

IMPORTANT NOTICE:

In early 2018, the West Michigan Regional libraries within ZipLogix and DotLoop will include revised versions of the listing and purchase agreements. Please read this summary to familiarize yourself with the changes before you begin to use the new forms.

LISTING AGREEMENT:

The West Michigan Regional Forms Committee conducted a thorough review of the listing agreement and made the following revisions for 2018 (new language is underlined in red font and deleted language appears in blue):

#1 - Consideration & Terms of Contract – This paragraph includes some housekeeping changes (see revision marks below – deleted language is in blue font and new language is in red font):

In consideration of Broker's agreement to list the real property described below in the Multiple Listing Service (hereinafter "MLS") and to pay the fee therefore and to cause the listing information to be distributed to the participating members in the MLS and in further consideration of Broker's agreement to use Broker's best efforts to find a Buyer, Seller ~~hereby grants,~~ _____, the Broker, from _____ (date) to ~~12:00 midnight~~ 11:59 p.m. on _____ (date) the exclusive irrevocable right and privilege to sell the property located...

Note: This summary was published on 1/2/18, but as a result of immediate feedback from the membership, the paragraph above was amended to reference a time of 11:59 p.m. (rather than the 12:01 a.m. time that was initially referenced in the 1/2/18 document).

#2 – Designated Agency – This is a new paragraph. Designated agency was not previously addressed in the listing agreement. The inclusion of this language may make it unnecessary for you to continue using a separate addendum. Please chat with your supervising broker before making that determination though.

DESIGNATED AGENCY: Seller appoints _____ as the Seller's designated agent. For the purpose of this Agreement, Seller shall have an agency relationship with the listing brokerage, the designated agent(s) named above, and the following supervisory Broker(s): _____. Seller acknowledges and agrees that Broker may add, change or substitute the designated agent(s) or supervisory broker(s). Any such change shall be in writing.

#3 – Land Division Act – no changes were made to this section.

#4 - Fixtures & Improvements – This paragraph has been modified to draw attention to those items that may be rented. Please take time to check the applicable boxes. Please also keep in mind that this is not an all-inclusive list, therefore, it may be necessary for you to take advantage of the space at the end of the paragraph to further describe what may or may not be included with the Property.

FIXTURES & IMPROVEMENTS. The following is not intended to be an all-inclusive list of items included with the Property. All improvements and appurtenances are included in the purchase price ~~including~~, if now in or

on the pProperty, including the following: all buildings; landscaping, lighting fixtures and their shades and bulbs; ceiling fans; hardware for draperies and curtains; window shades and blinds; built-in kitchen appliances, including garbage disposal and drop-in ranges; wall to wall carpeting, if attached; all attached mirrors; all attached TV mounting brackets; all attached shelving; attached work benches; stationary laundry tubs; water softener (please check one: ☐ owned or ☐ rented) ~~(unless rented)~~; water heater; incinerator; sump pump; water pump and pressure tank; heating and air conditioning equipment (window units excluded); attached humidifiers; heating units, including add-on heating stoves and heating stoves connected by flue pipe; fireplace screens, inserts, and grates; fireplace doors, if attached; liquid heating and cooking fuel tanks (please check one: ☐ owned or ☐ rented) ~~if owned by seller~~; TV antenna and complete rotor equipment; satellite dish and necessary accessories and complete rotor equipment (please check one: ☐ owned or ☐ rented); all support equipment for inground pools; screens and storm windows and doors; awnings; installed basketball backboard, pole and goal; mailbox; flagpole(s); fencing, invisible inground fencing and all related equipment, including collars; detached storage buildings; underground sprinkling, including the pump; installed outdoor grills; all plantings and bulbs; garage door opener and control(s); and any and all items and fixtures permanently affixed to the pProperty; and also includes: _____

but does not include: _____

#5 – Heating & Cooking Fuels – This paragraph was modified to reflect the good-faith intent of the contract and to ensure that fuel is not drained from the tanks prior to closing.

HEATING & COOKING FUELS. Liquid heating and cooking fuels in tanks are included in the sale and will transfer to Buyer at time of possession unless usage is metered (in which case it is not included in the sale). Seller agrees to maintain is responsible for maintaining heating and cooking liquid fuels at an operational level and shall not permit fuels to fall below 10% of the tank(s) at time of ~~sale~~ possession, except that the tank(s) may be empty only if empty at time of acceptance of an offer. Further, the Seller is precluded from removing fuel from tank(s) other than what is expended through normal use. Exceptions: _____

#6 – Sale Price – a few simple housekeeping changes were made to this paragraph.

SALE PRICE. Seller agrees to sell the pProperty for the sum of \$_____ U.S. Dollars or, with ~~S~~seller's consent, for a lesser sum or other terms, WHICH PRICE INCLUDES SELLER'S OBLIGATION TO PAY OUTSTANDING BALANCES ON ALL LIENS, ENCUMBRANCES, TAXES, ASSESSMENTS, EQUIPMENT AND IMPROVEMENTS. The term "sale" shall be deemed to include any exchange or trade to which Seller consents.

#7 – Terms – The fields for points and repairs were removed from the form. If applicable, this information will be addressed in the purchase agreement. For GRAR members, this information will no longer be required with the submission of new listings.

#8 – Brokerage Fee – The form now provides protection and compensation in the event that the property is leased rather than sold.

BROKERAGE FEE. Seller agrees to pay Broker a brokerage fee of _____ % of the sales price, or gross aggregate lease amount, due and payable if:

- the pProperty is sold, leased, or traded by Broker or by Seller or anyone else during the listing period (including sales pursuant to options granted or contracts executed during the listing period);
- a prospective buyer ready, willing, and able to purchase the pProperty on the terms specified herein or other terms acceptable to Seller is produced by Broker or any licensee or person during the listing period;
- or the pProperty is sold or leased within _____ months after expiration of the listing period (including sales or leases pursuant to options granted or contracts executed within that period following expiration) to

a buyer or tenant who had been shown the pProperty during the listing period by Broker or Seller, or any other individual licensed for real estate sales activities under the Michigan Occupational Code (hereafter "licensee") or person, except that this provision shall not apply if the pProperty is sold or leased pursuant to a valid listing agreement entered into with another broker subsequent to the expiration of the listing period of this agreement.

In the event Seller grants an option to purchase the pProperty during the listing period and that option is not exercised, the listing period shall be automatically extended after the expiration of the option for a period of time equal to the unexpired portion of the listing period existing at the time the option was granted. The brokerage fee shall be paid promptly after it is earned and in no event later than the closing of the sale of the pProperty. In the event of litigation involving the brokerage fee relating to this agreement and if the Broker is the prevailing party, the Seller shall reimburse the Broker for reasonable attorneys' fees and expenses incurred in connection with any such litigation.

#9 – Participation in the MLS – no changes were made to this section.

#10 – Possibility of Dual Agency - no changes were made to this section.

#11 – Licensees Not Representing Seller - no changes were made to this section.

#12 – Inquiries - no changes were made to this section.

#13 – Title - no changes were made to this section.

#14 - Possession & Occupancy – This paragraph was revised to clarify that possession after close might be requested by the seller, but is not something that can be guaranteed at the time of listing. It is a request that is negotiated in the purchase agreement. Please keep in mind that the Flex MLS offers a drop down menu of possession options and the listing agent should select the option that best describes the terms of the listing agreement and/or use the Agent Remarks to further describe the preferred possession.

POSSESSION & OCCUPANCY. Possession to be delivered to buyer upon the completion of the closing of the sale. Seller shall have request the privilege to occupy the property:

☐ until completion of the closing of the sale.

☐ until and including the _____ day after the completion of the closing of the sale, unless otherwise agreed in an executed purchase agreement. Seller may be asked by a Buyer to pay a fee for Seller's occupancy past the completion of the closing of the sale.

Occupancy subject to rights of present tenants, if any.

#15 – Marketing - This paragraph often caused confusion because it implied that the listing broker had control over data feeds once the information had been placed on the Internet, which is simply not true. Therefore, the checkboxes re: automated estimates and third party publication have been deleted.

MARKETING. Broker is hereby authorized to market the pProperty through any media, and to record and/or display interior and/or exterior images. Seller consents to the placement of video and/or still images of the pProperty on the Internet and other forms of media. Seller acknowledges that Broker has limited control over third-party marketing of Property. Broker is also authorized to place a "For Sale" sign on said pProperty and to remove all other "For Sale" signs, if any. Broker is hereby authorized to have access to said pProperty and all parts thereof for the purposes of showing same at reasonable hours.

Broker ☐ is ☐ is not authorized to use a(n) ☐ electronic ☐ key ☐ combination key box on the property.

~~Seller hereby advises that Seller ☐ does or ☐ does not want to allow third parties to display an automated estimate of the market value of the said property (or hyperlink to such estimates) in immediate conjunction with the listing for said property.~~

~~Seller hereby advises that Seller ☐ does or ☐ does not want to allow third parties to publish comments or reviews about said property (or display a hyperlink) to such comments or reviews in immediate conjunction with the listing of said property.~~

#16 – Submission of Offers - no changes were made to this section.

#17 – Non-Discrimination - The paragraph now provides education for sellers on the risks of buyer's letters as they relate to the Federal or State Fair Housing Laws, and permits the seller to indicate whether or not he wishes to receive buyer's letters with offers.

NON-DISCRIMINATION. The parties acknowledge that discrimination on the part of a real estate broker, real estate licensee, seller or lessor because of religion, race, color, national origin, age, sex, marital status, height, weight, physical or mental disability, or familial status is prohibited by law.

Seller is advised that the receipt and consideration of information contained in a letter from the Buyer accompanying an offer to purchase may result in a violation of Federal or State Fair Housing Laws. Seller directs the Broker that a letter from the Buyer ☐ WILL or ☐ WILL NOT be presented with any offer to purchase.

#18 – Modifications – The potential for cancellation of the agreement has been relocated to the Broker's Remedies paragraph.

Heirs and Successors (formerly #18) – This information is now addressed in the Acknowledgment paragraph.

#19 – Seller's Disclosure Statement - no changes were made to this section.

#20 – Seller's Representation of Age of Structure - no changes were made to this section.

#21 – Responsibilities of Sellers Under Residential Lead-Based Paint Hazard Reduction Act - no changes were made to this section.

#22 – Disclosure of Information - This paragraph was amended to clarify that, although Agent for Owner may appear on the MLS at the seller's request, the listing broker doesn't have the ability to keep the seller's name truly anonymous in all aspects of the transaction.

DISCLOSURE OF INFORMATION. Sellers acknowledge and agree that the price, terms, and other details with respect to the (closed) sale of this ~~p~~Property are not confidential, will be disclosed to REALTORS® who participate in the applicable Multiple Listing Service, and may otherwise be used and/or published by that Multiple Listing Service in the ordinary course of its business.

Optional (check if applicable): ☐ As the Seller, I request that "Agent for Owner" appear in the owner's name field on the MLS. ~~prefer to remain anonymous on my listing as it appears to the members of the MLS and request that the name of my listing agent appear in the owner's section as agent for Seller.~~

#23 – Indemnification - no changes were made to this section.

#24 – Consent to Fees - no changes were made to this section.

#25 – Broker's Remedies - This paragraph previously only referenced a seller's breach of the contract, but under Michigan law an agency agreement may be terminated and that termination isn't considered a breach. The paragraph goes on to describe the penalties if the agreement is terminated or cancelled.

BROKER'S REMEDIES ~~IN THE EVENT OF SELLER'S BREACH~~. In the event Seller ~~breaches~~ terminates this Agreement, ~~except to the extent Broker receives a brokerage fee in accordance with this Agreement before the Expiration Date, Seller agrees to reimburse Broker for any~~ and all expenses ~~paid or~~ incurred in connection with ~~the~~ Property, including, but not limited to, advertising costs, title search commitment fees, attorney fees, surveys authorized by Seller, or any other expenses ~~paid or~~ incurred by Broker regarding ~~the~~ Property. ~~during the term of this Agreement. The foregoing shall neither limit nor constitute a waiver of any right or remedy of Broker under this Agreement or applicable law and shall be in addition to any claims or damages to which Broker may be entitled hereunder or thereunder, including, but not limited to, a claim for a brokerage fee under this Agreement. In event Seller becomes obligated to reimburse Broker hereunder,~~ Broker will provide a list of all such expenses to Seller within five (5) days after ~~the~~ Seller provides written notification of termination. Seller shall pay ~~all such expenses to~~ Broker's expenses within no later than ten (10) days after Seller's receipt of Broker's itemized list of expenses. The foregoing shall neither limit, nor constitute a waiver, of any right or remedy of Broker under this Agreement or applicable law and shall be in addition to any claims or damages to which Broker may be entitled, including, but not limited to, a claim for a brokerage fee under this Agreement.

#26 – Citizenship - This is a new paragraph that is intended to clarify whether the seller might be subject to the Foreign Investment in Real Property Tax Act (FIRPTA tax), and to prompt the listing broker to address this issue as part of the closing.

CITIZENSHIP. Seller is a United States Citizen: (please check one) ☐ Yes ☐ No

#27 – Fax/Electronic Distribution and Electronic Signatures - The form previously obtained consent for the electronic distribution of documents, but didn't provide consent for electronic signatures.

FAX/ELECTRONIC DISTRIBUTION AND ELECTRONIC SIGNATURES. The parties agree that any signed copy of this Agreement, and any amendments or addendums related to this transaction, transmitted by facsimile or other electronic means shall be competent evidence of its contents to the same effect as an original signed copy. The parties further agree that an electronic signature is the legal equivalent of a manual or handwritten signature, and consent to use of electronic signatures.

#28 – Other Conditions - no changes were made to this section.

#29 – Acknowledgment - This paragraph now consolidates the Heirs and Successors and the Acknowledgment language.

ACKNOWLEDGMENT. This contract, which binds Broker, Seller, and their respective successors, estate(s), and heirs, contains all of the terms and conditions of the agreement between the parties with respect to its subject matter, and there are no representations, warranties, conditions, or promises except those expressly set forth in this contract. The undersigned Seller(s) represents and warrants that Seller(s) has full power and

authority to enter into and perform this contract including the conveyance of title as specified above. Seller ~~hereby~~ acknowledges receipt of a copy of this contract.

PURCHASE AGREEMENT:

The West Michigan Regional Forms Committee also made some minor housekeeping changes to the purchase agreement for 2018. Those revisions are referenced below and are self-explanatory (new language is underlined in red font and deleted language appears in blue):

#3

Seller's Disclosure Statement: (This paragraph applies to sales of one-to-four family residential units.)

- ☐ Buyer has received Seller's Disclosure Statement, dated _____, ~~subject to Seller's certification in the Certification of Previous Disclosure Statement Paragraph contained herein.~~ Seller certifies to Buyer that the Property is currently in the same condition as Seller previously disclosed in that statement. Seller agrees to inform Buyer in writing of any changes in the content of the disclosure statement with respect to the structural/mechanical/appliance systems prior to closing.
- ☐ Buyer has not received Seller's Disclosure Statement, ~~and~~ Buyer's obligations under this Contract Agreement are subject to Buyer's receipt of Seller's Disclosure Statement, ~~and acceptance of Seller's Disclosure Statement within 72 hours after receipt in the case of personal delivery or 120 hours in the case of delivery by mail.~~ Exceptions: _____
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#8

Terms: The Terms of Purchase will be as indicated by "X" below: (Other unmarked terms of purchase do not apply.)

SOURCE OF FUNDS TO CLOSE: Buyer represents that the funds necessary to close this transaction on the terms specified below are currently available to Buyer in cash or an equally liquid equivalent.

If the Property's value stated in an appraisal obtained by Buyer or Buyer's lender is less than the Purchase Price, Buyer may within three (3) days after receipt of the appraisal: 1) renegotiate with the Seller, 2) terminate the transaction, in which case Buyer shall receive a refund of Buyer's Good-Faith Deposit, or 3) proceed to close the transaction at the agreed Purchase Price.

#9

Contingencies: The Buyer's obligation to consummate this transaction (check one):

- ☐ IS NOT CONTINGENT - is not contingent upon the sale or exchange of any other property by Buyer.
- ☐ IS CONTINGENT UPON CLOSING - is contingent upon closing of a sale or exchange of Buyer's property located at: _____

on or before: _____.

A copy of Buyer's agreement to sell or exchange that property is being delivered to Seller along with this offer.

- ☐ IS CONTINGENT UPON THE SALE AND CLOSING - is contingent upon the execution of a binding agreement and the closing of a sale or exchange of Buyer's property located at _____ on or before _____.

Seller will have the right to continue to market Seller's Property until Buyer enters into a binding agreement to sell or exchange Buyer's property and delivers a copy thereof to Seller. During such marketing period, Seller may enter into a binding contract for sale to another purchaser on such price and terms as the Seller deems appropriate, ~~and in~~ in such event, this Agreement will automatically terminate, Buyer will be notified promptly, and Buyer's deposit will be refunded. Exceptions: _____

#14:

Well/Septic: Within ten (10) days after the Effective Date, the Seller will arrange and pay for an inspection of the primary well used for human consumption (including a water quality test for coliform bacteria and nitrates) and septic systems in use on the Property. The inspection shall be performed by a qualified inspector who will perform an inspection that in a manner that meets the county's (or other local governmental authority, if applicable) protocol. ~~for evaluation of the primary well used for human consumption and septic systems in use on the Property.~~ Seller shall also follow any county governmental rules regarding pumping of tanks.

Where no county or government protocol is in place, Seller shall arrange and pay for well and septic inspections (as referenced above) by a qualified inspector, and Seller shall have the septic tank(s) pumped at Seller's expense.

If any report discloses ~~an unsatisfactory a~~ condition unsatisfactory to Buyer, or doesn't meet county standards that are a condition of sale, Buyer may, within three (3) days after Buyer has received the report, by written notice to Seller, either terminate this Agreement and receive a refund of Buyer's good-faith deposit, or make a written proposal to Seller to correct those unsatisfactory conditions. If Buyer fails to make a written proposal within the above referenced time period, then Buyer will be deemed to have accepted the well/septic as-is. Seller will respond in writing within three (3) days to Buyer's request. If Seller fails to respond or to arrive at a mutually agreeable resolution within three (3) days after Seller's receipt of Buyer's proposal, Buyer shall have three (3) days to provide written notice of termination of this Agreement and receive a refund of any applicable good-faith deposit. If Buyer fails to terminate the contract, Buyer will proceed to closing according to the terms and conditions of this Agreement. Exceptions:

#28:

~~Fax or~~ Electronic Distribution and Electronic Signatures. The parties agree that any signed copy of this Agreement, and any amendments or addendums related to this transaction, transmitted by facsimile or other electronic means shall be competent evidence of its contents to the same effect as an original signed copy. The parties further agree that an electronic signature is the legal equivalent of a manual or handwritten signature, and consent to use of electronic signatures.

#31

Certification of Previous Disclosure Statement: Seller certifies to Buyer that the Property is currently in the same condition as ~~Seller previously~~ disclosed in the Seller's Disclosure Statement dated: _____ (check one): ☐ Yes ☐ No. Seller agrees to inform the Buyer in writing of any changes in the content of the disclosure statement prior to closing.