

# KANSAS DEPARTMENT OF CREDIT UNIONS

## FORMS AND PROCEDURES FOR PURCHASE AND SELL AGREEMENT OF KANSAS CHARTERED CREDIT UNIONS (K.S.A. 17-2229)

### Step I. (Working out the Agreement)

- A. Buying and selling credit unions work out terms and conditions of a *Buy/Sell Agreement (Form #1)* in cooperation and communication with the Administrator, Kansas Department of Credit Unions (KDCU).
  - B. Two copies of *Form #1* are made.
  - C. Directors of both buying and selling credit unions sign both copies of *Form #1*.
  - D. Both copies are sent to the Administrator, KDCU within one month after agreement is signed. In addition to *Form #1*, the most recent financial statement for both credit unions separately and combined is sent to the Administrator, KDCU. In addition, furnish a probable asset/share ratio for each credit union and a letter of intent from the bonding company to extend coverage for past acts of the selling credit union and additional offices, premises, employees, directors, and other exposures.
  - E. KDCU Administrator approves or disapproves the agreement within one month after receipt of agreement.
  - F. KDCU Administrator does the following:
    - 1. Retains both copies of *Form #1* and credit union financial statements in KDCU files until sale is complete.
    - 2. Since all Kansas credit unions are insured by NCUSIF, the Administrator, will notify National Credit Union Administration and request their approval.
    - 3. Notifies the credit unions they may proceed with the membership meetings.
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### Step II (Meeting of Members)

After notification from the KDCU Administrator, each credit union shall proceed with the membership meeting procedure.

- A. Selling credit union uses *Form #3* as the basis for informing members by either bulletin board notice or mailed notice ( or both) in accordance with the credit union's bylaws; K.S.A. 17-2207 and K.S.A. 17-2229.
  - B. Buying credit union uses *Form #4* as the basis for informing members if a field of membership expansion is needed. *Form #3* may be used if no field of membership expansion is required. The method of notice and applicable bylaws and state laws are the same as in "A" above.
  - C. If the buying credit union requires a field of membership expansion, *Form #5* should be used as a basis for the bylaw amendment.
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**Step III (At the Meeting of Members)**

- A. Meeting is called to order.
  - B. Eligible voting members in attendance are identified and totaled.
  - C. Quorum determined.
  - D. Purpose of meeting stated.
  - E. Motion and second to approve the proposed Buy/Sell Agreement is made.
  - F. Discussion.
  - G. Vote ( note: a 3/4 majority of those present is needed for passage).
  - H. Votes are tallied.
  - I. Results stated.
  - J. Adjournment.
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**Step IV (Reporting the Results of the Meeting)**

- A. Buying credit union remits to KDCU Administrator:
  - 1. *Form #6 Certificate of President and Secretary*, properly notarized.
  - 2. A true copy of *Notice of Special Meeting* (either *Form #3*, or *Form #4* as applicable).
  - 3. *Form #5 Bylaw Amendment for Expanding Field of Membership* (if applicable).
- B. Selling credit union remits to KDCU Administrator:
  - 1. *Form #6 Certificate of President and Secretary*, properly notarized.
  - 2. A true copy of *Notice of Special Meeting (Form #3)*.
  - 3. *Form #7 Certificate of Dissolution*.

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**Step V (KDCU Administrator Actions to Complete the Procedures)**

- A. KDCU Administrator provides a complete set of *Buy/Sell Agreement* and all related papers, with *Form #8* attached, to both credit unions, the Kansas Credit Union Association and the National Credit Union Administration.
- B. KDCU Administrator:
  - 1. Files *Form #7 Certificate of Dissolution* with the Register of Deeds and Kansas Secretary of State.
- C. KDCU Administrator directs selling credit union to remit any remaining books and records to the buying credit union.

**Buy and Sell Agreement**

The \_\_\_\_\_ Credit Union hereinafter referred to as "selling credit union" and the \_\_\_\_\_ Credit Union hereinafter referred to as "buying credit union" hereby agree to the purchase of all assets and liabilities of selling credit union for \$\_\_\_\_\_ by buying credit union upon the following terms and conditions of sale:

1. The effective date of this agreement and the purchase and sale provided for hereby shall be \_\_\_\_\_, 20\_\_\_\_.
  
2. Prior to the effective date, each of the credit unions shall vote on this agreement in accordance with K.S.A. 17-2229.
  
3. Prior to the effective date, the buying credit union shall:
  - A. Amend its bylaws to enlarge the field of membership of the buying credit union to include the following language defining the field of membership as:
  
  
  - B. Elect all of the selling credit union's members into membership in the buying credit union.
  
4. Prior to the effective date, the Board of Directors of the buying credit union shall appoint, for a term of one year, a \_\_\_\_\_ person advisory committee from among the members of the selling credit union to assist and counsel the buying credit union in its efforts to best serve the members of the selling credit union.
  
5. The following employees of the selling credit union shall continue to serve as employees of the selling credit union until \_\_\_\_\_, 20\_\_\_\_:

\_\_\_\_\_  
\_\_\_\_\_.

The following employees of the selling credit union shall become employees of the buying credit union as of \_\_\_\_\_, 20\_\_\_\_:

\_\_\_\_\_  
\_\_\_\_\_.

The factors for their employment are as follows:

6. Other provisions:

7. On the effective date of this agreement and upon approval of both credit unions and the Administrator, Kansas State Department of Credit Unions:

- A. All obligations owing to the selling credit union shall by virtue of this agreement and the laws of Kansas, become obligations to the buying credit union and the buying credit union may use any lawful procedure to bring about collection or enforcement of such obligations and may sue to collect in the name of the buying credit union.
- B. All assets of the selling credit union shall be the property of the buying credit union without any further act or deed.
- C. All share accounts of the selling credit union shall be share accounts in the buying credit union at the amount evidenced by the records of the selling credit union and the records of the members of the selling credit union.
- D. All undivided earnings and all reserves shall be added to the undivided earnings and reserves of the buying credit union.
- E. The buying credit union shall compute interest due and paid or payable on obligations due the selling credit union with the same continuity as if no transition or sale had occurred and in the same manner as if the obligation continued to be to the selling credit union.
- F. The buying credit union shall have the option of continuing loan numbers and passbook numbers or changing such numbers.

- G. All joint tenancy share account agreements shall continue unimpaired by the sale and shall continue to be in effect toward the buying credit union as formerly to the selling credit union.
  
- H. The following factors relating to member insurance coverage's will go into effect:
  - I. All liabilities of the selling credit union shall become liabilities of the buying credit union without further act or deed. The buying credit union shall pay the balance (1) in cash in the amount of \$\_\_\_\_\_ or (2) by the issue of shares to the selling credit union of the members thereof.
  
  - J. The buying credit union will be responsible for the preparation and filing of the final employer's tax return with the U.S. Internal Revenue Department and with the Kansas Department of Revenue for the period of time from \_\_\_\_\_,20\_\_\_\_, to \_\_\_\_\_,20\_\_\_\_, and will pay the necessary FICA and Employer's Withholding Tax for that period. The buying credit union will be responsible for filling out and filing all tax and government reports related to the closing of the selling credit union.
  
- 8. This sale shall become binding on each of the credit unions on the effective date.
  
- 9. The officers and committee members and board of directors of the selling credit union shall serve only until the effective date of the sale.
  
- 10. It is expressly stated by the parties hereto that this sale is being carried out under the terms and provisions of K.S.A. 17-2229 and amendments thereto of the State of Kansas.
  
- 11. By the adoption of this agreement by the shareholders of the selling credit union, the Secretary of State for the State of Kansas and any and all other governmental authorities, are instructed to accept this as the resolution of dissolution of the corporation known as the \_\_\_\_\_ Credit Union.

12. This agreement is made with the understanding that the financial statements of the two credit unions are correct and represent the true financial condition of the credit unions on the dates shown.

Approved by the \_\_\_\_\_ Credit Union this \_\_\_\_\_  
(buying credit union)

day of \_\_\_\_\_, 20\_\_\_\_\_.

\_\_\_\_\_ Credit Union

By \_\_\_\_\_  
Director

By \_\_\_\_\_  
Director

By \_\_\_\_\_  
Director

By \_\_\_\_\_  
Director

By \_\_\_\_\_  
Director

By \_\_\_\_\_  
Director

By \_\_\_\_\_  
Director

I, \_\_\_\_\_, Secretary of the  
\_\_\_\_\_ Credit Union, do hereby certify that the above are the  
signatures of the (entire/majority) of the Board of Directors of the \_\_\_\_\_  
Credit Union, and that their signatures were affixed above on this \_\_\_\_\_ day of  
\_\_\_\_\_, 20\_\_\_\_\_.

\_\_\_\_\_  
Secretary

Approved by the \_\_\_\_\_ Credit Union this \_\_\_\_\_  
(selling credit union)

day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_ Credit Union

By \_\_\_\_\_  
Director

By \_\_\_\_\_  
Director

By \_\_\_\_\_  
Director

By \_\_\_\_\_  
Director

By \_\_\_\_\_  
Director

By \_\_\_\_\_  
Director

By \_\_\_\_\_  
Director

I, \_\_\_\_\_, Secretary of the  
\_\_\_\_\_ Credit Union, do hereby certify that the above are the  
signatures of the (entire/majority) of the Board of Directors of the \_\_\_\_\_  
Credit Union, and that their signatures were affixed above on this \_\_\_\_\_ day of \_  
\_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
Secretary



**CERTIFICATE OF APPROVAL BY THE  
ADMINISTRATOR,  
KANSAS DEPARTMENT OF CREDIT UNIONS**

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I, \_\_\_\_\_, Credit Union Administrator for the State of Kansas, do hereby certify my approval of the above *Buy and Sell Agreement* between \_\_\_\_\_  
\_\_\_\_\_ Credit Union (selling credit union), and \_\_\_\_\_  
Credit Union (buying credit union), in accordance with the provisions of K.S.A. 17-2229 and amendments thereto, this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
Credit Union Administrator

**NOTICE OF SPECIAL MEETING TO APPROVE  
BUY AND SELL AGREEMENT BETWEEN  
\_\_\_\_\_ CREDIT UNION  
AND  
\_\_\_\_\_ CREDIT UNION**

You are hereby notified that there will be a special meeting of the  
\_\_\_\_\_ Credit Union to be held \_\_\_\_\_,  
20\_\_\_\_ at \_\_\_\_\_, at \_\_\_\_\_  
(A.M. or P.M.)  
\_\_\_\_\_, in the city of \_\_\_\_\_, Kansas.

The purpose for the meeting will be to act upon a *Buy and Sell Agreement* to provide for the purchase of the \_\_\_\_\_  
\_\_\_\_\_ Credit Union.

The effect of such *Buy and Sell Agreement* shall be a sale of all assets and liabilities of \_\_\_\_\_ Credit Union which shall thereafter be dissolved by \_\_\_\_\_ Credit Union.

\_\_\_\_\_ Credit Union

By: \_\_\_\_\_ Secretary

**NOTICE OF SPECIAL MEETING TO APPROVE  
*BUY AND SELL AGREEMENT* BETWEEN  
\_\_\_\_\_ CREDIT UNION  
AND  
\_\_\_\_\_ CREDIT UNION;  
AND TO APPROVE A BYLAW AMENDMENT  
TO ENLARGE THE FIELD OF MEMBERSHIP  
OF \_\_\_\_\_ CREDIT UNION**

You are hereby notified that there will be a special meeting of the  
\_\_\_\_\_ Credit Union to be held \_\_\_\_\_, 20\_\_\_\_,  
at \_\_\_\_\_, at \_\_\_\_\_  
(A.M. OR P.M.)  
\_\_\_\_\_, in the city of \_\_\_\_\_, Kansas.

The purpose for the meeting will be to act upon a *Buy and Sell Agreement* to provide for the purchase of the \_\_\_\_\_ Credit Union.

The effect of such *Buy and Sell Agreement* shall be a sale of all assets and liabilities of \_\_\_\_\_ Credit Union which shall thereafter be dissolved by \_\_\_\_\_ Credit Union. A copy of the *Buy and Sell Agreement* to be acted on is attached to this notice. Also, to amend the bylaws by the enlarging of the field of membership of \_\_\_\_\_ Credit Union to include the following language:

\_\_\_\_\_ Credit Union

By: \_\_\_\_\_ Secretary

## CERTIFICATE OF AMENDMENT

This is to certify that at a (special or annual) meeting of the shareholders of the \_\_\_\_\_ Credit Union held at \_\_\_\_\_, in the city of \_\_\_\_\_, Kansas, on the \_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_, legal notice having been given, that the following amendment to the bylaws was to be submitted, and a quorum being present, the following resolution was adopted by at least three-fourths (3/4) vote of all members present: Article III, Section 1 of the existing bylaws be repealed and Article III, Section 1 read as follows:

\_\_\_\_\_  
Credit Union

\_\_\_\_\_  
Chairperson/President of the Board

\_\_\_\_\_  
Secretary/Treasurer

Approved this \_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_\_.

\_\_\_\_\_  
Credit Union Administrator, State of Kansas

**CERTIFICATE OF PRESIDENT AND SECRETARY OF THE**  
**\_\_\_\_\_ CREDIT UNION**

We, the undersigned, president and secretary of the above named credit union, do hereby certify to the Credit Union Administrator of the State of Kansas as follows:

1. That a copy of the *Buy and Sell Agreement* and the proposed bylaw changes attached to the *Notice of Special Meeting* were posted on the bulletin board, in writing, at least seven (7) days before the special meeting called by said notice.
2. That there is attached to this certificate a true copy of the *Notice of Special Meeting* along with the attachments to the *Notice of said Special Meeting* as posted on the bulletin board.
3. That pursuant to the notice as referred to herein and as described herein, a special meeting of this credit union was duly held at the time and place fixed in the notice to consider and act upon the proposal for the sale of the said credit union by the *Buy and Sell Agreement*, and in addition hereto, said special meeting considered at the same time and place, the bylaw amendments provided for in said notice.
4. That the said *Buy and Sell Agreement* and the bylaw amendments were fully explained to the members present at said special meeting at the time and place set out in the notice.
5. That on the said date of the said special meeting of the members, there were \_\_\_\_\_ members of this credit union qualified to vote; \_\_\_\_\_ members were present at the said meeting; of those members present, \_\_\_\_\_ members voted in favor of the said *Buy and Sell Agreement*; and \_\_\_\_\_ members voted against the *Buy and Sell Agreement*; \_\_\_\_\_ members voted in favor of the bylaw amendments; and \_\_\_\_\_ members voted against the said bylaw amendments; and without duplication of vote, more than three-fourths (3/4) of the members of this credit union present at the meeting approved all the bylaw amendments proposed at the said meeting as provided in the notice and more than three-fourths (3/4) of the credit union members present approved the *Buy and Sell Agreement* referred to herein.
6. That the said action of the members of this credit union at the special meeting is fully and completely recorded in the minutes of said meeting.

**Form #6**

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Witness our hands this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

\_\_\_\_\_  
President

\_\_\_\_\_  
Secretary

State of Kansas            )  
                                  )    ss:  
County of                    )

We, \_\_\_\_\_, President and \_\_\_\_\_,  
Secretary, of the above named credit union, do hereby certify that we have read the above and  
foregoing certificate of the president and secretary of the \_\_\_\_\_  
Credit Union, and we know and are fully familiar with the contents thereof, and that all matters  
and things therein contained are true and correct to the best of our knowledge and belief.

\_\_\_\_\_  
President

\_\_\_\_\_  
Secretary

Subscribed and sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

My appointment expires: \_\_\_\_\_

\_\_\_\_\_  
Notary Public

### CERTIFICATE OF DISSOLUTION

We, the undersigned, constituting (all/majority) of the board of directors of the \_\_\_\_\_ Credit Union, do hereby certify that all the terms and conditions of a certain paper designated as a Buy and Sell Agreement, which Buy and Sell Agreement provides for an effective date of \_\_\_\_\_, 20\_\_\_\_, and which so called Buy and Sell Agreement provisions have been fully complied with by the \_\_\_\_\_ Credit Union, all as required by K.S.A. 17-2229 and amendments thereto.

We do hereby further certify that all assets and liabilities have been sold pursuant to the Buy and Sell Agreement. We do hereby further certify that all provisions of the Buy/Sell Agreement and all provisions of the law of the State of Kansas, of which we have any knowledge, have been fully complied with insofar as we are empowered by law to do so.

We do hereby declare the \_\_\_\_\_ Credit Union dissolved and hereby surrender the corporate charter of the \_\_\_\_\_ Credit Union to the State of Kansas, this \_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_\_.

\_\_\_\_\_  
President

\_\_\_\_\_  
Vice-President

\_\_\_\_\_  
Secretary

\_\_\_\_\_  
Treasurer

\_\_\_\_\_  
Director

\_\_\_\_\_  
Director

\_\_\_\_\_  
Director

I, \_\_\_\_\_, Secretary of the \_\_\_\_\_ Credit Union, do hereby certify that the above are the signatures of the (all/majority) of the board of directors of the \_\_\_\_\_ Credit Union, this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

\_\_\_\_\_  
Secretary

Subscribed and sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

My appointment expires: \_\_\_\_\_

\_\_\_\_\_  
Notary Public

**CERTIFICATE OF THE CREDIT UNION ADMINISTRATOR**

I, \_\_\_\_\_, Credit Union Administrator of the State of Kansas, do hereby certify that the \_\_\_\_\_ Credit Union has fully complied with all the necessary action to sell the \_\_\_\_\_ Credit Union as provided by the *Buy and Sell Agreement* with the effective date of \_\_\_\_\_, 20\_\_\_\_\_, and I do hereby certify that the requirements of law for the dissolution of the \_\_\_\_\_ Credit Union have been fulfilled insofar as is compatible with the other provisions of the law for a *Buy and Sell Agreement*.

And I do hereby declare said \_\_\_\_\_ Credit Union dissolved and declare its corporate charter surrendered this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

\_\_\_\_\_  
Credit Union Administrator