Davidson County AFFIDAVIT
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This instrument prepared by:
Executive Title, LLC
4470 Old Lebanon Dirt Road
Mt. Juliet, TN 37122
FILE NO: ET-04-4927

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SCRIVENERS AFFIDAVIT

WHEREAS, the undersigned, Beverly J. Heatherly, on the 28th day of January 2004, prepared and closed the sale from Gary E. Wooten, to Larry Beasley. in the amount of $79,900.00 for property located at 1109 Waggoner Court West, Nashville, TN 37214.

WHEREAS, by Warranty Deed recorded at Instrument No. 20040202-0012308, in the Register's Office for Davidson County, Tennessee, the undersigned did personally prepare said Warranty Deed but made a typographical error in the legal description. It was erroneously referred to as Lot 180-A and in Plat Book 6250, Page 409.

WHEREAS, by Deed of Trust recorded at Instrument No. 20040202-0012309, in the Register's Office for Davidson County, Tennessee the undersigned did personally prepare said Deed of Trust but made a typographical error in the legal description. It was erroneously referred to as Lot 180-A and in Plat book 6250, Page 409.

WHEREAS the following legal description shall be incorporated in the Instuments above:

Land in Davidson County, Tennessee, being Lot No. 146-A Zone Lot Division - Section Six, Patio Villa, as of record in Plat Book 6250, Page 489, Register's Office for Davidson County, Tennessee,

NOW T'HEREFORE, for and in consideration of the statements aforesaid, the undersigned, hereby amends and corrects the legal description contained in said Warranty Deed of record in Instrument No. 20040202-0012308 and in said Deed of Trust of record in Instrument No. 20040202-0012309, Registers Office, Davidson County, Tennessee, to properly state the legal description and further restates same, in its entirety, as follows, such amended and corrected grantor to become a part of the aforesaid Warranty Deed and Deed of Trust along with a copy of the respective Contract for Sale of Real Estate as supporting documentation hereof.

Beverly J. Heatherly

STATE OF Tennessee
COUNTY OF Wilson

Personally appeared before me, the undersigned, a Notary Public in and for said County and State , the within named Beverly J. Heatherly with whom I am personally acquainted (or proved to me on the basis of satisfactory evidence) and who acknowledged that such person(s) executed the same as such person(s) free act and deed.

Witness my hand and official seal at this 16th day of August, 2007.

Notary Public

My Commission Expires: 6-30-10

DUSTIN C. DUNN
STATE OF TENNESSEE NOTARY PUBLIC
WILSON COUNTY, TN

ABCDEFGHIJKLMNOP

The Realty Association
1502 Murfreesboro Pike
Nashville, Tennessee 37217-2635
(615) 385-9910 • Fax (615) 399-6186

CONTRACT FOR SALE OF REAL ESTATE

INITIAL DISCLOSURE: The Real Estate Licensee preparing this offer to purchase is acting as one of the following: ☐ Facilitator; ☑ Designated Agent for the Buyer; ☐ Designated Agent for the Seller; ☐ Dual Agent. *Buyer Signature* _____ Date _____

1. **PARTIES.** The parties to this contract are Gary Wagner etc. (herein collectively the "Seller"), and _____ (herein collectively the "Buyer").

2. **AGREEMENT.** In consideration of the Earnest Money and this Agreement, the Seller hereby agrees to sell, and the Buyer hereby agrees to buy, subject to the terms of this contract, the following described Real Property (the "Property") in _____ County, Tennessee: _____

MLS # _____

3. **PURCHASE PRICE.** The PURCHASE PRICE shall be $ _____ payable as follows: _____

4. **EARNEST MONEY.** The Buyer has deposited with _____ (the Escrow Agent), whose address is: _____ the sum of $ _____ for Earnest Money as partial payment of the purchase price. If any contingencies of this contract are not met, then contract will become void and Earnest Money will be refunded to Buyer. Upon any dispute, the Escrow Agent shall have the right to interplead such sum Court, and recover its expenses and reasonable attorney's fees upon doing so shall have no further liability to anyone as such Escrow Agent.

5. **LOAN CONTINGENCY.** This contract is, or ☐ is not, contingent upon Buyer's ability to qualify for a ☐ new loan (application to be made by _____) or a ☐ loan assumption, with the following terms and conditions: _____

6. **LOAN ASSUMPTION PROVISIONS.** If loan is to be assumed, all mortgage payments due as of closing date are to be made by Seller. Buyer shall be responsible for first payment due on _____ and all future payments. Interest ☐ shall, or ☐ shall not be adjusted between the parties as of closing. Seller's escrow deposits, if any, shall be current and: ☐ Purchased by Buyer (Property taxes, mortgage and hazard insurance prorated as of closing date), or ☐ Assigned (a proper reserve, transferred at no cost to Buyer, and any overage or shortage reserved, or charged to Seller. N/A

7. **PROPERTY TAXES AND ADJUSTMENTS.** Except as provided in paragraph 6 upon a loan assumption, the current year's property taxes will be prorated as of the date of closing. Taxes for prior years will remain same, if any, will be paid by Seller (this provision shall survive the closing of the sale). Any special tax, supplemental assessment, or other assessments including or prior to date of this contract shall be paid by the Seller (this provision shall also survive the closing of the sale). Homeowners' Association dues will be prorated as of closing. Existing leases or rents, if any, shall be ☐ canceled, or ☐ prorated as of day of closing.

8. **EXPIRATION DATE, CLOSING DATE AND POSSESSION DATE.** The sale will be closed on or before _____ after which time this contract shall expire and become void unless extended in writing by both parties. Possession will be given _____ at ☐ a.m. ☐ p.m. If possession date is other than that of closing, the parties agree that (a) a rent adjustment of $ _____ per _____ from date of deed or agreed delivery date and (b) other conditions for continued occupancy shall be established by a separate contract. Property will be delivered to Buyer in "broom-clean" condition, free of

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9. **DEED.** Seller will convey the Property to Buyer or Buyer's designee by a good and valid general warranty deed. This conveyance is subject to restrictions, building requirements, covenants, zoning ordinances and easements of record.

10. **TITLE INSURANCE.** Buyer, at Buyer's expense, agrees to furnish as of the date of closing a title insurance policy in the usual form, subject only to the usual printed exceptions and those special exceptions which do not constitute a lien, specific judgment lien or general lien and those agreed to in this contract. Seller shall have until closing date plus thirty days to remove said liens. In the event Seller is able to remove the lien(s) within this time frame, Buyer shall proceed to complete the purchase of the subject property upon the remainder of the terms of this contract. If a new loan is involved, Buyer will receive benefit of simultaneous issue.

11. **ITEMS INCLUDED.** No information or items listed in the Multiple Listing Service are included in this contract unless specifically itemized in this contract. The Property specifically includes all structures on the property together with all things which are attached to the structures by nails, screws, or other permanent fasteners, including, but not limited to, light fixtures and bulbs, permanently attached mirrors, bathroom mirrors, permanently installed fireplace screens, gas fireplace logs, transfer and exterior hardware, HVAC, window air conditioning units, attic and ceiling fans, basketball goals, permanently installed outdoor cooking grills, swings, swimming pool equipment, attached security and fire alarm systems and equipment, drapery brackets, wall-to-wall fastened carpets, built-in appliances, mail boxes, TV antennas and satellite dishes (including rotors, channel selectors and other equipment used in operation thereof), fences, clothes lines, trees, shrubs, flowers and other plants set in the ground, and all items intended to be used with the structures such as keys, garage door openers, remote controls, and alarm wireless and screens whether attached or not. Unless otherwise stated herein, the sale does not include other items of unattached personal property. Other items included: Refrigerator as MLS Sheet

Items excluded

12. **DISCLOSURES, INSPECTIONS, AND REPAIRS.**

12.(a) **LEAD-BASED PAINT DISCLOSURE:** Older homes may have lead-based paint. Seller represents that any residential improvements on the property ☑ were built in 1978 or after and are not subject to additional Lead-Based Paint Disclosure requirements, or ☐ were built *prior to 1978* and are subject to additional disclosure requirements.

If built *prior to 1978*, **FEDERAL LAW REQUIRES** that the form, **DISCLOSURE OF INFORMATION AND ACKNOWLEDGMENT: LEAD-BASED PAINT AND/OR LEAD-BASED PAINT HAZARDS**, be filled out, signed, and received for all parties, and a copy retained with the contract. In addition, Seller is required to see that the Buyer is given a copy of the EPA pamphlet, **PROTECT YOUR FAMILY FROM LEAD IN YOUR HOME**.

12.(b) **LEAD-BASED PAINT CONTINGENCY.** If the improvements were built *prior to 1978*, the following contingency clause ☐ is a part of this contract, or ☐ is rejected by the Buyer and does not a part of this contract:

> This contract is contingent upon a risk assessment or inspection of the property for the presence of lead-based paint and/or lead-based paint hazards at the Buyer's expense until 9:00 p.m. on _____ (the _____ with calendar day after ratification). This contingency will terminate at the above predetermined deadline unless the Buyer (or Buyer's agent) delivers to the Seller (or Seller's agent) a written contract addendum listing the specific existing deficiencies and corrections needed, together with a copy of the inspection and/or risk assessment report. The Seller may, at the Seller's option, within _____ days after Delivery of this addendum, elect in writing whether to correct the condition(s) prior to settlement. If the Seller will correct the condition, the Seller shall furnish the Buyer with certification from a risk assessor or inspector demonstrating that the condition has been remedied before the date of the settlement. If the Seller does not elect to make the repairs, or if the Seller makes a counter-offer, the Buyer shall have _____ days to respond to the counter-offer or remove this contingency and take the property in "as is" condition (with respect to lead-based paint only) or this contract shall become void and earnest money returned to Buyer. The Buyer may remove this contingency at any time without cause.

12.(c) **PROPERTY CONDITION DISCLOSURE.** *One* of the following must be checked in accord with the requirements of The Tennessee Residential Property Disclosure Act of 1994:

☐ Buyer has received or will be given a copy of the **TENNESSEE RESIDENTIAL PROPERTY CONDITION DISCLOSURE FORM**, filled out and signed by the Seller. A copy with the Buyer's signature(s), acknowledging receipt or same, shall be retained with this contract.

☐ Buyer waives the right to receive a **TENNESSEE RESIDENTIAL PROPERTY CONDITION DISCLOSURE FORM** and is purchasing the property "**AS IS**," subject only to the other conditions specified in this contract.

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☒ Property is exempt from this requirement because (check one)

- ☐ This is a transfer pursuant to court order including, but not limited to, transfers ordered by a court in the administration of an estate, transfers pursuant to a writ of execution, transfers by foreclosure sale, transfers by a trustee in bankruptcy, transfers by eminent domain and transfers resulting from a decree of specific performance.
- ☐ This is a transfer by a fiduciary in the course of the administration of a decedent's estate, guardianship, conservatorship or trust.
- ☐ This is a transfer to or from any government entity or public or quasi-public housing authority or agency.
- ☐ This is a transfer involving the first sale of the dwelling and the builder is providing a written warranty.
- ☐ This property is being sold at public auction.
- ☒ The Owner(s) have not resided on the property at any time within three (3) years prior to the date of transfer.

12.(d) **SELLER REPRESENTATIONS.** Seller represents, to the best of his/her knowledge, that:

(a) The main dwelling is connected to ☒ public sewer; ☐ septic system. If a current certification for the septic system is required by Buyer's lender or desired by the Buyer, the inspector shall be selected and paid by the Buyer. If system is found to be faulty, Seller will either (1) correct the condition or (2) within two business days of receiving written notice of these additional repairs, terminate this contract in writing, deposit money to be returned to Buyer. Seller and Buyer agree and acknowledge that The Realty Association and its affiliated licensees have no firsthand knowledge as to the availability of public sewer or the condition of any septic system and they agree to hold The Realty Association and its affiliated licensees harmless from liability and release them from any liability related to legal claims of any party in this Contract related to the sewer and/or septic system.

(b) The property has not been damaged or affected by flood, storm, or run-off water;

(c) There are no violations of applicable building, zoning and fire codes and there are no encroachments or violations of setback lines, easements or property boundary lines by any improvements on the property and no such encroachments or violations by improvements from adjoining properties, and there is not now any dispute with any adjoining owner as to boundary lines.

The determination by Buyer that any of the representations in this paragraph is in fact materially untrue shall entitle Buyer to rescind this Contract and receive refund of the Earnest Money or to keep the contract in force and accept the Property with such exceptions. Seller shall have no responsibility for these matters after closing.

12.(e) **CONDITION OF PREMISES.** The Seller warrants that the structure, walls, ceilings, and roof of any improvements, including out buildings, and all electrical, heating, air conditioning, plumbing (including water heater, wells and septic systems), built-in appliances, fireplaces and chimneys, pools, tennis courts, or other amenities, if any, shall be in good repair and working order when Buyer closes this sale. If the property is being sold in "as is" condition, this paragraph does not apply.

12.(f) **PROPERTY INSPECTION CONTINGENCY:** Buyer has the right and RESPONSIBILITY, at Buyer's expense, to inspect the property, including especially the items enumerated in paragraph 12.(e), prior to closing. Buyer does not forfeit this right of inspection in an "as is" sale.

The Realty Association recommends the use of a professional home inspector. Seller shall permit Buyer, or Buyer's representative(s), reasonable access for inspection, with utilities in service.

Check the box that applies:

☐ No inspection contingency. Buyer waives the right to an inspection, except for the final walk-through in paragraph 12.(i). Buyer to indicate such waiver by initialing here: _____.

☒ Buyer shall have the option, at Buyer's expense, to inspect and/or have the property inspected by an inspector, engineer or environmental inspector of Buyer's choice.

If the inspection is not satisfactory to Buyer, Buyer may, at Buyer's option (1) terminate this Contract in which case the earnest money shall be refunded or (2) submit to Seller a written list of all repairs required to be made. Repairs shall not be required as to cosmetic items or items installed lawfully at the time of installation and performing the function for which intended. This condition shall be deemed satisfied (and the contingency removed) unless, within 7 business days of the effective date of this contract, Buyer gives Seller or Seller's agent either (1) a written notice of termination or (2) a written list of required repairs. In the event Buyer submits a written list of repairs, Seller shall have two business days from receipt of the list in which to agree to perform such repairs. If, within said two business days, Seller does not reply or does not agree to perform such repairs or makes a counter-proposal, this contract shall terminate and the earnest money shall be refunded unless, within two business days of the deadline for Seller's reply or receipt of Seller's answer, Buyer and Seller agree in writing on repairs or

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Buyer gives written notice to seller or Seller's agent that Buyer will accept the property without such repairs being made. Neither Seller nor Seller's agent shall have any liability for the condition of the property after closing or for conditions first occurring known or discovered after closing.

12.(a) **REPAIRS REQUIRED BY LENDER'S INSPECTION OR APPRAISAL:** If Lender's appraisal requires more repairs than those agreed to in paragraph 12.(1), Seller will either (1) make the additional repairs or (2) within five business days of receiving written notice of those additional repairs, terminate this contract in writing, earnest money to be returned to Buyer.

12.(b) **PEST INSPECTION:** If required by Lender or desired by Buyer, Property is to be inspected by a licensed and bonded pest control company, selected by Buyer, at Buyer's expense. Seller agrees to be available to open the premises to allow such inspectors to conduct their inspection in timely fashion. Any infestation of termites or other wood-destroying insects, or structural damage caused by such infestation, will either (1) be corrected at Seller's expense or (2) within five business days of receiving written notice of these additional repairs, Seller shall terminate this contract in writing, earnest money to be returned to Buyer. If required by Lender, Buyer will furnish a current certifying letter to the Lender at closing.

Seller shall have no responsibility for such matters after closing.

12.(c) **FINAL WALK-THROUGH INSPECTION.** Buyer has the right to a walk-through inspection prior to closing to see that repairs agreed to be performed, if any, have been completed and to ascertain that the property is in substantially the same condition, ordinary wear and tear excepted, as when the contract was accepted.

SPECIAL NOTICE: CLOSING OF SALE CONSTITUTES ACCEPTANCE OF THESE ITEMS BY BUYER.

13. **CLOSING COSTS.**

(a) Fees of Closing Agent/Attorney will be split equally between Buyer and Seller if the law permits.

(b) If Buyer obtains a new loan, the appraisal, survey, other loan-related closing costs, and prepaid costs will be paid by Buyer.

(c) Discount points shall not exceed _____ and shall be paid by the ☐ Buyer ☐ Seller.

(d) The Realty Association recommends (but usually receives a commission for) the purchase of a Home Warranty Protection Plan. A Home Warranty Protection Plan, offered through _____ N/A
☐ will, or ☐ will not be provided at closing at ☐ Buyer's ☐ Seller's expense at a cost of $_____.

14. If Buyer proposes to purchase said Property and to pay for same from proceeds of an FHA or VA LOAN,

(a) Buyer shall be given, before signing this Contract, a copy of the HUD document, *For Your Protection Get a Home Inspection*. A copy signed by the Buyer shall be retained with this contract. AND

(b) The following "FHA AMENDATORY CLAUSE" is a part of this contract:

It is expressly agreed that notwithstanding any other provisions of this contract, the purchaser shall not be obligated to complete the purchase of the property described herein or to incur any penalty by forfeiture of earnest money deposits or otherwise unless the purchaser has been given in accordance with HUD/FHA or VA requirements a written statement by the Federal Housing Commissioner, Veterans Administration, or a Direct Endorsement lender setting forth the appraised value of the property (excluding closing costs) of not less than $_____. The purchaser shall however, have the privilege and option of proceeding with consummation of the contract without regard to the amount of the appraised valuation. The appraised valuation is arrived at to determine the maximum mortgage the Department of Housing and Urban Development will insure. HUD does not warrant the value nor the condition of the property. The purchaser should satisfy himself/herself that the price and condition of the property are acceptable. N/A

15. If contract is for proposed new construction which Buyer proposes to purchase from proceeds of an FHA or VA LOAN, the following is a part of this contract:

Home to be constructed on above described lot in accordance with plans and specifications on file with the Veterans Administration or the FHA. The Builder is to be charged with any special assessments included in the said plans and specifications. Building to be completed within _____ months from date of this contract or contract will become null and void and earnest money will be refunded to the Buyer. N/A

16. **DEFAULT.**

(a) **BY BUYER:** If this agreement is breached by Buyer, or Buyer fails for any reason to complete the purchase of said property in accordance with the terms set forth herein, the Buyer shall pay to the Broker(s) named below as damages an amount equal to the commission as set forth below and reasonable attorney's fees and costs incurred in the collection thereof, and shall pay to Seller any further damages caused by said breach, including attorney's fees and costs. The earnest money herewith deposited by Buyer may be applied by the Broker(s) to such damages, but this shall not preclude the Seller from suing for specific performance of this agreement or for

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damages, or both. It is distinctly understood and agreed by and between the Broker(s) and Seller(s) that in the event the Buyer(s) shall default in the terms of this contract in any manner, that all of the earnest money, now in the hands of the escrow agent, shall be first paid to the Broker(s) the commission herein provided, and the balance shall be paid to the Seller.

(b) BY SELLER: If this agreement is breached by Seller or if Seller fails for any reason to complete the sale of said property in accordance with the terms set forth herein, Seller(s) will pay to Broker(s) named below as damages, an amount equal to the commission as set forth below and reasonable attorney's fee and cost. In the event of Seller's default, the earnest money deposited by the Buyer shall be returned to the Buyer by the escrow Agent. The Buyer may sue for specific performance of this agreement or for damages, or both. It is distinctly understood and agreed by and between the Broker(s) and the Buyer that in the event Seller shall default in the terms of this contract in any manner, the Broker(s) shall look to the Seller for any commission due.

17. RISK OF LOSS. The risk of hazard or casualty loss or damage to the Property shall be borne by Seller until transfer of title.

18. TIME OF THE ESSENCE. Time is of the essence in this Agreement and in each of its terms.

19. EFFECTS OF CLOSING. The provisions of this Agreement shall be deemed to be merged into the deed at the time of closing. Except as to matters which are occasioned by clerical errors or omissions, the approval of the closing documents by the parties shall constitute their approval of any differences between this contract and the closing. The parties agree that they will adjust on request of any party any errors on the settlement statement which are the result of clerical error or omission or the result of erroneous started or accounting information.

20. ENTIRE AGREEMENT. This instrument contains the entire agreement between the parties and no addition, deletion or modification hereto shall be effective unless reduced to writing and signed by both parties. There are no oral or other collateral conditions, agreements, or representations, all such having been incorporated and resolved into this agreement. Buyer has not relied on any other oral or written representations, and except as otherwise specified herein, this property is purchased "AS IS" and neither Seller nor Licensee makes or implies any warranties as to condition of the premises, except as provided herein.

21. MISCELLANEOUS The Property Is Sold "As Is" "as

22. EXHIBITS. This contract includes the following attached exhibit(s) which are made a legally binding part of this contract (Check those which apply): ☐ Tax/Flood Point (Paragraph 12.(a)); ☐ Property Condition Disclosure (Paragraph 12.(c)); ☐ Disclaimer Notice (Paragraph 28); ☐ Personal Lead-use Disclosure (Paragraph 27); ☐ FHA, Home Inspection Notice (Paragraph 14.(a)); ☐ Other: _____

23. ADDENDUM(S). This contract includes the following addendum(s) which are made a legally binding part of this contract: _____

24. DISCLAIMER. Seller and Buyer acknowledge that they have not relied upon the advice, comments or representations, if any, of any Real Estate Broker (or Broker's associated salespersons) relative to any of the items listed on the Exhibits, Disclosure Notice, a copy of which is attached. Both Parties acknowledge that if such matters have been of concern to them, they have sought and obtained independent advice relative thereto.

25. REAL ESTATE COMMISSIONS. Commissions to be paid by Seller in connection with this transaction have been negotiated between Seller and Listing Broker. Commissions shall be earned at such time as this contract is accepted by all parties and all conditions herein are met and such are payable upon closing, breach or other disposition of this contract, or any subsequent contract between this Buyer and Seller. The closing attorney or agency is authorized to debit to Seller's accounting and pay commission(s) as follows (Buying-Side Broker's commission should be earned when contract is written, and Listing-Side Broker's commission should be ordered when contract is

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(Proceeds to Seller)

Listing-Side Broker _____ Shall Receive 3%

Buying-Side Broker _____ Shall Receive 3%

24. **AGENCY DISCLOSURES.** The parties hereby acknowledge (a) that they were informed of agency relationships in effect at the onset of negotiations, (b) that they have been kept informed of any changes in agency relationships as such changes have occurred, and (c) agree that the Agency relationships in effect at the time of this offer/contract are as follows (*The Realty Association* is a Facilitator in all transactions):

Listing-Side Licensee _____ is one (and only one) of the following: ☐ Facilitator; ☐ Designated Agent for the Seller; ☐ Dual Agent; ☐ Other _____

Buying-Side Licensee (if other than the Listing Licensee) _____ is one (and only one) of the following: ☐ Facilitator; ☐ Designated Agent for the Buyer; ☐ Dual Agent; ☐ Other _____

25. **PERSONAL INTEREST DISCLOSURE.** ☐ Listing-Side Licensee or ☐ Buying-Side Licensee has a "personal interest" in the transaction. The parties hereby acknowledge disclosure of this interest and receipt of the form, *Personal Interest Disclosure and Consent*.

26. **TERMINATION OF OFFER.** This offer may be withdrawn at any time before Buyer or Buyer's Agent has received notice of a written acceptance by Seller.

27. **REAL ESTATE LICENSEES.** (Licensees' actual signatures are required if REIA or OI Loan).

_____ Phone 882-1022 Fax 882-1022 Public ID

Listing-Side Licensee

_____ Phone 385-9010 Public ID

Buying-Side Licensee

28. **USE OF FAX.** The Parties authorize the use of fax machines and agree that faxed signatures and initials shall be considered as binding as originals and that the effective time and date of a given signature or initial shall be the time and date when faxed.

29. **SIGNATURES. EACH PARTY CERTIFIES THAT HE/SHE HAS FULLY READ, UNDERSTANDS, AND ACCEPTS ALL OF THE PROVISIONS OF THIS CONTRACT.** (Note: Federal and State laws require tax identification numbers on all contracts with potential for interest.) WITNESS our signatures on the dates below written:

_____ 1-20-04 Date

Seller

Tax ID _____

_____ X 1-19-04 Date

Buyer

Tax ID _____

_____ Date

Seller

Tax ID _____

_____ Date

Buyer

Tax ID _____

30. **EFFECTIVE DATE.** The effective date of this contract (that is, the date and time of final agreement by all parties) is:

_____ at: ☐ a.m. ☐ p.m.

Effective date entered by _____ (Signature)

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