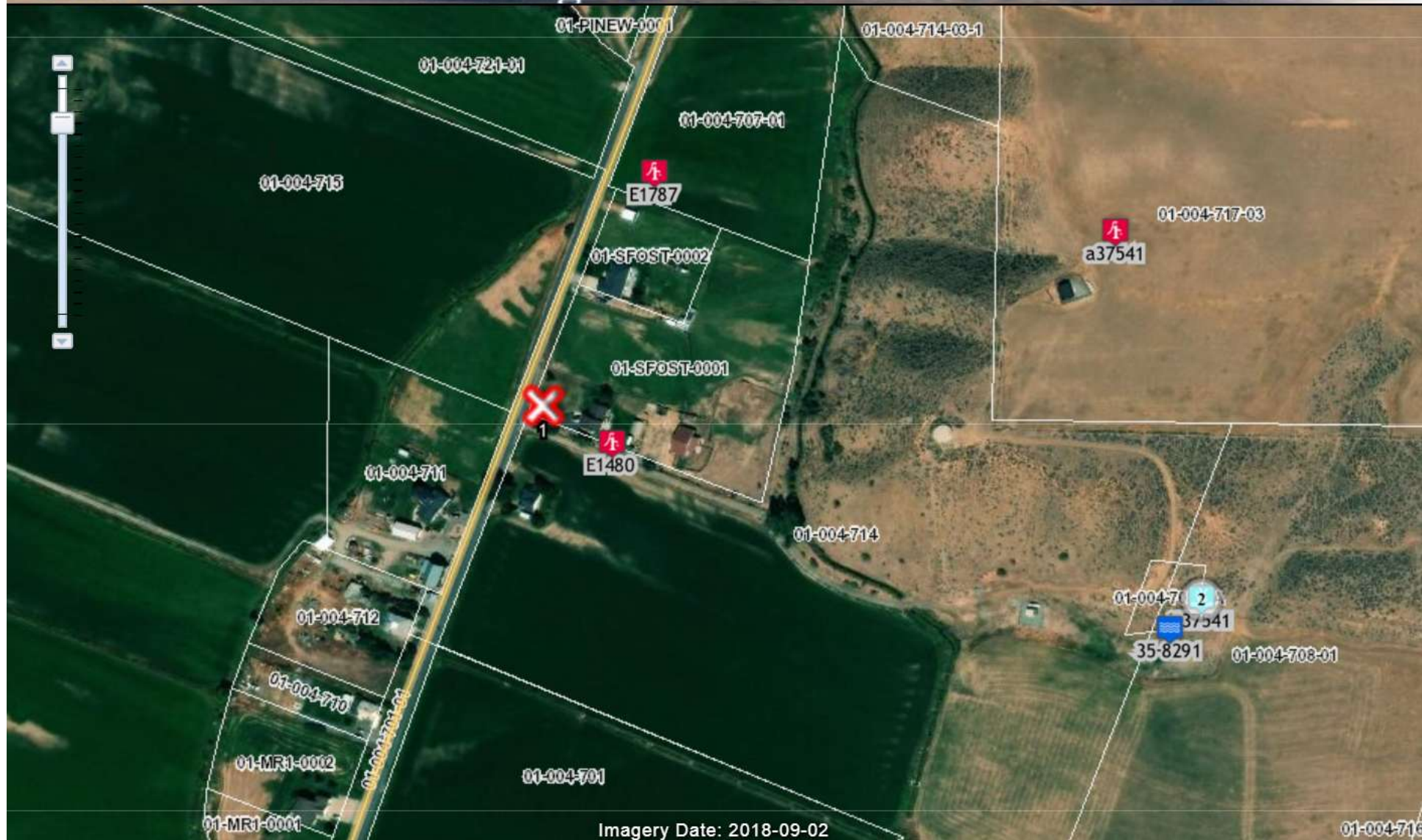
1.4 Water Service. The Purchase Price for the Property shall include all water rights/water shares, if any, that are the legal source for Seller's current culinary water service and irrigation water service, if any, to the Property. The water rights/water shares will be conveyed or otherwise transferred to Buyer at Closing by applicable deed or legal instruments. The following water rights/water shares, if applicable, are specifically excluded from this sale: Per Title

The above checked items shall be conveyed to Buyer under separate bill of sale with warranties as to title. In addition to any boxes checked in this Section 1.2 above, there [ARE ARE NOT additional items of personal property Buyer intends to acquire from Seller at Closing by separate written agreement.

1.3 Excluded Items. The following items are excluded from this sale: _____

1.4 Water Service. The Purchase Price for the Property shall include all water rights/water shares, if any, that are the legal source for Seller's current culinary water service and irrigation water service, if any, to the Property. The water rights/water shares will be conveyed or otherwise transferred to Buyer at Closing by applicable deed or legal instruments. The following water rights/water shares, if applicable, are specifically excluded from this sale: Per Title

Utah Division of Water Rights



Transferring Water Rights with Division of Water Resources (Steps)

1. Verify ownership of right (does the seller hold ownership)
2. If Seller doesn't have good title to water
 - Complete Report of Conveyance
 - Send report of conveyance & \$40.00 to the Division of Water Resources
 - Wait for their decision (takes time)
3. Verify use of the right (domestic or irrigation?) Is it included?
4. Correctly identify Water Right Information on REPC & Addenda
5. Get information about the well report ready for buyer review (if applicable- this information is extra)
6. Complete Land Deed Addendum
7. Record conveyance deed with Land Deed Addendum attached as exhibit
8. Buyer completes Report of Conveyance & sends the following to the Division of Water Resources
 - Recorded deed with land deed addendum
 - Report of Conveyance
 - \$40.00

Sample Language for Addendum- Water Rights

1. The following water rights are **included** or **excluded** from the sale (Water Right Number).

IF INCLUDED:

2. Seller to transfer water with Water Rights Addendum to Land Deeds
3. Buyer to complete Report of Water Right Conveyance following closing
4. **The well and well equipment are (included or excluded) from the sale and will be conveyed by bill of sale: (description of equipment type/location/use of equipment)**



Transfer of Well Equipment

Well equipment is sometimes considered personal property and should be transferred with a Bill of Sale. Instructions must be given to govern their transfer

- Address the transfer on well equipment of well & equipment in section 1.2 or REPC (Other included items)
- If transfer was not included with original offer, Prepare an Addendum to the REPC
- Make the Bill of Sale plain language
“Well and well equipment currently used in association with water right number _____ located _____”
- If necessary, include additional descriptions of pump type/other equipment.

Purchase Contracts, Addends, Receipts & Commission Instructions

2.1 Payment of Purchase Price. The Purchase Price for the Property is \$ _____. Except as provided in this Section, the Purchase Price shall be paid as provided in Sections 2.1(a) through 2.1(e) below. Any amounts shown in Sections 2.1(c) and 2.1(e) may be adjusted as deemed necessary by Buyer and the Lender (the "Lender").

\$ _____

(a) **Earnest Money Deposit.** Under certain conditions described in the REPC, this deposit may become totally non-refundable.

\$ _____

(b) **Additional Earnest Money Deposit** (see Section 8.4 if applicable)

\$ _____

(c) **New Loan.** Buyer may apply for mortgage loan financing (the "Loan") on terms acceptable to Buyer: If an FHA/VA loan applies, see attached FHA/VA Loan Addendum.

\$ _____

(d) **Seller Financing** (see attached Seller Financing Addendum)

\$ _____

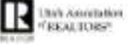
(e) **Balance of Purchase Price in Cash at Settlement**


\$ _____

PURCHASE PRICE. Total of lines (a) through (e)

Purchase Contracts, Addends, Receipts & Commission Instructions

2.2 Sale of Buyer's Property. Buyer's ability to purchase the Property, to obtain the Loan referenced in Section 2.1(c) above, and/or any portion of the cash referenced in Section 2.1(e) above IS IS NOT conditioned upon the sale of real estate owned by Buyer. If checked in the affirmative, the terms of the attached subject to sale of Buyer's property addendum apply.

 **UTAH ASSOCIATION OF REALTORS**

 **SUBJECT TO SALE OF BUYER'S RESIDENCE
ADDENDUM NO. ___ TO
REAL ESTATE PURCHASE CONTRACT**

THIS IS AN ADDENDUM COUNTEROFFER to that REAL ESTATE PURCHASE CONTRACT (the "REPC") with an Offer Reference Date of _____ including all prior addenda and counteroffers, between _____ as Buyer, and _____ as Seller, regarding the Property located at _____ (the "Property"). The terms of this Addendum are hereby incorporated as part of the REPC, and to the extent the terms of this Addendum modify or conflict with any provisions of the REPC, including all prior addenda and counteroffers, these terms shall control.

1. SUBJECT TO SALE OF BUYER'S RESIDENCE

1.1 **Subject to Sale of Buyer's Residence.** Buyer's obligation to purchase the Property is conditioned upon the closing of the sale of Buyer's residence located at: _____ (the "Residence") by 5:00 P.M. (MST) on the _____ (the "Residence Closing Deadline"). This condition of purchase is referred to below as the "Subject to Sale Condition."

1.2 **Status.** Buyer DOES DOES NOT have a signed contract for the sale of the Residence. The Residence IS IS NOT presently listed for sale through (provide name/address/phone of real estate brokerage): 9272 South 700 East Suite 101. If the Residence is not now listed, it will be so listed on or before the _____. Buyer will diligently pursue the closing of the sale of the Residence.

1.3 **Right to Cancel.** If the sale of the Residence is not closed by the Residence Closing Deadline, Buyer may, within three calendar days after the Residence Closing Deadline, cancel the REPC by providing written notice to Seller. In the event of such cancellation, the Earnest Money Deposit, or Deposits, if applicable, shall be released to Buyer without the requirement of further written authorization from Seller. Buyer may however, remove this condition at any time prior to the Residence Closing Deadline by providing written notice to Seller.

1.4 **Failure to Cancel.** If the REPC is not cancelled by Buyer as provided in Section 1.3 Buyer shall be deemed to have waived the Subject to Sale Condition.

ALL OTHER TERMS of the REPC, including all prior addenda and counteroffers, not modified by this ADDENDUM/COUNTEROFFER shall remain the same. Seller Buyer shall have until ____ : ____ [] AM [] PM Mountain Time _____ to accept the terms of this ADDENDUM/COUNTEROFFER in accordance with the provisions of Section 23 of the REPC. Unless so accepted, the offer as set forth in the ADDENDUM/COUNTEROFFER shall lapse.

[] Buyer [] Seller Signature (Date) (Time) [] Buyer [] Seller Signature (Date) (Time)

ACCEPTANCE/COUNTEROFFER/REJECTION

CHECK ONE:
 ACCEPTANCE of ADDENDUM/COUNTEROFFER: Seller Buyer hereby accepts the terms of this ADDENDUM/COUNTER OFFER.

COUNTER OFFER: Seller Buyer presents as a counteroffer the terms of the attached Counteroffer No. ____

REJECTION: Seller Buyer rejects the foregoing ADDENDUM/COUNTER OFFER.

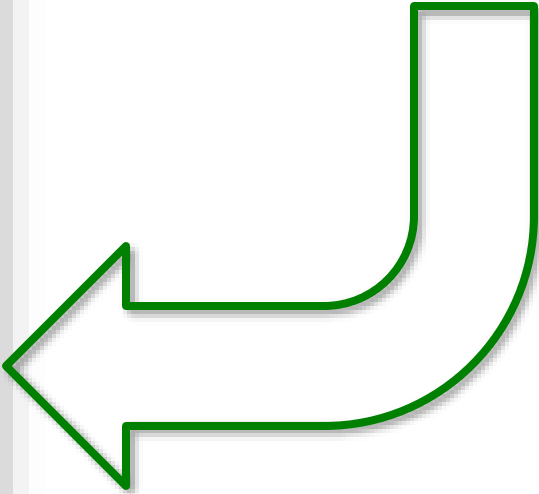
[] Buyer [] Seller Signature (Date) (Time) [] Buyer [] Seller Signature (Date) (Time)

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Subject to sale of buyer's residence addendum



Purchase Contracts, Addends, Receipts & Commission Instructions

The provisions of this Section 6.1(a) shall survive Closing.

(b) **Short-Term Rental Bookings.** Buyer agrees to accept title to the Property subject to any short-term rental bookings (meaning for periods of less than thirty (30) consecutive days) affecting the Property not expiring prior to Closing. The provisions of this Section 6.1(a) shall survive Closing.

6.2 Title Insurance. At Settlement, Seller agrees to pay for and cause to be issued in favor of Buyer, through the title insurance agency that issued the Commitment (the "Issuing Agent"), the most current version of the ALTA Homeowner's Policy of Title Insurance (the "Homeowner's Policy"). If the Homeowner's Policy is not available through the Issuing Agent, Buyer and Seller further agree as follows: (a) Seller agrees to pay for the Homeowner's Policy if available through any other title insurance agency selected by Buyer; (b) if the Homeowner's Policy is not available either through the Issuing Agent or any other title insurance agency, then Seller agrees to pay for, and Buyer agrees to accept, the most current available version of an ALTA Owner's Policy of Title Insurance ("Owner's Policy") available through the Issuing Agent.

7. SELLER DISCLOSURES. No later than the Seller Disclosure Deadline referenced in Section 24(a), Seller shall provide to Buyer the following documents in hard copy or electronic format which are collectively referred to as the "Seller Disclosures":

- (a) a written Seller property condition disclosure for the Property, completed, signed and dated by Seller as provided in Section 10.3;
- (b) a Lead-Based Paint Disclosure & Acknowledgment for the Property, completed, signed and dated by Seller (only if the Property was built prior to 1970);
- (c) a Commitment for Title Insurance as referenced in Section 6.2;
- (d) a copy of any restrictive covenants (CC&R's), rules and regulations affecting the Property;
- (e) a copy of the most recent minutes, budget and financial statement for the homeowners' association, if any;
- (f) a copy of any long-term lease or rental agreements affecting the Property not expiring prior to Closing;
- (g) a copy of any short-term rental booking schedule (as of the Seller Disclosure Deadline) for guest use of the Property after Closing;
- (h) a copy of any existing property management agreements affecting the Property;
- (i) evidence of any water rights and/or water shares referenced in Section 1.4;
- (j) written notice of any claims and/or conditions known to Seller relating to environmental problems and building or zoning code violations;
- (k) in general, the sale or other disposition of a U.S. real property interest by a foreign person is subject to income tax withholding under the Foreign Investment in Real Property Tax Act of 1980 (FIRPTA). A "foreign person" includes a non-resident alien individual, foreign corporation, partnership, trust or estate. If FIRPTA applies to Seller, Seller is advised that Buyer or other qualified substitute may be legally required to withhold this tax at Closing. In order to avoid closing delays, if Seller is a foreign person under FIRPTA, Seller shall advise Buyer in writing, and Other (specify) _____.

8. BUYER'S CONDITIONS OF PURCHASE.

8.1 DUE DILIGENCE CONDITION. Buyer's obligation to purchase the Property [] IS [] IS NOT conditioned upon Buyer's Due Diligence as defined in this Section 8.1(a) below. This condition is referred to as the "Due Diligence Condition." If checked in the affirmative, Sections 8.1(a) through 8.1(c) apply, otherwise they do not.

(a) **Due Diligence Items.** Buyer's Due Diligence shall consist of Buyer's review and approval of the contents of the Seller Disclosures referenced in Section 7, and any other tests, evaluations and verifications of the Property deemed necessary or appropriate by Buyer, such as: the physical condition of the Property, the existence of any hazardous substances, environmental issues or geologic conditions; the nature, location or acreage of the land and/or improvements; the condition of the roof, walls, and foundation; the condition of the plumbing, electrical, mechanical, heating and air conditioning systems and fixtures; the condition of all appliances; the costs and availability of homeowners' insurance and flood insurance, if applicable; water source, availability and quality; the location of property lines; regulatory use restrictions or violations; fees for services such as HOA dues, municipal services, and utility costs; convicted sex offenders residing in proximity to the Property; and any other matters deemed material to Buyer in making a decision to purchase the Property. Unless otherwise provided in the REPC, all of Buyer's Due Diligence shall be paid for by Buyer and shall be conducted by individuals or entities of Buyer's choice. Seller agrees to cooperate with Buyer's Due Diligence. Buyer agrees to pay for any damage to the Property resulting from any such inspections or tests during the Due Diligence.

(b) **Buyer's Right to Cancel or Resolve Objections.** If Buyer determines, in Buyer's sole discretion, that the results of the Due Diligence are unacceptable, Buyer may either: (i) no later than the Due Diligence Deadline referenced in Section 24(b), cancel the REPC by providing written notice to Seller, whereupon the Earnest Money Deposit shall be released to Buyer without the requirement of further written authorization from Seller; or (ii) no later than the Due Diligence Deadline referenced in Section 24(b), resolve in writing with Seller any objections Buyer has arising from Buyer's Due Diligence.

(c) **Failure to Cancel or Resolve Objections.** If Buyer fails to cancel the REPC or fails to resolve in writing with Seller any objections Buyer has arising from Buyer's Due Diligence, as provided in Section 8.1(a), Buyer shall be deemed to have waived the Due Diligence Condition, and except as provided in Sections 8.2(a) and 8.3(a)(i), the Earnest Money Deposit shall become non-refundable.

8.2 APPRAISAL CONDITION. Buyer's obligation to purchase the Property [] IS [] IS NOT conditioned upon the Property appraising for not less than the Purchase Price. This condition is referred to as the "Appraisal Condition." If checked in the affirmative, Sections 8.2(a) and 8.2(b) apply, otherwise they do not.

(a) **Buyer's Right to Cancel.** If after completion of an appraisal by a licensed appraiser, Buyer receives written notice from the Lender or the appraiser that the Property has appraised for less than the Purchase Price (a "Notice of Appraised Value"), Buyer may cancel the REPC by providing written notice to Seller (with a copy of the Notice of Appraised Value) no later than the Financing & Appraisal Deadline referenced in Section 24(c), whereupon the Earnest Money Deposit shall be released to Buyer without the requirement of further written authorization from Seller.

(b) **Failure to Cancel.** If the REPC is not cancelled as provided in this section 8.2, Buyer shall be deemed to have waived the Appraisal

Condition, and except as provided in Sections 8.1(a) and 8.3(a)(i), the Earnest Money Deposit shall become non-refundable.

8.3 FINANCING CONDITION. (Check Applicable Box)

(a) [] **No Financing Required.** Buyer's obligation to purchase the Property IS NOT conditioned upon Buyer obtaining financing. If checked, Section 8.3(b) below does NOT apply.

(b) [] **Financing Required.** Buyer's obligation to purchase the Property IS conditioned upon Buyer obtaining the Loan referenced in Section 2.1(c). This Condition is referred to as the "Financing Condition." If checked, Sections 8.3(a)(i), (ii) and (iii) apply, otherwise they do not. If the REPC is not cancelled by Buyer as provided in Sections 8.1(b) or 8.2(a), then Buyer agrees to work diligently and in good faith to obtain the Loan.

(i) **Buyer's Right to Cancel Before the Financing & Appraisal Deadline.** If Buyer, in Buyer's sole discretion, is not satisfied with the terms and conditions of the Loan, Buyer may, after the Due Diligence Deadline referenced in Section 24(b), if applicable, cancel the REPC by providing written notice to Seller no later than the Financing & Appraisal Deadline referenced in Section 24(c); whereupon \$_____ of Buyer's Earnest Money Deposit shall be released to Seller without the requirement of further written authorization from Buyer, and the remainder of Buyer's Earnest Money Deposit shall be released to Buyer without further written authorization from Seller.

(ii) **Buyer's Right to Cancel After the Financing & Appraisal Deadline.** If after expiration of the Financing & Appraisal Deadline referenced in Section 24(c), Buyer fails to obtain the Loan, meaning that the proceeds of the Loan have not been delivered by the Lender to the escrowclosing office as required under Section 3.2, then Buyer shall not be obligated to purchase the Property and Buyer or Seller may cancel the REPC by providing written notice to the other party.

(iii) **Earnest Money Deposit(s) Released to Seller.** If the REPC is cancelled as provided in Section 8.3(a)(i), Buyer agrees that all of Buyer's Earnest Money Deposit, or Deposits, if applicable (see Section 8.4 below), shall be released to Seller without the requirement of further written authorization from Buyer. Seller agrees to accept, as Seller's exclusive remedy, the Earnest Money Deposit, or Deposits, if applicable, as liquidated damages. Buyer and Seller agree that liquidated damages would be difficult and impractical to calculate, and the Earnest Money Deposit, or Deposits, if applicable, is a fair and reasonable estimate of Seller's damages in the event Buyer fails to obtain the Loan.

8.4 ADDITIONAL EARNEST MONEY DEPOSIT. If the REPC has not been previously cancelled by Buyer as provided in Sections 8.1, 8.2 or 8.3, as applicable, then no later than the Due Diligence Deadline, or the Financing & Appraisal Deadline, whichever is later, Buyer: [] WILL [] WILL NOT deliver to the Buyer's Brokerage, an Additional Earnest Money Deposit in the amount of \$_____. The Earnest Money Deposit and the Additional Earnest Money Deposit, if applicable, are sometimes referred to herein as the "Deposits". The Earnest Money Deposit, or Deposits, if applicable, shall be credited toward the Purchase Price at Closing.

9. ADDENDA. There [] ARE [] ARE NOT addenda to the REPC containing additional terms. If there are, the terms of the following addenda are incorporated into the REPC by this reference: [] Addendum No. _____ [] Seller Financing Addendum [] FHA/VA Loan Addendum [] Other (specify) _____

10. HOME WARRANTY PLAN / AS-IS CONDITION OF PROPERTY.

10.1 Home Warranty Plan. A one-year Home Warranty Plan [] WILL [] WILL NOT be included in this transaction. If included, the Home Warranty Plan shall be ordered by [] Buyer [] Seller and shall be issued by a company selected by [] Buyer [] Seller. The cost of the Home Warranty Plan shall not exceed \$_____ and shall be paid for at Settlement by [] Buyer [] Seller.

10.2 Condition of Property/Buyer Acknowledgements. Buyer acknowledges and agrees that in reference to the physical condition of the Property: (a) Buyer is purchasing the Property in its "As-is" condition without expressed or implied warranties of any kind; (b) Buyer shall have, during Buyer's Due Diligence as referenced in Section 8.1, an opportunity to completely inspect and evaluate the condition of the Property; and (c) if based on the Buyer's Due Diligence, Buyer elects to proceed with the purchase of the Property, Buyer is relying wholly on Buyer's own judgment and that of any contractors or inspectors engaged by Buyer to review, evaluate and inspect the Property. The provisions of Section 10.2 shall survive Closing.

10.3 Condition of Property/Seller Acknowledgements. Seller acknowledges and agrees that in reference to the physical condition of the Property, Seller agrees to: (a) disclose in writing to Buyer defects in the Property known to Seller that materially affect the value of the Property that cannot be discovered by a reasonable inspection by an ordinary prudent Buyer; (b) carefully review, complete, and provide to Buyer a written Seller property condition disclosure as stated in Section 7(a); (c) deliver the Property to Buyer in substantially the same general condition as it was on the date of Acceptance, as defined in Section 23, ordinary wear and tear excepted; (d) deliver the Property to Buyer in broom-clean condition and free of debris and personal belongings; and (e) repair any Seller or tenant moving-related damage to the Property at Seller's expense. The provisions of Section 10.3 shall survive Closing.

11. FINAL PRE-SETTLEMENT WALK-THROUGH INSPECTION. No earlier than seven (7) calendar days prior to Settlement, and upon reasonable notice and at a reasonable time, Buyer may conduct a final pre-Settlement walk-through inspection of the Property to determine only that the Property is "as represented," meaning that the items referenced in Sections 1.1, 1.2 and 8.1(b)(3) ("the items") are respectively present, repaired or corrected as agreed. The failure to conduct a walk-through inspection or to claim that an item is not as represented shall not constitute a waiver by Buyer of the right to receive, on the date of possession, the items as represented.

12. CHANGES DURING TRANSACTION. Seller agrees that except as provided in Section 12.5 below, from the date of Acceptance until the date of Closing the following additional terms apply:

12.1 Alterations/Improvements to the Property. No substantial alterations or improvements to the Property shall be made or undertaken without prior written consent of Buyer.

12.2 Financial Encumbrances/Changes to Legal Title. No further financial encumbrances to the Property shall be made, and no changes in

Purchase Contracts, Addends, Receipts & Commission Instructions

3.3 Possession. Except as provided in Section 6.1(a) and (b), Seller shall deliver physical possession of the Property to Buyer as follows: **Upon Recording;** _____ **Hours after Recording;** _____ **Calendar Days after Recording.** Any contracted rental of the Property prior to or after Closing, between Buyer and Seller, shall be by separate written agreement. Seller and Buyer shall each be responsible for any insurance coverage each party deems necessary for the Property including any personal property and belongings. The provisions of this Section 3.3 shall survive Closing.

4. PRORATIONS / ASSESSMENTS / OTHER PAYMENT OBLIGATIONS.

4.1 Prorations. All prorations, including, but not limited to, homeowner's association dues, property taxes for the current year, rents, and interest on assumed obligations, if any, shall be made as of the Settlement Deadline referenced in Section 24(d), unless otherwise agreed to in writing by the parties. Such writing could include the settlement statement. The provisions of this Section 4.1 shall survive Closing.

4.2 Special Assessments. Any assessments for capital improvements as approved by the homeowner's association ("HOA") (pursuant to HOA governing documents) or as assessed by a municipality or special improvement district, prior to the Settlement Deadline shall be paid for by: Seller Buyer Split Equally Between Buyer and Seller Other (explain) _____.

The provisions of this Section 4.2 shall survive Closing.

(c) HOA/Other Entity Fees Due Upon Change of Ownership. Some HOA's, special improvement districts and/or other specially planned areas, under their governing documents charge a fee that is due to such entity as a result of the transfer of title to the Property from Seller to Buyer. Such fees are sometimes referred to as transfer fees, community enhancement fees, HOA reinvestment fees, etc. (collectively referred to in this section as "change of ownership fees"). Regardless of how the change of ownership fee is titled in the applicable governing documents, if a change of ownership fee is due upon the transfer of title to the Property from Seller to Buyer, that change of ownership fee shall, at Settlement, be paid for by: Seller Buyer Split Equally Between Buyer and Seller Other (explain) _____.

The provisions of this Section 4.3(c) shall survive Closing.

Purchase Contracts, Addends, Receipts & Commission Instructions

(a) Long-Term Lease or Rental Agreements. Buyer agrees to accept title to the Property subject to any long-term tenant lease or rental agreements (meaning for periods of thirty (30) or more consecutive days) affecting the Property not expiring prior to Closing. Buyer also agrees to accept title to the Property subject to any existing rental and property management agreements affecting the Property not expiring prior to Closing. The provisions of this Section 6.1(a) shall survive Closing.

(b) Short-Term Rental Bookings. Buyer agrees to accept title to the Property subject to any short-term rental bookings (meaning for periods of less than thirty (30) consecutive days) affecting the Property not expiring prior to Closing. The provisions of this Section 6.1(b) shall survive Closing.

7. SELLER DISCLOSURES. No later than the Seller Disclosure Deadline referenced in Section 24(a), Seller shall provide to Buyer the following documents in hard copy or electronic format which are collectively referred to as the "Seller Disclosures":

- (a) a written Seller property condition disclosure for the Property, completed, signed and dated by Seller as provided in Section 10.3;
- (b) a *Lead-Based Paint Disclosure & Acknowledgement* for the Property, completed, signed and dated by Seller (only if the Property was built prior to 1978);
- (c) a Commitment for Title Insurance as referenced in Section 6.1;
- (d) a copy of any restrictive covenants (CC&R's), rules and regulations affecting the Property;
- (e) a copy of the most recent minutes, budget and financial statement for the homeowners' association, if any;
- (f) a copy of any long-term tenant lease or rental agreements affecting the Property not expiring prior to Closing;
- (g) a copy of any short-term rental booking schedule (as of the Seller Disclosure Deadline) for guest use of the Property after Closing;
- (h) a copy of any existing property management agreements affecting the Property;
- (i) evidence of any water rights and/or water shares referenced in Section 1.4;
- (j) written notice of any claims and/or conditions known to Seller relating to environmental problems and building or zoning code violations;
- (k) In general, the sale or other disposition of a U.S. real property interest by a foreign person is subject to income tax withholding under the *Foreign Investment in Real Property Tax Act of 1980* (FIRPTA). A "foreign person" includes a non-resident alien individual, foreign corporation, partnership, trust or estate. If FIRPTA applies to Seller, Seller is advised that Buyer or other qualified substitute may be legally required to withhold this tax at Closing. In order to avoid closing delays, if Seller is a foreign person under FIRPTA, Seller shall advise Buyer in writing; and
- (l) Other (specify) _____

Purchase Contracts, Addends, Receipts & Commission Instructions

8.3 FINANCING CONDITION. (Check Applicable Box)

(a) **No Financing Required.** Buyer's obligation to purchase the Property **IS NOT** conditioned upon Buyer obtaining financing. If checked, Section 8.3(b) below does NOT apply.

(b) **Financing Required.** Buyer's obligation to purchase the Property **IS** conditioned upon Buyer obtaining the Loan referenced in Section 2.1(c). This Condition is referred to as the "Financing Condition." If checked, Sections 8.3(b)(i), (ii) and (iii) apply; otherwise they do not. If the REPC is not cancelled by Buyer as provided in Sections 8.1(b) or 8.2(a), then Buyer agrees to work diligently and in good faith to obtain the Loan.

(i) **Buyer's Right to Cancel Before the Financing & Appraisal Deadline.** If Buyer, in Buyer's sole discretion, is not satisfied with the terms and conditions of the Loan, Buyer may, after the Due Diligence Deadline referenced in Section 24(b), if applicable, cancel the REPC by providing written notice to Seller no later than the Financing & Appraisal Deadline referenced in Section 24(c); whereupon \$_____ of Buyer's Earnest Money Deposit shall be released to Seller without the requirement of further written authorization from Buyer, and the remainder of Buyer's Earnest Money Deposit shall be released to Buyer without further written authorization from Seller.

(ii) **Buyer's Right to Cancel After the Financing & Appraisal Deadline.** If after expiration of the Financing & Appraisal Deadline referenced in Section 24(c), Buyer fails to obtain the Loan, meaning that the proceeds of the Loan have not been delivered by the Lender to the escrow/closing office as required under Section 3.2, then Buyer shall not be obligated to purchase the Property and Buyer or Seller may cancel the REPC by providing written notice to the other party.

(iii) **Earnest Money Deposit(s) Released to Seller.** If the REPC is cancelled as provided in Section 8.3(b)(ii), Buyer agrees that all of Buyer's Earnest Money Deposit, or Deposits, if applicable (see Section 8.4 below), shall be released to Seller without the requirement of further written authorization from Buyer. Seller agrees to accept, as Seller's exclusive remedy, the Earnest Money Deposit, or Deposits, if applicable, as liquidated damages. Buyer and Seller agree that liquidated damages would be difficult and impractical to calculate, and the Earnest Money Deposit, or Deposits, if applicable, is a fair and reasonable estimate of Seller's damages in the event Buyer fails to obtain the Loan.

10. HOME WARRANTY PLAN / AS-IS CONDITION OF PROPERTY.

10.1 Home Warranty Plan. A one-year Home Warranty Plan WILL WILL NOT be included in this transaction. If included, the Home Warranty Plan shall be ordered by Buyer Seller and shall be issued by a company selected by Buyer Seller. The cost of the Home Warranty Plan shall not exceed \$_____ and shall be paid for at Settlement by Buyer Seller.

10.2 Condition of Property/Buyer Acknowledgements. Buyer acknowledges and agrees that in reference to the physical condition of the Property: (a) Buyer is purchasing the Property in its "As-Is" condition without expressed or implied warranties of any kind; (b) Buyer shall have, during Buyer's Due Diligence as referenced in Section 8.1, an opportunity to completely inspect and evaluate the condition of the Property; and (c) if based on the Buyer's Due Diligence, Buyer elects to proceed with the purchase of the Property, Buyer is relying wholly on Buyer's own judgment and that of any contractors or inspectors engaged by Buyer to review, evaluate and inspect the Property. The provisions of Section 10.2 shall survive Closing.

10.3 Condition of Property/Seller Acknowledgements. Seller acknowledges and agrees that in reference to the physical condition of the Property, Seller agrees to: (a) disclose in writing to Buyer defects in the Property known to Seller that materially affect the value of the Property that cannot be discovered by a reasonable inspection by an ordinary prudent Buyer; (b) carefully review, complete, and provide to Buyer a written Seller property condition disclosure as stated in Section 7(a); (c) deliver the Property to Buyer in substantially the same general condition as it was on the date of Acceptance, as defined in Section 23, ordinary wear and tear excepted; (d) deliver the Property to Buyer in broom-clean condition and free of debris and personal belongings; and (e) repair any Seller or tenant moving-related damage to the Property at Seller's expense. The provisions of Section 10.3 shall survive Closing.

Purchase Contracts, Addends, Receipts & Commission Instructions



REAL ESTATE BROKERAGE COMMISSION - ESCROW INSTRUCTIONS



The following are ESCROW INSTRUCTIONS for the payment of real estate brokerage commissions on a real estate transaction described in an Earnest Money Sales Agreement dated the _____ by and between _____ as Seller and _____ as Buyer of the real property described as follows: _____

LISTING/SELLING BROKERAGE INFORMATION

Listing Brokerage	Business Address	Phone	
Selling Brokerage	Business Address	Phone	
Listing Agent	Phone	Selling Agent	Phone

BROKERAGE COMMISSION

To the extent these ESCROW INSTRUCTIONS modify any prior agreements between the Buyer or Seller and the Listing and/or Selling Brokerages, regarding the payment of a real estate brokerage commission or fee, the terms of these Escrow Instructions shall supersede those prior agreements. The total real estate brokerage commission to be paid in this transaction is \$ _____, which represents _____% of the agreed sales price of \$ _____. The undersigned authorize and direct the closing office to disburse the brokerage commission directly to the Listing and Selling Brokerages in the following manner: \$ _____ to the Listing Brokerage; \$ _____ to the Selling Brokerage; Other (explain): _____

The undersigned agree to the terms above.

Listing Broker	Date	Selling Broker	Date
----------------	------	----------------	------

SIGNATURE(S) OF INDIVIDUAL(S) PAYING THE COMMISSION (BUYER OR SELLER) ARE REQUIRED ONLY IF THIS AGREEMENT MODIFIES A PRIOR COMMISSION AGREEMENT.

Buyer	Date	Seller	Date
-------	------	--------	------

Buyer	Date	Seller	Date
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Long Term & Short Term Leases

6.1 Title to Property. Seller represents that Seller has fee title to the Property and will convey marketable title to the Property to Buyer at Closing by general warranty deed. Buyer does agree to accept title to the Property subject to the contents of the Commitment for Title Insurance (the "Commitment") provided by Seller under Section 7, and as reviewed and approved by Buyer under Section 8.

(a) Long-Term Lease or Rental Agreements. Buyer agrees to accept title to the Property subject to any long-term tenant lease or rental agreements (meaning for periods of thirty (30) or more consecutive days) affecting the Property not expiring prior to Closing. Buyer also agrees to accept title to the Property subject to any existing rental and property management agreements affecting the Property not expiring prior to Closing. The provisions of this Section 6.1(a) shall survive Closing.

(b) Short-Term Rental Bookings. Buyer agrees to accept title to the Property subject to any short-term rental bookings (meaning for periods of less than thirty (30) consecutive days) affecting the Property not expiring prior to Closing. The provisions of this Section 6.1(b) shall survive Closing.

6.2 Title Insurance. At Settlement, Seller agrees to pay for and cause to be issued in favor of Buyer, through the title insurance agency that issued the Commitment (the "Issuing Agent"), the most current version of the *ALTA Homeowner's Policy of Title Insurance* (the "*Homeowner's Policy*"). If the *Homeowner's Policy* is not available through the Issuing Agent, Buyer and Seller further agree as follows: (a) Seller agrees to pay for the *Homeowner's Policy* if available through any other title insurance agency selected by Buyer; (b) if the *Homeowner's Policy* is not available either through the Issuing Agent or any other title insurance agency, then Seller agrees to pay for, and Buyer agrees to accept, the most current available version of an *ALTA Owner's Policy of Title Insurance* ("*Owner's Policy*") available through the Issuing Agent.

Seller Disclosures- Leases & Rental Agreements

7. SELLER DISCLOSURES. No later than the Seller Disclosure Deadline referenced in Section 24(a), Seller shall provide to Buyer the following documents in hard copy or electronic format which are collectively referred to as the "Seller Disclosures":

- (a) a written Seller property condition disclosure for the Property, completed, signed and dated by Seller as provided in Section 10.3;
- (b) a *Lead-Based Paint Disclosure & Acknowledgement* for the Property, completed, signed and dated by Seller (only if the Property was built prior to 1978);
- (c) a Commitment for Title Insurance as referenced in Section 6.1;
- (d) a copy of any restrictive covenants (CC&R's), rules and regulations affecting the Property;
- (e) a copy of the most recent minutes, budget and financial statement for the homeowners' association, if any;
- (f) a copy of any long-term tenant lease or rental agreements affecting the Property not expiring prior to Closing;
- (g) a copy of any short-term rental booking schedule (as of the Seller Disclosure Deadline) for guest use of the Property after Closing;
- (h) a copy of any existing property management agreements affecting the Property;
- (i) evidence of any water rights and/or water shares referenced in Section 1.4;
- (j) written notice of any claims and/or conditions known to Seller relating to environmental problems and building or zoning code violations;
- (k) In general, the sale or other disposition of a U.S. real property interest by a foreign person is subject to income tax withholding under the *Foreign Investment in Real Property Tax Act of 1980* (FIRPTA). A "foreign person" includes a non-resident alien individual, foreign corporation, partnership, trust or estate. If FIRPTA applies to Seller, Seller is advised that Buyer or other qualified substitute may be legally required to withhold this tax at Closing. In order to avoid closing delays, if Seller is a foreign person under FIRPTA, Seller shall advise Buyer in writing; and
- (l) Other (specify) _____

7. SELLER DISCLOSURES. No later than the Seller Disclosure Deadline referenced in Section 24(a), Seller shall provide to Buyer the following documents which are collectively referred to as the "Seller Disclosures":

- (a) a Seller property condition disclosure for the *Property*, signed and dated by Seller;
- (b) a *Commitment for Title Insurance on the Property*;
- (c) a copy of all leases and rental agreements now in effect with regard to the *Property* together with a current rentroll;
- (d) operating statements of the Property for its last _____ full fiscal years of operation plus the current fiscal year through _____ certified by the Seller or by an independent auditor;
- (e) copies in Seller's possession, if any, of any studies and/or reports which have previously been done on the *Property*, including without limitation, environmental reports, soils studies, site plans and surveys;
- (f) written notice of any claims and/or conditions known to Seller relating to environmental problems and building or zoning code violations; and
- (g) Other (specify) _____

Lender Instructions

- Chase Home Finance
 - 6 pages
 - Bank of America
 - 25 Pages
 - Provident Funding
 - 6 Total Pages
 - America First Credit Union
 - 2 or 3 pages
 - Axiom Financial
 - 6 Pages
 - Wells Fargo
 - 6-8 Pages
-



Seller Proceed and Wire Transfer Instructions

INSTRUCTIONS FOR NET PROCEEDS

Date: August 24, 2017

Escrow No.: 6-874388

TO: Backman Title Services Ltd.

I/We hereby authorize and direct Backman Title Services Ltd. to disburse my/our net proceeds as follows: (Check the applicable section)

1. _____ Hold the proceeds check for pick up and call when check is ready at the following number:

2. _____ I've authorized the proceeds check to be picked up by: _____
3. _____ I've instructed that the proceeds check be sent to our agent.
4. _____ I've instructed Backman Title Services Ltd. to wire proceeds as detailed specifically in the attached Wire Instructions.
5. _____ Transfer the net proceeds to the following escrow:
Company: _____
Address: _____
Phone Number: _____
Escrow Officer: _____
Escrow Number: _____
6. _____ Split proceeds as follows: (Please indicate names, amounts or percentages)

7. _____ I've instructed Backman Title Services Ltd. to mail out proceeds to the following address:

Date

Date



Backman Title
Services

WIRE TRANSFER INSTRUCTIONS

Date:
Order No:
Escrow Office:

The undersigned hereby authorizes and directs Backman Title Services, Ltd. to wire transfer funds, as indicated below, to the Receiving Bank and Account Identified below. The undersigned warrants that the information provided in this Authorization is complete and accurate.

Net Proceeds: Due the Undersigned

\$

Other: _____
Receiving Bank: _____
City/State: _____
ABA No.: _____
Account Name: _____
Account No.: _____
Notify: _____
Phone: _____
Memo: _____
Other: _____

Provided that all funds are wire transferred in accordance with these instructions, Backman Title Services, Ltd. shall not be liable for any act or omission of any financial institution or any other person, nor shall Backman Title Services, Ltd. have any liability for loss of funds or interest thereon. In no event shall damages exceed interest at a rate equal to Federal Funds rate, adjusted daily, for the number of days that such funds are unavailable.

The undersigned shall indemnify and hold harmless Backman Title Services, Ltd., its successors and assigns, from any loss, liability and cost incurred as a result of any incorrect information supplied.

In no event shall Backman Title Services, Ltd. be liable for any special, consequential, indirect, or incidental damages, regardless of whether any claim is based on contract or tort whether the likelihood of such damage was known to Backman Title Services, Ltd.

Good Funds

- 1- **Cash** may be disbursed on the same day the cash is deposited.
- 2- A **wire transfer** may be disbursed on the same day the wire transfer is deposited.
- 3- For **amounts under \$10,000.00** The proceeds of a **cashier's check, certified check, or official check** that is drawn on an existing account at a federally insured financial institution **may** be disbursed on the same day the financial instruments are deposited if received from a single party to the real estate transaction or less than \$10,000 in aggregate from all the parties.

The following (4-6) **may** also be disbursed the same day they are deposited.

- 4- A personal check not to exceed \$500 per closing.
 - 5- A check drawn on the escrow account of another title producer.
 - 6- Checks drawn on the **trust account of a principal broker, or associate broker.**
-



Wires

- Wire out cutoff time is 3:30 PM
 - To other title companies
 - To Lenders
 - Transaction Proceeds to borrowers and sellers
- Sometimes wires do not post until 4:30 PM or later
- County Recorder offices close at 5:00 PM

#TerribleInstructions

- Another one: The 2008 REPC Page 6 has a place for buyer and sellers address and phone. The 2017 REPC is missing that section. Nothing is more helpful than having customers emails and phones.
- Wrong names searched, people on Contract are not the people on title
- In correct address & multiple lots
- Solar Panel & UCC
- My favorite: seller to pay 3% of closing costs. Great! That's only like \$150.

Title Insurance

Does not always cover Escrow Mistakes



ESCROW CLAIMS

Escrow losses are not covered through title insurance

1. Escrow Claims can result from the mismanagement of funds
2. Are usually the result of incomplete/incorrect information
3. Can also be caused by incompetence, laziness or not knowing

- Escrow Claims
 1. Payoffs
 - FHA Payoffs
 - Second Mortgage/HELOC Closeout
 2. Mechanic Liens
 3. Fraud
 4. Bad Prorations
 1. HOA
 2. Taxes
 3. Water/Sewer
 5. Notary Duties
 1. Fraud
 2. Probate
 3. Business/LLC Losses

What is a Closing Protection Letter?

The lender's policy is issued as an indemnification related to borrower covenants and insures the lender's desired lien position. The policy is mainly provided to insure against defects and liens from the past. A lender's policy is only issued after a loan has funded and recorded and the effective date is based on when the deed of trust is recorded.

A CPL gives the insured extra coverage for events that may happen before, during and after settlement. While protection for the lender's begins after the securing document is recorded, coverage from the CPL becomes effective upon the delivery of the title commitment.

A CPL is also different because the underwriter insures the lender against actions of their title agency. Lenders request CPL's because the actions of a title agency prior to the issuing of the policy can affect the ability to enforce a lien. It is also true that some agency actions can also put a lender's funds at risk.

When the CPL is issued the underwriter backs up actions made by an individual title agent. Among other things, and subject to certain exclusions, the underwriter indemnifies against certain actions or inactions of its title agent, such as the following:

- 1- Fail to comply with a lender's written closing instructions
- 2- Fail to properly record documents
- 3- Act in a negligent or fraudulent way

Licenses, Bonds and Insurance

- **State of Utah Department of Insurance**
- License Number 4426
- **Errors and Omission (E&O)**
- Coverage for title insurance, abstractors, escrows and closing
- \$1,000,000 policy, See the attached copy
- **Fidelity Bond Requirements**
- Utah Code [31A-23a-204\(2\)](#) requires a minimum bond of \$250,000
- Backman maintains a \$500,000 fidelity and crime protection bond
 - See attached copy

Title Insurance Claims

How to make a claim

Contact your local title agent

Contact your underwriter

Submit your claim by mail