

BACOT & PADGETT, LLC

Attorneys and Counselors at Law
A South Carolina Limited Liability Company

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414 Monument Street, Suite C
Greenwood, SC 29646

[Date]

Buyer
address

Seller
address

Re: subject address: description of legal services, advisements and notifications

Dear Buyer and Seller:

Thank you for choosing Bacot & Padgett, LLC to assist you as the Settlement Agent in the closing of the above referenced property. Immediately upon receipt of this letter, please call us to confirm the closing date and time. The intent of this letter is to make your closing as efficient as possible for all involved and to let you know what to expect in your upcoming closing. There are many issues that you need to be aware of in order to make the closing process go as smoothly as possible.

I.

Multiple Representation

Bacot and Padgett, LLC has been selected by the buyer/borrower to handle the closing of this residential real estate transaction. In a residential real estate transaction such as this one, we may represent the buyer/borrower, the lender (if applicable) and, in a limited capacity, the seller.

Enclosed you will find the disclosure and consent to multiple representation you will be asked to execute at closing. If other attorney's offices will be involved in some representative manner, please contact us so that we can coordinate with them.

II.

Scope of Representation

The scope of my representation relates to the closing of a property transaction of [address], as set forth in the contract of sale. Bacot & Padgett, LLC understands that you executed a contract, or other equivalent contract or agreement (collectively the "Contract"), concerning [address]. Bacot & Padgett, LLC further understands that since you have executed the Contract, all terms, conditions, stipulations and contingencies found within the four corners of the Contract have been met and satisfied.

Any term, condition, stipulation, and/or contingency that has not been met or completed to

your satisfaction shall be disclosed in writing specifically setting forth the deficiency to the closing attorney from Bacot & Padgett, LLC, before the start of the closing on the closing date. Any such statement shall initiate an inquiry and investigation. Closing shall not be completed until all parties agree that all terms, conditions, stipulations and contingencies found within the four corners of the Contract have been met and satisfied.

Taxation implications of the transfer, or other aspects not specifically outlined here are specifically excluded from my scope of representation. If you have tax questions, please consult a tax professional before closing.

The attorney fee this firm charges contemplates all parties physically coming to closing in this office and a lender package being physically delivered in a straightforward sale (“Customary Closing”) consistent with the terms of the Contract. Ancillary, but necessary services, such as but not limited to mail out loan packages, emailed/faxed loan packages received and printed out by my office, §1031 or reverse §1031 transactions, multiple closings due to the unavailability of parties at the scheduled time, escrow agreements or any other action taken outside of the Customary Closing shall be subject to a reasonable fee. Bacot & Padgett, LLC reserves the right to refuse to close a loan due to issues it determines to be a problem, in its sole discretion.

III. Personal Information

In a bank transaction, please make sure that my office has all of the personal information for the parties involved, such as social security numbers, phone numbers, etc. If we will be paying off mortgage or lien out of sales proceeds, the bank may require that we submit a social security number to obtain a proper payoff. If it will not give the payoff to us, I will need help in obtaining this figure in writing. This payoff amount adds interest daily, so the amount of the payoff may seem higher than what you think it actually is. Any overpayment should be refunded to the payee by the entity being paid off, but this refund is outside the control of this firm.

IV. Property location and ways of taking title in South Carolina

Just as important but less often a problem, please make sure that you have given us the correct property address with county location. It is very difficult to search a title on property when I do not know where it is. In South Carolina, title to property may be taken in several different forms. For example, there is a survivorship deed. There is no automatic transfer of property between husband and wife, like in other states. If I do not hear from the buyer to make a change, I shall prepare the deed in the manner called for in the contract of sale. If you have a question as to this, please contact me. A change at closing may result in an additional charge and delay.

V. Items to be paid through closing

Please make sure that all bills to be paid off at closing are faxed to or delivered to this office ahead of time. We cannot disclose the payment to be made on the final settlement statement if we are unaware of the debt to be paid. Ideally, all bills should be in to my office two days before closing. Your closing is slowed down dramatically when a bill is produced at the closing table

because the lender may have to resubmit the loan to underwriting.

VI.

Private escrow agreements

It is generally our policy not to allow a private escrow agreement, but if it becomes necessary we will prepare a written escrow agreement, and we will assist upon agreement for an escrow administration fee. This firm will hold funds in escrow for a short period from the date of closing, however, we reserve the right to deposit funds after the time, as outlined in the escrow agreement, to the clerk of court for disbursement pursuant to an interpleader action. This firm does provide other services ancillary for closing for a separate fee.

VII.

Homeowner's Associations

If there are HOA dues, please make that known as soon as possible so that I may receive written confirmation of the status of the dues and any unrecorded liens. Otherwise, I will require an indemnity statement from the seller that there are no dues are owed or unrecorded liens, but if they are, the seller will be responsible for his pro rata share. HOA dues constitute a lien upon the land and must be satisfied before closing can be complete.

As a Buyer, please make sure to review any covenants and restrictions on the property you are purchasing. This needs to be done well before the closing date to make sure the covenants and restrictions will not adversely affect the property you may soon own.

VIII.

Property tax prorations/ad valorem tax prorations

As the buyer of [address], you will pay the full property tax when the tax bill is generated, unless an exemption applies, based on your individual characteristics as determined by the county tax assessor. This office does not calculate the tax or speculate as to the amount, it merely reports last year's tax amount or a current estimate. If no method of tax proration is specifically defined in the contract of sale, this office will use the tax bill from the immediately preceding year, or an assessor's estimate if no such bill exists.

If you desire an estimate for the current tax year upon which to prorate taxes, please feel free to contact the county tax assessor's office for a written estimate that you will provide to us before closing with written Seller approval to use as the basis for proration. Otherwise, the tax proration will be based upon the amount available to us, last year's tax bill. The buyer and seller must understand that the tax prorations shown on the settlement statement are based on the immediate prior year's tax period rates(s) determined by the taxpayer's individual characteristics or a written estimate, as determined by the county tax assessor. The buyer and seller will be asked at closing to agree to adjust the tax prorations shown on the settlement statement when the actual ad valorem tax bill is rendered, with attorneys fees to the prevailing party should a dispute arise. This firm makes no representation as to any other taxes including roll back taxes, if applicable. The property tax due after you take title may or may not be calculated by the tax assessor on the same basis of the previous title owner of the property.

IX.

Termite letter/Soil treatment letter and Certificate of Occupancy, if applicable

I remind the buyer of the importance of a clean CL-100, commonly referred to as the termite letter, to a lender. The termite letter cannot be older than 30 days at the time of closing and should either be “clean,” in that it does not reference any ongoing problems, or the parties should have addressed the problems and resolved them prior to closing. Typically, a contractor will be engaged to address each issue on the termite letter so that the lender can be assured that the collateral can maintain its value. If the home located at [address] is a new construction, buyer will seek a soil treatment letter. Furthermore, I will require a certificate of occupancy (commonly called a “CO”) to be issued and in my hands before I will complete the disbursement from a closing on a new construction.

X.

Manufactured Homes

This firm does not close transactions involving manufactured homes, also called mobile homes. Many times, buyers and sellers believe that the home is not a manufactured home because someone told them it has been “de-titled”. The process to “de-title” a mobile home can be very time consuming. If it has truly been performed, there is not any question as to whether it has occurred because it has been recorded in the county courthouse. It does not happen automatically or happen simply because the kind lady at the courthouse told you that the county is treating this manufactured home as real property or simply because the property has been underpinned. Please make sure that you alert this office immediately if you believe this transaction will in any way involve a manufactured home. Retiring a title can take some time. Our title search will reveal if the title has been properly retired per statute, but we may not be able to determine if there is a manufactured home upon the land that the parties contemplate assigning.

XI.

Possession of property transfer

Make sure that on the day of closing the property is ready to be transferred. If keys will not be ready to be handed over at the closing table, this office will need to know at least two days before the closing date to prepare a written agreement. It can be very dangerous to sign a deed and have the grantee/buyer take possession without an understanding and a prior written agreement. Until all documents are executed and all money has been disbursed, this office does not recommend or condone early occupancy and advises against such behavior.

XII.

Survey/Plat/Title Insurance

If a plat/survey is to be done, I must be able to get it to be approved by the appropriate county agency prior to closing. The county must approve plats before they can be recorded. The plat must be recorded before the deed and mortgage can be recorded. Plat approval is important. Assuming the county planning office will approve it is dangerous.

I will also need to make sure there are no potential title issues. If there are unusual issues, I will need time to talk with the bank about that prior to closing. The plat must have a raised seal

and an original signature, and I will need at least two (2) copies. This is a requirement of the County in order to record the plat. I recommend a new survey/plat be completed before closing in order to reveal the most current property lines, easements, encroachments or other potential title issues. This is advised for your protection, but at your expense. Whether the lender requires a title insurance policy or not, I recommend that you purchase an owner's title insurance policy. I am happy to discuss this with you.

XIII.

RESPA 24 hour HUD-1 review

You have the right to a 24 hour review of the Settlement Statement (HUD-1) under the Federal Real Estate Services Practices Act (RESPA) statutes. However, this office is unable to generate a final and accurate HUD-1 until the bank loan documents and invoices come to the office. We will provide you with the HUD-1 with the information we have. If you choose to exercise your rights under RESPA when all information has not been submitted timely to this office, the closing may be delayed a minimum of 24 hours until an opening can be found to reschedule your closing.

XIV.

Seller Citizenship/State resident status

Seller national citizenship and state resident status is important. If you are not a United States citizen, a law called FIRPTA will apply. There will be additional paperwork to be completed. If you are not a South Carolina resident, please be aware of the South Carolina Non-resident Withholding tax. Statute requires that I withhold a portion of seller gain, being 7% for individuals and 5% for corporations, and send it to the South Carolina Department of Revenue. Additional paperwork will be required. You will also be required to file a SC tax return. Please bring your drivers license/passport to closing, as the U.S. Patriot Act requires we obtain a copy. Also, I will need your social security number to complete these tax forms.

XV.

Loan Funding

This is the process by which this office receives and disburses funds. Local banks usually trust attorneys not to disburse funds until all documents are signed. Therefore, if you are using a local bank, there is typically not a problem with funding as they send us a certified check with the loan package.

However, it is common when national banks wire funds from out of state, for loans not to "fund" until it approves the final signed HUD-1 and other signed documents from the closing. After we fax the final signed HUD-1, and other documents they may require, to the bank and it is approved, the loan funds are wired to me.

This process may seem instantaneous, but it is not. The funds may not be in my account until the next business day. Typically, loan closings of this sort completed after 2:00 p.m. will not fund until the next day. In this instance, the closing is referred to as a "dry" closing. No money is disbursed and nothing is recorded at the courthouse (i.e. deed or mortgage) in a dry closing, and the buyer should not take possession of the property. This office holds all funds and documents in trust until the transaction can be completed with the disbursement of funds pursuant to the HUD-1.

When I receive confirmation from my bank that the funds are collected and deposited in my account and title can be recorded and updated, I can disburse funds to the parties, including, of course, to the seller. While I do not prefer dry closings, they have become a fact of life for real estate closings. Until money is actually disbursed, there is no transaction. The rights of the parties are the same as they were before the date set for closing and no property has been conveyed. To sellers, do not cancel insurance until the transaction has funded, just in case there is a problem with funding [address] needs to be insured. I do not recommend possession of the property until all funds have been disbursed to the parties and the transaction is complete. The bottom line on funding is that funding may be delayed to the next day. Please make appropriate arrangements.

XVI.

Signing closing documents prior to actual closing date, Friday closings, Seller's proceeds check and funding in general relating to [address]

If you request the opportunity to sign closing documents prior to the actual closing date, you understand that this is being done solely as a convenience for you. Other documents may appear at closing from the lender or others, that we did not previously have, that may require your signature. Therefore, we may require further action by you that may delay the closing, disbursement of money to you, and a delay in the buyer(s) taking possession of the property.

THIS OFFICE CLOSSES ON FRIDAYS AT 1:00 p.m. If a closing has been scheduled for a Friday or with a non-local lender, meaning that a certified check will not accompany the loan package nor will a certified check be presented at or prior to closing, funding of the loan will not be completed until Monday, unless Monday is a holiday, then funding will take place on the next business day after the transaction funds have been deposited. This delay is typically attributed to an out of state lender that requires faxed confirmation of the signed HUD statement and various other documents executed at closing before it will wire funds. As you might expect, this wire request will be one of many that the bank will receive on this day, and there is no guarantee that the wire will be sent promptly.

Bacot & Padgett, LLC, did not choose the lender and will not be responsible for any "lost" interest because funding is delayed or a payoff did not get to the bank fast enough. We are all working with the same lender and the inherent constraints placed on us by non-local lenders and wire transfers. Bacot & Padgett, LLC will make every effort to make timely payoffs and deposits, but it must reserve sufficient time to collect and deposit good funds, confirm account balances being satisfied and payoffs are accurate after closing.

All funds must be in compliance with South Carolina Appellate Court Rules 410 - 1.15f prior to and to commence disbursement. Personal checks presented over the amount specified in the rule will significantly delay closing and funding. This office will not accept personal checks in excess of \$1,000.00. **If a personal check in excess of \$1,000.00 is presented at closing, the party submitting such check shall be referred to the bank to obtain a certified check.** The Seller must be aware that he will not receive the sales proceeds check and the payoff cannot be sent in the amount stated on the HUD-1, and confirmed by written statement, until all monies have been collected *and* deposited. Bacot & Padgett, LLC makes daily deposits at 4:30 p.m. If Seller desires a check at closing, a rush deposit fee may be charged and funding will be delayed.

All funds should be received by wire or certified check (defined as a check from the bank

with no physical alteration), also commonly known as a bank check or bank draft. We will contact the bank the check is drawn upon to verify its authenticity. Personal checks are not guaranteed good funds and we would have to wait 7 to 10 days for that personal check to clear the bank and federal reserve system. If the funds can be available and wired a few days before closing, this would obviously assist everyone in avoiding delays. If this is an available option, please contact the office for wiring instructions. All funds are held in trust.

XVII.

Thank you for choosing Bacot & Padgett, LLC

Again, thank you for choosing Bacot & Padgett, LLC, to assist you in this closing. We are committed to making this process as efficient as possible based on the rules which govern the practice of law and the information described above. To ensure this efficiency, we schedule closings at a certain time for all parties to be present, if able. Many closings are scheduled throughout the day, and any delay makes the day much more difficult for all involved. In order to achieve efficiency, everyone involved needs to be on the same page so that there are no surprises.

This letter is intended to educate you and to help me complete this transfer as best I can. Some aspects may not apply to you. If you have any question about any item, whether it pertains to your Contract or not, I am available and happy to speak with you.

Yours very truly,
BACOT & PADGETT, LLC

James Graham Padgett, III

STATE OF SOUTH CAROLINA)
)
COUNTY OF GREENWOOD)

CERTIFICATE OF SERVICE

The undersigned of the law firm of Bacot & Padgett, LLC, does hereby certify that on _____, (s)he delivered the description of legal services, advisements and notifications related to _____, by electronic means or mailing and depositing the same in the U.S. Mail, from Greenwood, South Carolina, to:

SERVED:

BACOT & PADGETT, LLC

BY: Angela M. Hollingsworth
414 Monument Street, Suite C
Greenwood, SC 29646
Phone: (864) 227-1570
Fax: (864) 227-2610

Greenwood, South Carolina

[date].

For internal use only.

File Number
address

_____ County

Buyer/Seller

Disclosure and Consent to Multiple Representation

TO: Buyer(s): Buyer

Seller(s): Seller

Lender:

RE: property address

Bacot and Padgett, LLC (“Law Firm”) has been selected by the buyer/borrower to handle the closing of this residential real estate transaction. In a residential real estate transaction such as this one, we represent the buyer/borrower, the lender (if applicable) and, in a limited capacity, the seller. Our representation of the seller is limited to preparing and filing the deed, obtaining appropriate payoffs, and preparing various seller affidavits necessary to protect the buyer’s interests. Our services for the lender include preparing and/or reviewing loan documents, issuing a title opinion, ordering a survey if required, and making certain the lender’s loan disbursement instructions are followed. If the lender requires title insurance and/or, as is often the case the buyer/borrower desires to purchase owner’s title insurance, we are issuing agents for such insurance and act on behalf of the title insurance company as well.

Law Firm is required to disclose the fact that Law Firm will be representing Borrower(s), Lender and Seller(s) in connection with this transaction and to obtain consent to this multiple representation. In South Carolina, an attorney can represent multiple parties, such as the lender and the borrower, if: (1) we objectively determine that we can exercise independent judgment on behalf of each client and that our representation of each party will not be materially limited by our responsibilities to another party; and (2) each party voluntarily consents to our representation after being informed of the potential conflicts of interests that might arise in this situation and the legal consequences of this type of representation. Such conflicts may include situations where the lender is willing to accept a title that is unacceptable to a buyer, or where the borrower and the lender disagree as to the loan’s terms. For further information, please see South Carolina Ethics Advisory Opinion 94-08, which is available at your request.

Borrower(s), Bank and Seller(s) have interests that may be adverse to each other. In the event a dispute arises among the parties to the transaction which cannot be immediately resolved, Law Firm will be required to withdraw from further representation of any of the parties with respect to the transaction. Law Firm will not be able to represent any party in an attempt to resolve the dispute. Should the dispute remain unresolved, the adverse parties will be required to seek other counsel at each party’s own expense. Unless otherwise agreed upon, our legal representation of you is limited to handling the closing of the residential real estate transaction. We may be ethically prohibited from representing you in any dispute you may have with another party to the closing, or in any dispute with any other party arising before or after the closing. Should we determine that there are material differences that cannot be amicably resolved, we will withdraw from the representation of any party to the transaction.

IF YOU DO NOT CONSENT TO SUCH MULTIPLE REPRESENTATION, PLEASE NOTIFY US IMMEDIATELY BECAUSE WE CANNOT PROCEED WITH YOUR TRANSACTION UNTIL THIS ISSUE IS RESOLVED. You may send notice to us by fax at **(864) 227-2610** or mail to:

**Bacot & Padgett, LLC
414 Monument Street, Suite C
Greenwood, South Carolina 29646.**

By signing below, Borrower(s), Lender and Seller(s) acknowledge receipt of this disclosure and understand its contents and hereby agree to multiple representation by Law Firm as outlined in this disclosure.

DISCLOSURE AND WAIVER OF CONFLICTS ACKNOWLEDGMENT

Client ID:

Matter ID:

I acknowledge that prior to closing, I received a copy of the Disclosure and Waiver of Conflicts Notice, that I read and understood the same, and that I consent to the representation of multiple parties to this transaction by Bacot & Padgett, LLC and its attorneys.

on behalf of: