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2024 GAR Contracts Revised: So Where Do We Go From Here? #77622

Sponsored by:

Georgia Association of REALTORS®, GREC School #271

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2024 GAR Contracts REVISED!

So Where Do We Go From Here?



A course approved by the Georgia Real Estate Commission for 3 hours of real estate licensing continuing education

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2024 GAR FORMS CHANGES

2024 GAR Mid-Year Forms Changes



The following pages will list the changes to the forms in the entire GAR Forms Revisions Package. The changes noted below are changes made after the initial release of the forms dated 01/01/2024.

CB10 Protect Yourself When Selling Real Property

- *** New section – Broker’s Compensation for Professional Services to Broker (“Compensation”)
- *** Understand obligations to convey title to the property – changed “commissions” to “compensation”

CB13 Protect Yourself When Selling Real Property

- *** New section – Broker’s Compensation for Professional Services to Broker (“Compensation”)

F101 Exclusive Seller Brokerage Engagement Agreement

- *** Changed “commission” and “real estate commission” to “Compensation” throughout form
- ¶A(1) Exclusive Seller Brokerage Engagement Agreement – added clarifying language regarding undersigned broker
- ¶A(4) Commission – retitled “Compensation to Broker(s) for Professional Services (“Compensation”)”
- *** New ¶A(4)(a) – “Generally”; subsequent subsections renumbered
- ¶A(4)(a) Commission to be Paid to Seller’s Broker – retitled “Compensation to Seller’s Broker”; now ¶A(4)(b); added “Seller’s”; added space to fill in percent number
- ¶A(4)(b) Seller Directs Seller’s Broker to Pay or Not to Pay a Cooperating Broker a Portion of Seller’s Compensation Above – retitled to “Optional Compensation to Buyer’s Broker – now ¶A(4)(c); old language eliminated; replaced with new language and options for paying buyer’s broker’s compensation; added language referencing Buyer’s Brokers
- ¶B(4) Commission – retitled to “Compensation to Broker(s) for Professional Services of Seller’s Broker (“Compensation”)”
- ¶B(4)(a) Obligation to Pay Commission – retitled to “Obligation to Pay Compensation to Seller’s Broker”
- ¶B(4)(b) Sharing of Broker’s Compensation with Cooperating Broker – retitled to “Optional Compensation to Buyer’s Broker”; old language eliminated; replaced with new language
- *** New ¶C(6)(f) Disclaimer Regarding the Sale of Certain Property – subsequent subsections renumbered
- *** Added language above signatures that licensee has right to sign on behalf of broker

F104 Non-Exclusive Seller Brokerage Engagement Agreement

- *** Changed “commission” and “real estate commission” to “Compensation” throughout form
- ¶A(1) Non-Exclusive Seller Brokerage Engagement Agreement – added clarifying language regarding undersigned broker
- ¶A(4) Commission – retitled “Compensation to Broker(s) for Professional Services (“Compensation”)”
- *** New ¶A(4)(a) – “Generally”; subsequent subsections renumbered
- ¶A(4)(b) Seller Directs Seller’s Broker to Pay or Not to Pay a Cooperating Broker a Portion of Seller’s Compensation Above – retitled to “Optional Compensation to Buyer’s Broker – now ¶A(4)(c); old language eliminated; replaced with new language and options for paying buyer’s broker’s compensation; added language referencing Buyer’s Brokers
- ¶B(4) Commission – retitled to “Compensation to Broker(s) for Professional Services of Seller’s Broker (“Compensation”)”
- ¶B(4)(a) Obligation to Pay Commission – retitled to “Obligation to Pay Compensation to Seller’s Broker”
- ¶B(4)(b) Sharing of Broker’s Compensation with Cooperating Broker – retitled to “Optional Compensation to Buyer’s Broker”; old language eliminated; replaced with new language
- *** New ¶C(6)(g) Disclaimer Regarding the Sale of Certain Property – subsequent subsections renumbered
- *** Added language above signatures that licensee has right to sign on behalf of broker

F110 Exclusive Buyer Brokerage Engagement Agreement

- *** Changed “commission” and “real estate commission” to “Compensation” throughout form
- ¶A(1) Exclusive Buyer Brokerage Engagement Agreement – added clarifying language regarding undersigned broker
- ¶A(4) Commission – retitled “Compensation to Broker(s) for Professional Services (“Compensation”)”
- ¶A(4)(a) Buyer’s Commission Obligations in Purchasing Real Property – section eliminated
- *** New ¶A(4)(a) – “Generally”; subsequent subsections renumbered
- ¶A(4)(b) Commission – retitled “Compensation to Buyer’s Broker”; added language regarding buyer’s obligation to pay compensation
- ¶A(4)(b) Seller Directs Seller’s Broker to Pay or Not to Pay a Cooperating Broker a Portion of Seller’s Compensation Above – retitled to “Optional Compensation to Buyer’s Broker – old language eliminated; replaced with new language and options for paying buyer’s broker’s compensation; added language referencing Buyer’s Brokers
- *** New ¶A(4)(c) – “Optional Compensation” and New ¶A(4)(d) – “Possible Reduction in Buyer’s Compensation Obligation to Buyer’s Broker”; subsequent subsections renumbered
- ¶B(4) Commission – retitled to “Compensation to Broker(s) for Professional Services of Broker (“Compensation”)”
- ¶B(4)(a) Buyer’s Commission Obligation in Purchasing Real Property – retitled to “Buyer’s Compensation Obligation in Purchasing Real Property”; language modified
- *** New ¶C(6)(g) Disclaimer Regarding the Purchase of Certain Property – subsequent subsections renumbered
- *** Added language above signatures that licensee has right to sign on behalf of broker

F113 Non-Exclusive Buyer Brokerage Engagement Agreement

- *** Changed “commission” and “real estate commission” to “Compensation” throughout form
- ¶A(1) Non-Exclusive Buyer Brokerage Engagement Agreement – added clarifying language regarding undersigned broker
- ¶A(4) Commission – retitled “Compensation to Broker(s) for Professional Services (“Compensation”)”
- ¶A(4)(a) Buyer’s Commission Obligations in Purchasing Real Property – section eliminated
- *** New ¶A(4)(a) – “Generally”; subsequent subsections renumbered
- ¶A(4)(b) Commission – retitled “Compensation to Buyer’s Broker”; added language regarding buyer’s obligation to pay compensation
- ¶A(4)(b) Seller Directs Seller’s Broker to Pay or Not to Pay a Cooperating Broker a Portion of Seller’s Compensation Above – retitled to “Optional Compensation to Buyer’s Broker – old language eliminated; replaced with new language and options for paying buyer’s broker’s compensation; added language referencing Buyer’s Brokers
- *** New ¶A(4)(c) – “Optional Compensation” and New ¶A(4)(d) – “Possible Reduction in Buyer’s Compensation Obligation to Buyer’s Broker”; subsequent subsections renumbered
- ¶B(4) Commission – retitled to “Compensation to Broker(s) for Professional Services of Broker (“Compensation”)”
- ¶B(4)(a) Buyer’s Commission Obligation in Purchasing Real Property – retitled to “Buyer’s Compensation Obligation in Purchasing Real Property”; language modified
- *** New ¶C(6)(g) Disclaimer Regarding the Purchase of Certain Property – subsequent subsections renumbered
- *** Added language above signatures that licensee has right to sign on behalf of broker

F116 Agreement to Work with Buyer as a Customer Agreement

- *** Added “or “Buyer’s Broker”” to the introduction section
- ¶1 Agreement to Work with Buyer as a Customer – added “Buyer’s”
- *** New ¶4 Compensation for Professional Services of Broker (“Compensation”); subsequent ¶s renumbered
- ¶4 LIMIT ON BROKER’S LIABILITY – now ¶5; subsection A) changed “the real estate commission” and “commission” to “Compensation”; changed “not to exceed” to “of”
- *** New ¶9 Disclaimer Regarding the Purchase of Certain Property – subsequent ¶s renumbered
- *** Added language above signatures that licensee has right to sign on behalf of broker

F122 Exclusive Leasing Listing Agreement

- ¶11 Sale of Property – corrected to ¶12; subsequent ¶s renumbered

F128 Exclusive Leasing/Management Agreement

- ¶8(D) Applicant Screening – corrected “way” to “vary”; corrected “other” to “others”; corrected “Manger” to “Manager”
- ¶21(D) Homeowner & Condominium Associations – corrected “Broker” to “Manager” throughout section
- ¶21(E) Owner Communicating Directly with Tenant – corrected “Broker” to “Manager” throughout section
- ¶23(B) Emergency Repairs – corrected “Broker” to “Manager” throughout section

F201 Purchase and Sale Agreement

- *** Changed “commission” to “compensation” throughout form
- ¶B(10) Brokerage Relationships in this Transaction – retitled to “Brokerage Relationships and Compensation in this Transaction”
- ¶B(10)(b) Brokerage – retitled to “Compensation of Broker(s)” – modified language
- ¶C(2)(b) Remedies of Buyer – add additional language for buyer’s remedies
- ¶C(4)(e) Entire Agreement, Modification and Assignment – corrected assignment language
- ¶C(5)(f) Closing – corrected “lands” to “land”
- *** New ¶C(5)(g) Compensation; subsequent ¶s re-lettered
- ¶C(9) Exhibits and Addenda – added new form reference “Broker Compensation Agreement (F259)”

F210 Lot Purchase and Sale Agreement

- *** Changed “commission” to “compensation” throughout form
- ¶B(9) Brokerage Relationships in this Transaction – retitled to “Brokerage Relationships and Compensation in this Transaction”
- ¶B(9)(b) Brokerage – retitled to “Compensation of Broker(s)” – modified language
- ¶C(2)(b) Remedies of Buyer – add additional language for buyer’s remedies
- ¶C(4)(e) Entire Agreement, Modification and Assignment – corrected assignment language
- ¶C(5)(f) Closing – corrected “lands” to “land”
- *** New ¶C(5)(g) Compensation; subsequent ¶s re-lettered
- ¶C(9) Exhibits and Addenda – added new form reference “Broker Compensation Agreement (F259)”; removed one “Other” line

F213 Land Purchase and Sale Agreement

*** Changed “commission” to “compensation” throughout form

¶B(12) Brokerage Relationships in this Transaction – retitled to “Brokerage Relationships and Compensation in this Transaction”

¶B(12)(b) Brokerage – retitled to “Compensation of Broker(s)” – modified language

¶C(2)(b) Remedies of Buyer – add additional language for buyer’s remedies

¶C(5)(f) Closing – corrected “lands” to “land”

*** New ¶C(5)(g) Compensation; subsequent ¶s re-lettered

¶C(9) Exhibits and Addenda – added new form reference “Broker Compensation Agreement (F259)”; removed one “Other” line

F228 New Construction Purchase and Sale Agreement

*** Changed “commission” to “compensation” throughout form

¶B(14) Brokerage Relationships in this Transaction – retitled to “Brokerage Relationships and Compensation in this Transaction”

¶B(14)(b) Brokerage – retitled to “Compensation of Broker(s)” – modified language

¶C(4)(b) Remedies of Buyer – add additional language for buyer’s remedies

¶C(7)(f) Entire Agreement, Modification and Assignment – corrected assignment language

¶C(8)(f) Closing – corrected “lands” to “land”

*** New ¶C(9)(g) Compensation; subsequent ¶s re-lettered

¶C(12) Exhibits and Addenda – added new form reference “Broker Compensation Agreement (F259)”; removed one “Other” line

F249 Counteroffer to Or Modification of the Unaccepted Original Offer

*** Earnest Money – removed options for payment method

F255 Instructions to Closing Attorney

*** Changed “commission” to “compensation” throughout form

*** Slightly modified language in introduction

¶1 Commissions Paid by Seller – ¶ eliminated

¶2 Commissions Paid by Buyer – ¶ eliminated

*** Four new ¶s - ¶1) Compensation Paid by Seller to Seller’s Broker; ¶2) Compensation Shared by Seller’s Broker with Buyer’s Broker; ¶3) Compensation Paid by Seller to Buyer’s Broker; ¶4) Compensation Paid by Buyer to Buyer’s Broker

¶3 General – retitled “General Provisions Applicable to This Agreement”; now ¶5; subsection B) eliminated; subsequent subsection renumbered; new subsection D)

¶4 Further Directions to Closing Attorney – now ¶6; modified language; for both subsection A) Seller’s Broker and B) Buyer’s Broker – removed *Service for Which Fee or Rebate is Being* columns; removed table format; modified language

*** Added space for seller signatures when applicable

F258 Co-Op Commission Agreement

*** **Form retitled to “Pre-Showing Compensation Agreement”**

*** Introduction section language modified and expanded

¶1 Commissions Paid by Seller – ¶ eliminated

*** New ¶1 Compensation Being Offered to Buyer’s Broker

¶2 Commissions Paid by Buyer – ¶ eliminated

¶3 General – now ¶2; Subsection A) changed “commission” to “Compensation”; Subsection B) eliminated; new subsections B) through I)

*** Changed signature block labels to include authorized representatives

*** Added space for seller signatures when applicable

F259 Broker Compensation Agreement Exhibit – **NEW FORM**

F322 Community Association Disclosure Exhibit

¶B(4)(b) Liability for Undisclosed Special Assessments – corrected section title to “Seller Pays for Undisclosed Special Assessments”

¶B(4)(c) Seller Pays for Undisclosed Special Assessments – corrected section titled “Liability for Disclosed Special Assessments”; added a comma after “Otherwise”

F601 Sale or Lease of Buyer’s Property Contingency Exhibit

¶7 Kick-Out Clause in this Transaction – corrected Option 1 instructions to reflect three selections versus two

F913 Lease for Residential Property

¶4(a) Security Deposit – added language regarding collection of security deposit

F923 Property Damage Liability Exhibit

- *** Corrected “again” to “against” in second section
- *** Corrected “general liability coverage” to “general liability insurance coverage” throughout form

CF01 Commercial Exclusive Seller Brokerage Engagement Agreement

- *** Changed “commission” and “real estate commission” to “Compensation” throughout form
- ¶A(1) Exclusive Seller Brokerage Engagement Agreement – added clarifying language regarding undersigned broker
- ¶A(4) Commission – retitled “Compensation to Broker(s) for Professional Services (“Compensation”)”
- *** New ¶A(4)(a) – “Generally”; subsequent subsections renumbered
- ¶A(4)(a) Commission to be Paid to Seller’s Broker – retitled “Compensation to Seller’s Broker”; now ¶A(4)(b); added “Seller’s”; added space to fill in percent number
- ¶A(4)(b) Seller Directs Seller’s Broker to Pay or Not to Pay a Cooperating Broker a Portion of Seller’s Compensation Above – retitled to “Optional Compensation to Buyer’s Broker – now ¶A(4)(c); old language eliminated; replaced with new language and options for paying buyer’s broker’s compensation; added language referencing Buyer’s Brokers
- ¶B(4) Commission – retitled to “Compensation to Broker(s) for Professional Services of Seller’s Broker (“Compensation”)”
- ¶B(4)(a) Obligation to Pay Commission – retitled to “Obligation to Pay Compensation to Seller’s Broker”
- ¶B(4)(b) Sharing of Broker’s Compensation with Cooperating Broker – retitled to “Optional Compensation to Buyer’s Broker”; old language eliminated; replaced with new language
- *** New ¶C(6)(f) Disclaimer Regarding the Sale of Certain Property – subsequent subsections renumbered
- *** Added language above signatures that licensee has right to sign on behalf of broker

CF04 Commercial Purchase and Sale Agreement

- *** Changed “commission” to “compensation” throughout form
- ¶B(12) Brokerage Relationships in this Transaction – retitled to “Brokerage Relationships and Compensation in this Transaction”
- ¶B(12)(a) Titled section to “Compensation of Broker(s)” – modified language
- ¶C(4)(d) Entire Agreement, Modification and Assignment – corrected assignment language
- ¶C(6)(f) Closing – corrected “lands” to “land”
- *** New ¶C(6)(g) Compensation; subsequent ¶s re-lettered

CF24 Commercial Exclusive Leasing Listing Agreement

- ¶13(a) LIMIT ON BROKER’S LIABILITY – changed “than a sum not to exceed \$100” to “then the sum of \$100”
- *** New ¶22(f) Disclaimer Regarding the Lease of Certain Property – subsequent subsections renumbered
- *** Added language above signatures that licensee has right to sign on behalf of broker

CF25 Commercial Open Listing Agreement (For Leases)

- ¶9(a) LIMIT ON BROKER’S LIABILITY – changed “than a sum not to exceed \$100” to “then the sum of \$100”
- *** New ¶23 Disclaimer Regarding the Lease of Certain Property – subsequent ¶s renumbered
- *** Added language above signatures that licensee has right to sign on behalf of broker

CF28 Commercial Exclusive Leasing/Management Agreement

- *** New ¶25 Disclaimer Regarding the Lease of Certain Property – subsequent ¶s renumbered
- *** Added language above signatures that licensee has right to sign on behalf of broker
- *** Signature page – corrected spelling of “manager”

CF31 Commercial Lease Agreement

- ¶A10(a) Fee to Hald Dispossessory Action – corrected “Hald” to “Halt”
- ¶B10(a) Amount Paid to Terminate Lease Early – section eliminated; subsequent sections re-lettered

C001 Independent Contractor Agreement

- *** Changed “commission” to “compensation” throughout form
- ¶6 Authority – new subsections (c) and (d); subsequent subsections re-lettered

C004 Amendment to Independent Contractor Agreement to Provide for Payment of Commission to Corporation (“Amendment”)

- *** Retitled To “Amendment fo Independent Contractor Agreement to Provide for Payment of Compensation to Corporation (“Amendment”)”
- *** Changed “commission” to “compensation” throughout form

SS619 Buyer Requests Seller Pay Buyer's Broker's Commission (VA Loan)

*** Form retitled to "Buyer Requests Seller Pay Buyer's Broker's Compensation (VA Loan)"

*** Language of SS rephrased

SS620 Buyer Requests Seller Pay Buyer's Broker's Commission

*** Form retitled to "Buyer Requests Seller Pay Buyer's Broker's Compensation"

*** Language of SS rephrased

FOR TRAINING ONLY

EXCLUSIVE SELLER BROKERAGE ENGAGEMENT AGREEMENT



2024 Printing

State law prohibits Broker from representing Seller as a client without first entering into a written agreement with Seller under O.C.G.A. § 10-6A-1 et. seq.

A. KEY TERMS AND CONDITIONS

1. **Exclusive Seller Brokerage Engagement Agreement.** For and in consideration of the mutual promises contained herein and other good and valuable consideration, the undersigned seller(s) ("Seller") and the undersigned broker (hereinafter "Broker" or "Seller's Broker") do hereby enter into this Exclusive Seller Brokerage Engagement Agreement ("Agreement") for Broker to exclusively represent Seller in listing and selling the property described below ("Property") for sale on the terms and conditions set forth herein.

a. **Property Identification:** Address: _____
City _____, County _____, Georgia, Zip Code _____

Tax Parcel I.D. Number: _____

b. **Legal Description:** The legal description of the Property is [select one of the following below]:

(1) attached as an exhibit hereto;

(2) the same as described in Deed Book _____, Page _____, et. seq., of the land records of the above county; **OR**

(3) Land Lot(s) _____ of the _____ District, _____ Section/
GMD, Lot _____, Block _____, Unit _____, Phase/Section _____
of _____ Subdivision/Development, according to
the plat recorded in Plat Book _____, Page _____, et. seq., of the land records of the above county;
OR

(4) described below if Property is a condominium unit and a full unit legal description is to be used

[NOT TO BE USED IF PROPERTY IS A FEE SIMPLE TOWNHOME]:

Unit _____ of _____ Condominium
("Condominium"), located in Land Lot _____ of the _____ District of _____ County, Georgia,
together with its percentage of undivided interest in the common elements of the Condominium, and its interest in the limited
common elements assigned to the unit ("Unit"). The Condominium was created pursuant to the Declaration of Condominium
for any Condominium ("Declaration"), recorded in Deed Book _____, Page _____, et
seq., _____ County, Georgia records ("Declaration"), and shown and delineated on the plat of
survey filed in Condominium Plat Book _____, Page _____, _____ County,
Georgia records, and on the floor plans filed in Condominium Floor Plan Book _____, Page _____,
_____ County, Georgia records.

2. List Price and Listing Period.

a. The price at which the Property shall be listed for sale is \$ _____ ("List Price").

b. **Commencement Date of Agreement:** _____. This Agreement shall commence and be
effective upon it being signed by Seller and Broker and a signed copy delivered to both parties.

c. **Ending Date of Agreement:** _____. This shall be the last full date of the Agreement
after which it shall terminate and no longer be in effect unless the parties agree in writing to extend it.

3. Marketing.

Broker agrees to file this listing with the following Multiple Listing Service(s): _____

a. **DELIVERY OF AGREEMENT TO AND LISTING WITH MLS.** THIS AGREEMENT MUST BE TIMELY DELIVERED TO AND
LISTED WITH THE ABOVE-REFERENCED MULTIPLE LISTING SERVICE(S) IN ACCORDANCE WITH THE RULES OF SUCH
MULTIPLE LISTING SERVICE(S). THIS OBLIGATION SHALL CONTROL OVER ANY CONFLICTING OR INCONSISTENT
LANGUAGE CONTAINED HEREIN.

b. **Marketing Commencement Date:** _____. This shall be the date when the Property is first marketed
to the public. Seller shall have the right, upon notice to Broker, to move this date up or back by not more than _____ days.

4. Compensation to Broker(s) for Professional Services (“Compensation”).

- a. **Generally:** Compensation to Broker(s) is negotiable and is not set by state law. However, this does not obligate individual licensees and brokerage firms to necessarily negotiate their Compensation.
- b. **Compensation to Seller’s Broker:** Seller agrees to pay Seller’s Broker the following Compensation at the closing of any Contract to Sell (as that term is hereinafter defined) of the Property as follows:
- _____ percent (_____ %) of the sales price;
 - \$ _____;
 - (other) _____.
- c. **Optional Compensation to Buyer’s Broker:** Seller hereby approves the following Compensation, if any, being paid to Buyer’s Broker by either Seller (in addition to the Compensation being paid to Seller’s Broker); Seller’s Broker (out of the Compensation being paid to Seller’s Broker); or Seller and Seller’s Broker as set forth in “other” section below.
- _____ percent (_____ %) of the sales price;
 - \$ _____;
 - (other) _____.
- If Seller’s offer of Compensation to the Buyer’s Broker is conditional, specify the conditions here: _____

For all purposes herein, the term “Buyer’s Broker” shall mean the Broker, including the Broker representing the Seller, if they are also working with or representing the Buyer as a customer or client.

- d. **Separate Compensation on Lease.** If Seller leases the Property or enters into a lease/purchase agreement or a lease with an option to purchase agreement during this Agreement, Seller shall also pay Broker a separate leasing Compensation in the amount of \$ _____ and as follows: _____
- Notwithstanding any provision to the contrary contained herein, the payment of a leasing Compensation (including in lease/purchase transactions or lease with an option to purchase transactions) shall not relieve Seller from paying the Compensation at the closing of a Contract to Sell, as provided elsewhere in this Agreement.

5. Protected Period. The length of Protected Period, as that term is herein defined, shall be _____ days.

6. Agency and Brokerage.

- a. The following are types of agency relationship(s) **NOT** offered by Broker:
- seller agency buyer agency designated agency dual agency sub-agency tenant agency landlord agency
- b. If Broker offers dual agency as one of its agency relationships above, Seller does or does not consent to Broker acting in a dual agency capacity, as that agency relationship is explained in Section B.6(b) below and in the CB01 ABCs of Agency. Seller expressly consents to Broker acting in any other agency relationship offered by Broker.

7. Lead-Based Paint Disclosure. Federal law requires disclosure of lead-based paint in homes/residential properties, or a portion thereof, constructed prior to 1978. [select one below]

- a. A dwelling on the Property, or portion thereof, was constructed prior to 1978, Seller agrees to complete and provide Broker with a signed Lead-Based Paint Disclosure Exhibit (F316) at the same time as the signing of this Agreement and is attached as Exhibit “_____”.
- OR**
- b. No dwelling on the Property, or portion thereof, was constructed prior to 1978.

8. Seller Has the Following Special Circumstances That Will Require Third-Party Approval Before Seller Can Do the Following:

- a. **List the Property for Sale:**
- (1) **Bankruptcy:** Seller has filed for bankruptcy protection and this Agreement is made contingent upon the bankruptcy court authorizing the listing of the Property for sale.
 - (2) **Divorce:** Seller has filed for divorce and this Agreement is made contingent upon the court having jurisdiction over the divorce action authorizing the listing of the Property for sale.
 - (3) **Other (Please describe):** _____
- b. **Contract to Sell the Property:**
- (1) **Bankruptcy:** Seller has filed for bankruptcy protection. Any purchase and sale agreement for the sale of the Property will need to be conditioned upon the approval of the bankruptcy court.
 - (2) **Divorce:** Seller has filed for divorce. Any purchase and sale agreement for the sale of the Property will need to be conditioned upon the approval of the court having jurisdiction over the divorce.
 - (3) **Short Sale:** The sale of the Property will not generate sufficient proceeds to pay off the Broker’s Compensation and all mortgages or liens on the Property. Therefore, the purchase and sale agreement for the sale of the Property will need to be made contingent upon the mortgage lender(s) and other lien holders agreeing to take less than the face amount of what they are owed.
 - (4) **Seller Not On Title:** Seller does not yet have title to the Property and the purchase and sale agreement for the Property will or will not need to be subject to Seller acquiring title to the Property.
 - (5) **Other (Please describe):** _____

9. Negotiation. Seller does **OR** does not authorize the Broker to assist, to the extent requested by Seller, in negotiating the terms of and filling out a pre-printed form contracts for Seller’s review and approval.

B. FURTHER EXPLANATIONS TO CORRESPONDING PARAGRAPHS IN SECTION A.

1. **Exclusive Seller Brokerage Engagement Agreement.** Seller has the full authority to enter into this Agreement for the listing of Seller's Property for sale. This Agreement may not be amended except by the written agreement of Seller and Broker. The failure of the parties to adhere strictly to the terms and conditions of this Agreement shall not constitute a waiver of the right of the parties later to insist on such strict adherence. Seller is not a party to any other exclusive seller brokerage engagement agreement and all such previous agreements, if any, have expired and not been renewed. Seller acknowledges that Seller may have to pay a previous broker Compensation if Seller is subject to a current seller brokerage engagement agreement or has terminated a previous seller brokerage engagement agreement without the consent of the previous broker.
2. **List Price and Listing Period.**
 - a. **List Price:** Seller agrees to list the Property for sale at the list price specified in this Agreement. The failure of the Property to be shown or sell at the list price may be an indication that the list price for the Property is too high.
 - b. **Initial Listing Period When Property Is Under Contract to Sell:** If the Property is under a Contract to Sell, as that term is defined below, during the Listing Period, but the Listing Period expires prior to the closing, then the Listing Period shall be automatically extended through the closing of the Contract to Sell.
 - c. **Extension:** If during the term of this Agreement, Seller and a prospective buyer enter into: 1) a real property purchase and sale agreement for the Property; 2) a contract to exchange property, including the Property; 3) an option contract for the sale of the Property; or 4) a contract to sell the shares or partnership or membership interests in the legal entity constituting Seller (hereinafter, collectively referred to in this Agreement as a "Contract to Sell") which is not consummated or closed for any reason whatsoever, then the Listing Period may be extended unilaterally by Broker for the number of days that Property was under the Contract to Sell (hereinafter, "Extension Period") by Broker providing written notice of the same to Seller within five (5) days of the Contract to Sell not being consummated but in no event later than prior to the expiration of this Agreement (hereinafter, "Notification Period"). If such written notice is not given before the end of the Notification Period, then the Extension Period for that transaction shall be deemed to have been waived by Broker.
3. **Marketing.**
 - a. **Generally:** Broker is authorized to market and advertise Property for sale in any media of Broker's choosing, including the Internet and multiple listing services, and attempt to procure buyers for the Property in cooperation with other real estate brokers and their affiliated licensees. Seller acknowledges that in listing the Property in a multiple listing service, all members of multiple listing services and real estate related third parties will have access to Seller's listing information including images and recordings and the right to use all available technology to create, download, store, supplement and manipulate such listing information to assist Seller in the sale of the Property and for tracking and analyzing real estate transactions. As such, Broker may not always have control over aspects of the marketing of the Property. Any media created or purchased by Broker to be used in the marketing effort shall not belong to or be the property of the Seller and may not be copied, reproduced, or used by Seller or other third parties without the express written permission of the Broker. Seller warrants that any media provided or paid for by Seller is the property of the Seller. Seller agrees to indemnify the Broker for any claim by a third party related to the use of the provided media. Broker shall be allowed to use Seller provided materials, during the term of this Agreement, with any third-party for the purposes of marketing the property, and Seller acknowledges that Broker shall not be liable to Seller for the continued use of media by third-parties after the termination of the Agreement. Seller agrees not to place any advertisements on the Property or to advertise the Property for sale in any media except with the prior written consent of Broker. Broker is also hereby authorized to place Broker's "For Sale" sign on Property. If the Property is sold or a Contract to Sell the Property is entered into during the term of this Agreement, the Broker may advertise the Property (including images thereof) in any media of Broker's choosing as being "under contract" while a sale is pending and as being "sold" upon the closing of the Property (except nothing herein shall permit Broker to place a Sold sign on property no longer owned by Seller except with the written permission of the new owner).
 - b. **Images:** Seller agrees to remove any personal property prior to listing the Property of which Seller does not want images to be so captured. Broker shall not be liable to Seller if other brokers or buyers take photographs, videos or use other technology to capture and manipulate images of the Property without the permission of the Seller and Broker.
 - c. **Multiple Listing Service(s):** Broker agrees to file this Agreement with the above referenced Multiple Listing Service(s) within one (1) business day of the Marketing Commencement Date, which shall be the date the Property is made available to the public. Marketing of the property to the public includes, but is not limited to, flyers displayed in windows, yard signs, digital marketing on public facing websites, brokerage website displays (including IDX and VOW), digital communications marketing (email blasts), multi-brokerage listing sharing networks and applications available to the general public. Internal marketing that only goes to other licensees within the Seller's Broker's firm is not considered public facing marketing unless it is distributed to licensees outside of the brokerage firm. Seller acknowledges that the MLS(s) is/are not a party to this Agreement and is/are not responsible for errors or omissions on the part of Seller or Broker. Seller agrees to indemnify Service(s) from and against any and all claims, liabilities, damages or losses arising out of or related to the listing and sale of Property. Seller acknowledges that by virtue of listing the Property in MLS(s), all MLS(s) members and their affiliated licensees, will have access to Seller's listing information for the purpose of assisting Seller in the sale of the Property.
 - d. **Consent of Seller to be Called:** If Seller is on a "Do Not Call List," Seller expressly consents to Broker calling Seller for any purpose related to the sale of the Property. This paragraph shall survive the termination of this Agreement.
 - e. **Lockboxes:** A lockbox may be used in connection with the marketing of Property. There have been isolated instances of reported burglaries of homes on which lockboxes have been placed and for which the lockbox has been alleged to have been used to access the home. In order to minimize the risk of misuse of the lockbox, Broker recommends against the use of lockboxes on door handles that can be unscrewed from the outside or on other parts of the home from which the lockbox can be easily removed. Since prospective buyers and others will have access to Property, Seller agrees to either remove all valuables, prescription drugs and/or keys, or put them in a secure place.

f. No Marketing by Seller: Seller is encouraged to communicate the availability of the Property for sale to friends and other acquaintances. However, since Broker has been hired to exclusively market and show the Property, Seller shall not, with respect to the sale of the Property, prepare and distribute marketing materials, hold open houses, put up signs regarding the Property, create websites for the Property, prepare flyers, brochures or videos or engage in other similar activities without the prior written consent of Broker.

4. Compensation for Professional Services of Seller's Broker ("Compensation").

- a. Obligation to Pay Compensation to Seller's Broker:** In the event that Seller enters into a Contract to Sell or lease, lease/purchase, or lease with an option to purchase the Property or any portion thereof during the term of this Agreement with any buyer, Seller agrees to pay Seller's Broker's Compensation at the closing (regardless of whether the closing is during or after the term of this Agreement), and if applicable, Seller's Broker's Leasing Compensation prior to the commencement of a lease, lease/purchase, or lease with an option to purchase.
- b. Optional Compensation to Buyer's Broker:** Seller shall have no obligation to pay the Compensation of the Buyer's Broker. However, some Sellers approve such Compensation being offered and paid for by either the Seller or the Seller's Broker. If Seller has agreed to pay Compensation to the Buyer's Broker on any Contract to Sell, it shall be paid in full at the closing. If Seller does not approve paying Compensation to the Buyer's Broker, then the buyer shall be solely responsible for paying the Buyer's Broker's Compensation.
- c. Separate Compensation on Lease:** Notwithstanding the above, if Seller leases real property or enters into a lease/purchase or lease with an option to purchase contract during this Agreement, Seller shall also pay Broker a separate leasing Compensation in the amount as indicated elsewhere in this Agreement. Notwithstanding any provision to the contrary contained herein, the payment of leasing Compensation (including in lease purchase and lease with an option to purchase transactions) shall not relieve Seller from paying the Compensation at the closing of a Contract to Sell, as provided elsewhere in this Agreement.

5. Protected Period. The Protected Period shall be the period of time set forth in this Agreement commencing upon the expiration or the unilateral termination of this Agreement by Seller during which Broker shall be protected for its Compensation or leasing Compensation, as applicable. If this Agreement is unilaterally terminated by Seller without the consent of the Broker, the Protected Period shall be the number of days remaining on what would have been the original listing as of the date the Seller terminates the Agreement plus the number of days set forth as the Protected Period in Section A.5 of this Agreement. There shall be no Protected Period if Broker and Seller mutually agree to terminate this Agreement. In the event that during the Protected Period, Seller enters into a Contract to Sell or lease, lease/purchase, or lease with an option to purchase of all or any portion of the Property which during the term of this Agreement was submitted to, identified or shown to any buyer (either in person or virtually), was provided specific information about or inquired about the Property, either directly or through a broker working with the buyer, then Seller shall pay Broker at closing or the commencement of the lease, lease/purchase, or lease with an option to purchase, as applicable, the Compensation or leasing Compensation set forth above.

Notwithstanding the above, if this Agreement expires (and is not unilaterally terminated by Seller) an exception to the above Compensation obligations shall apply and no Compensation or leasing Compensation, as applicable, shall be due, owing or paid to Broker if Seller enters into a Contract to Sell or lease, lease/purchase, or lease with an option to purchase all or any portion of the Property during the Protected Period by or through another licensed broker with whom Seller has signed an exclusive seller brokerage engagement agreement. This exception shall not apply if the Agreement is unilaterally terminated by Seller. The Compensation rights and obligations set forth herein shall survive the termination of this Agreement.

6. Agency and Brokerage.

- a. Broker's Policy on Agency:** Unless Broker has indicated elsewhere herein that Broker is not offering a specific agency relationship, the types of agency relationships offered by Broker are: seller agency, buyer agency, designated agency, dual agency, sub-agency, landlord agency, and tenant agency.
- b. Dual Agency Disclosure:** *[Applicable only if Broker's agency policy is to practice dual agency and Seller has consented to Broker acting in a dual agency capacity.]* If Seller and a prospective buyer are both being represented by the same Broker and the Broker is not acting in a designated agency capacity, Seller is aware that Broker is acting as a dual agent in this transaction and hereby consents to the same. Seller has been advised that:
- (1) In serving as a dual agent, Broker is representing two parties, Seller and the buyer, as clients whose interests are or at times could be different or even adverse;
 - (2) Broker will disclose all adverse, material facts relevant to the transaction and actually known to the dual agent to all parties in the transaction except for information made confidential by request or instructions from either party which is not otherwise required to be disclosed by law;
 - (3) Seller does not have to consent to dual agency. The consent of the Seller to dual agency has been given voluntarily in Section A and the Seller has read and understands this Agreement.
 - (4) Notwithstanding any provision to the contrary contained herein, Seller hereby directs Broker, while acting as a dual agent, to keep confidential and not reveal to the other party any information which could materially and adversely affect their negotiating position except as required by law.
 - (5) Broker or Broker's affiliated licensees will timely disclose to each party the nature of any material relationship with other party other than that incidental to the transaction. A material relationship shall mean any actually known personal, familial, or business relationship between Broker and a party which would impair the ability of Broker to exercise fair and independent judgment relative to another client. The other party whom Broker may represent in the event of dual agency may not be identified at the time Seller enters into this Agreement. If any party is identified after the Agreement and has a material relationship with Broker, then Broker shall timely provide to Seller a disclosure of the nature of such relationship.
 - (6) Upon signing this brokerage engagement with the dual agency disclosures contained herein, Seller's consent to dual agency is conclusively deemed to have been given and informed in accordance with state law, provided that Seller has consented to Broker acting in a dual agency capacity in Section A(6) above.

EXCLUSIVE BUYER BROKERAGE ENGAGEMENT AGREEMENT



2024 Printing

State law prohibits Broker from representing Buyer as a client without first entering into a written agreement with Buyer under O.C.G.A. § 10-6A-1 et. seq.

A. KEY TERMS AND CONDITIONS

1. **Exclusive Buyer Brokerage Engagement Agreement.** For and in consideration of the mutual promises contained herein and other good and valuable consideration, the undersigned buyer(s) ("Buyer") and the undersigned broker (hereinafter "Broker or Buyer's Broker") do hereby enter into this Exclusive Buyer Brokerage Engagement Agreement ("Agreement") on the terms and conditions set forth herein.

2. **Term.** The term of this Agreement shall begin on the date of _____ ("Starting Date") and shall continue through the date of _____, as the same may be extended by written agreement of the parties or as provided for herein ("Ending Date").

3. Agency and Brokerage.

a. The following are types of agency relationship(s) **NOT** offered by Broker:

- seller agency buyer agency designated agency dual agency
 sub-agency tenant agency landlord agency

b. If Broker offers dual agency as one of its agency relationships above, Buyer does or does not consent to Broker acting in a dual agency capacity, as that agency relationship is explained in Section B.3(b) below and in the CB01 ABCs of Agency. Buyer expressly consents to Broker acting in any other agency relationship offered by Broker.

4. Compensation for Professional Services of Broker ("Compensation").

a. **Generally:** Compensation to Broker(s) is negotiable and is not set by state law. However, this does not obligate individual licensees and brokerage firms to necessarily negotiate their Compensation.

b. **Compensation to Buyer's Broker:** Buyer agrees to pay Buyer's Broker the Compensation set forth below at the closing of any Contract to Purchase (as that term is hereinafter defined)

- _____ percent (_____ %) of the sales price;
 \$ _____;
 (other) _____.

c. **Optional Compensation from Seller or Seller's Broker to Buyer's Broker:** Buyer hereby approves or disapproves Buyer's Broker receiving Compensation from Seller or Seller's Broker. Nothing herein should be interpreted as a promise by Seller or Seller's Broker to pay or offer to pay Compensation to Buyer's Broker herein.

If Buyer approves such Compensation being paid by the Seller and/or Seller's Broker to the Buyer's Broker, the maximum amount the Buyer's Broker may receive from Seller and/or Seller's Broker is as follows:

- _____ percent (_____ %) of the sales price;
 \$ _____;
 (other) _____.

d. **Possible Reduction in Buyer's Compensation Obligation to Buyer's Broker:** Any Compensation Buyer's Broker receives from Seller or Seller's Broker shall: *[Select one. The boxes not checked shall not be a part of this Agreement.]*

- reduce the Compensation Buyer shall pay to Buyer's Broker dollar for dollar;
 not reduce the Compensation Buyer shall pay to Buyer's Broker;
 special exceptions to the Compensation paid from Buyer to Buyer's Broker, as set forth below:

e. **Separate Compensation on Lease:** If Buyer leases property or enters into a lease/purchase contract or a lease with an option to purchase agreement during this Agreement, Buyer shall also pay Broker separate leasing Compensation (except where the Compensation is paid by the Landlord) in the amount of \$ _____ and as follows:

_____. Notwithstanding any provision to the contrary contained herein, the payment of a leasing Compensation (including in lease/purchase transactions or lease with an option to purchase transactions) shall not relieve Buyer from paying the Compensation at the closing of a Contract to Purchase, as provided elsewhere in this Agreement.

f. **Protected Period:** The length of the Protected Period, as that term is hereinafter defined, shall be _____ days ("Protected Period").

g. **Compensation on Assignment:** If Buyer has the right to assign a purchase and sale agreement entered into during the term of this Agreement or any Protected Period thereafter, Buyer shall cause assignee to be fully responsible for paying the Broker's Compensation that would otherwise have been paid by Buyer. In the event such Compensation is not paid by assignee, Buyer shall remain fully obligated to immediately pay such Compensation.

B. FURTHER EXPLANATIONS TO CORRESPONDING PARAGRAPHS IN SECTION A.

1. **Exclusive Buyer Brokerage Engagement Agreement.** Buyer hereby agrees to hire Broker to act as Buyer's exclusive real estate broker in locating, and to the extent requested by Buyer, negotiating the purchase or exchange of real property on behalf of Buyer and filing out a pre-printed form contract for Buyer's review and approval. Buyer is not a party to any other current exclusive buyer brokerage engagement agreement and all such previous agreements, if any, have expired and not been renewed. Buyer acknowledges that Buyer may have to pay a previous broker Compensation if Buyer is: a) subject to a current buyer brokerage engagement agreement; b) terminated a previous buyer brokerage agreement without the consent of the previous broker and enters into a Contract to Purchase, as that term is defined herein, or lease during what would have been the term of a previous exclusive brokerage engagement agreement had it not been terminated by buyer; or c) enters into a Contract to Purchase or lease on a Protected Properties during the Protected Period.
2. **Term.**
 - a. The term of this Agreement shall begin on the Starting Date and shall continue through the Ending Date as the same may be extended upon the written agreement of the parties or as provided for herein. If Buyer is a party to a Contract to Purchase, as that term is hereinafter defined, but the term expires prior to the closing, then the term of this Agreement shall be automatically extended through the closing of the Contract to Purchase.
 - b. **Extension:** If during the term of this Agreement, Buyer and a prospective seller enter into a real estate purchase and sale agreement, option to purchase real property, agreement to exchange real property or contract to purchase the shares, partnership or membership interests in a legal entity owning real property (hereinafter, collectively, "Contract to Purchase") which is not closed or consummated for any reason whatsoever, then the original expiration date of this Agreement may be extended for the number of days that Buyer was under contract ("Extension Period") by Broker providing written notice of the same to Buyer within five (5) days of the date the Contract to Purchase not being consummated but in no event later than prior to the expiration of this Agreement (hereinafter "Notification Period"). If such written notice is not given before the end of the Notification Period, then the Extension Period for that transaction shall be deemed to have been waived by Broker.
3. **Agency and Brokerage.**
 - a. **Broker's Policy on Agency:** Unless Broker has indicated elsewhere herein that Broker is not offering a specific agency relationship, the types of agency relationships offered by Broker are: seller agency, buyer agency, designated agency, dual agency, sub-agency, landlord agency, and tenant agency.
 - b. **Dual Agency Disclosure:** *[Applicable only if Broker's agency policy is to practice dual agency and Buyer has consented to Broker acting in a dual agency capacity.]* If Buyer and a prospective seller are both being represented by the same Broker and the Broker is not acting in a designated agency capacity, Buyer is aware that Broker is acting as a dual agent in this transaction and hereby consents to the same. Buyer has been advised that:
 - (1) In serving as a dual agent, Broker is representing two parties, Buyer and the seller, as clients whose interests are or at times could be different or even adverse;
 - (2) Broker will disclose all adverse, material facts relevant to the transaction and actually known to the dual agent to all parties in the transaction except for information made confidential by request or instructions from either party which is not otherwise required to be disclosed by law;
 - (3) Buyer does not have to consent to dual agency. The consent of the Buyer to dual agency has been given voluntarily in Section A and the Buyer has read and understands this Agreement.
 - (4) Notwithstanding any provision to the contrary contained herein, Buyer hereby directs Broker, while acting as a dual agent, to keep confidential and not reveal to the other party any information which could materially and adversely affect their negotiating position except as required by law.
 - (5) Broker or Broker's affiliated licensees will timely disclose to each party the nature of any material relationship with other party other than that incidental to the transaction. A material relationship shall mean any actually known personal, familial, or business relationship between Broker and a party which would impair the ability of Broker to exercise fair and independent judgment relative to another client. The other party whom Broker may represent in the event of dual agency may not be identified at the time Buyer enters into this Agreement. If any party is identified after the Agreement and has a material relationship with Broker, then Broker shall timely provide to Buyer a disclosure of the nature of such relationship.
 - (6) Upon signing this brokerage engagement with the dual agency disclosures contained herein, Buyer's consent to dual agency is conclusively deemed to have been given and informed in accordance with state law, provided that Buyer has consented to Broker acting in a dual agency capacity in Section A(3) above.
 - c. **Designated Agency Disclosure:** *[Applicable only if Broker's agency policy is to practice designated agency.]* Buyer does hereby consent to Broker acting in a designated agency capacity in transactions in which Broker is representing Buyer and a prospective seller, but where Broker assigns one or more of its affiliated licensees exclusively to represent the Buyer and one or more of its other affiliated licensees exclusively to represent the prospective seller.
 - d. **No Other Adverse Agency Relationships:** Unless specified herein, Broker has no other known agency relationships with other parties which would conflict with any interests of Buyer (except that Broker may represent other buyers, sellers, landlords, and tenants in buying, selling or leasing property).

4. Compensation for Professional Services of Broker (“Compensation”).

- a. Buyer’s Compensation Obligation in Purchasing Real Property:** Buyer shall be obligated to pay Buyer’s Broker’s Compensation referenced herein at the closing of a Contract to Purchase in accordance with this Agreement. Buyer’s Compensation obligation shall exist even if the closing of the transaction occurs after the term of this Agreement has expired. Buyer shall additionally be responsible for paying the Compensation if Buyer defaults under this Agreement or if Buyer enters into a Contract to Purchase during the Protected Period on certain properties as explained in the Protected Period section below. Buyer agrees that any Compensation to be paid by the Buyer shall be shown on the settlement statement and collected by the closing attorney as a pre-condition to Buyer closing on the purchase of real property so long as the same is permitted by Buyer’s mortgage lender, if any. Buyer and Broker agree that the closing attorney may rely on this provision to collect and disburse any Compensation to be paid by Buyer. Compensation in any real estate transaction is negotiable and can be paid by any of the parties in a real estate transaction. There are times when the Seller or Seller’s Broker in a real estate transaction may offer to pay the Buyer’s Compensation obligation to Buyer’s Broker.
- b. Compensation on Property Sold For Sale By Owner (“FSBO”):** In the event Buyer purchases, leases, leases to purchase or leases with an option to purchase property that is being sold or leased by owner (“FSBO”) without a broker and the owner is unwilling to pay Buyer’s Broker its Compensation at or before the closing, Buyer agrees to pay Buyer’s Broker the Compensation set forth herein at or before the closing and the Leasing Compensation, if applicable, prior to the commencement of the lease.
- c. Separate Compensation on Lease:** Notwithstanding the above, if Buyer leases real property or enters into a lease/purchase or lease with an option to purchase contract during this Agreement, Buyer shall also pay Broker a separate Leasing Compensation (except where the Compensation is paid by the Landlord) in the amount as indicated elsewhere in this Agreement. Notwithstanding any provision to the contrary contained herein, the payment of a leasing Compensation (including in lease purchase and lease with an option to purchase transactions) shall not relieve Buyer from paying the Compensation at the closing of a Contract to Purchase, as provided elsewhere in this Agreement.
- d. Protected Period:** The Protected Period shall be the period of time set forth in this Agreement commencing upon the expiration of this Agreement or what would have been the expiration of this Agreement had it not been unilaterally terminated by Buyer during which Buyer’s Broker shall be protected for its Compensation and/or Leasing Compensation, as applicable. There shall be no Protected Period if Buyer and Broker mutually terminate this Agreement. In the event Buyer enters into a Contract to Purchase or lease, lease to purchase or lease with an option to purchase of real property which, during the term of this Agreement or what would have been the term of this Agreement had it not been unilaterally terminated by Buyer, was shown to Buyer by Broker, either virtually or in person, or which Buyer otherwise visited (“Protected Properties”), then Buyer shall pay Broker at closing or prior to the commencement of the lease the Compensation and/or Leasing Compensation, as applicable, set forth above.

C. OTHER TERMS AND CONDITIONS

1. Broker’s Duties to Buyer. Broker’s sole duties to Buyer shall be to:

- a. make all disclosures required by law;
- b. attempt to locate property suitable to Buyer for purchase;
- c. comply with all applicable laws in performing its duties hereunder including the Brokerage Relationships in Real Estate Transactions Act, O.C.G.A. § 10-6A-1 et. seq; and
- d. assist, to the extent requested by Buyer, in negotiating the terms of and filling out a pre-printed real estate purchase and sale agreement.

2. Buyer’s Duties. Buyer agrees to:

- a. be reasonably available to see property with Broker or property for which Broker has arranged Buyer to see;
- b. timely respond to communications from Broker;
- c. provide Broker with accurate and complete information;
- d. inspect and become familiar with any property that Buyer Contracts to Purchase, including, but not limited to, potentially adverse conditions and conditions of special concern to Buyer relating to the physical condition of any property in which Buyer becomes interested, any improvements located thereon and the neighborhood surrounding such property;
- e. carefully read the terms of all disclosures, reports and Contracts to Purchase and comply with the duties and deadlines contained therein;
- f. work exclusively with Broker (and not with any other real estate broker or licensee) in identifying, previewing and seeing property for purchase by Buyer since if Buyer identifies, previews or sees property with another broker or fails to disclose to the seller’s broker that Buyer is working with Broker the Compensation referenced herein will likely not be paid to Broker by the seller’s broker and Buyer shall be responsible for the same;
- g. disclose to Broker at the commencement of this Agreement whether Buyer previously worked with any other real estate broker and the addresses of the properties, if any, Buyer made an offer to purchase or for which Buyer may owe Compensation to another broker if Buyer now purchases; and
- h. not contact or see a property listed For Sale By Owner (“FSBO”) without first giving Broker a reasonable opportunity to contact the owner thereof and attempt to enter into an agreement with the owner to pay Broker Compensation should Buyer purchase the owner’s property.

3. Broker’s Authority and Responsibility. Buyer acknowledges and agrees that Broker:

- a. may show properties in which Buyer is interested or in which Buyer has made an offer or counteroffer to other prospective buyers and assist such buyers in making offers and counteroffers on such properties;

AGREEMENT TO WORK WITH BUYER AS A CUSTOMER



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For and in consideration of Ten Dollars (\$10.00) and other good and valuable consideration, _____ as buyer ("Buyer") and _____ as broker and its affiliated licensees (hereinafter collectively referred to as "Broker" or "Buyer's Broker") do hereby enter into this agreement ("Agreement") this date of _____.

1. Agreement to Work with Buyer as Customer. Buyer hereby agrees to work with Broker in locating real property to purchase suitable to Buyer's needs. In working with Buyer, Buyer's Broker shall not be representing Buyer as a client but shall only be working with Buyer as a customer. As a customer, Broker cannot represent or advise Buyer on brokerage matters as Broker would be able to do if Broker were representing Buyer but can only perform ministerial tasks on behalf of Buyer. (The terms "client", "customer" and "ministerial acts" shall have the meaning that they have in the Brokerage Relationships in Real Estate Transactions Act, O.C.G.A. § 10-6A-1 et. seq.). Buyer or Broker can terminate this Agreement at any time upon written or electronic notice to the other party.

2. Customer Acknowledgement Regarding Commission to Broker. Broker will have the right to share in the commission being paid to the seller's broker on any property purchased by Buyer if Broker is the procuring cause of the sale (or if Broker would have been the procuring cause but for Customer's abandonment of Broker in the transaction).

3. Arbitration. All claims arising out of or relating to this Agreement and the alleged acts or omissions of any or all the parties hereunder shall be resolved by arbitration in accordance with the Federal Arbitration Act 9 U.S.C. § 1 et. seq. and the rules and procedures of the arbitration company selected to administer the arbitration. Upon making or receiving a demand for arbitration, the parties shall work together in good faith to select a mutually acceptable arbitration company with offices in Georgia to administer and conduct the arbitration. If the parties cannot mutually agree on an arbitration company, the company shall be selected as follows. Each party shall simultaneously exchange with the other party a list of three arbitration companies with offices in Georgia acceptable to that party to administer and conduct the arbitration. If there is only one (1) arbitration company that is common to both lists, that company shall administer and conduct the arbitration. If there is more than one arbitration company that is common to both lists, the parties shall either mutually agree on which arbitration company shall be selected or flip a coin to select the arbitration company. If there is not initially a common arbitration company on the lists, the parties shall repeat the process by expanding their lists by two each time until there is a common name on the lists selected by the parties. The decision of the arbitrator shall be final and the arbitrator shall have authority to award attorneys' fees and allocate the costs of arbitration as part of any final award. All claims shall be brought by a party in his or her individual capacity and not as a plaintiff or class member in any purported class or representative proceeding. The arbitrator may not consolidate more than one person's claims, and may not otherwise preside over any form of a representative or class proceeding. Notwithstanding anything to the contrary contained herein, this agreement to arbitrate shall not apply to: (1) any claim regarding the handling and disbursement of earnest money; and (2) any claim of Broker regarding the entitlement to or the non-payment of a real estate commission hereunder.

4. Compensation for Professional Services of Broker ("Compensation").

A. Generally: Compensation to Broker(s) is negotiable and is not set by state law. However, this does not obligate individual licensees and brokerage firms to necessarily negotiate their Compensation.

B. Compensation to Buyer's Broker: Buyer agrees to pay Buyer's Broker the Compensation set forth below at the closing of any Contract to Purchase (as that term is hereinafter defined)

- _____ percent (_____ %) of the sales price;
- \$ _____;
- (other) _____.

C. Optional Compensation from Seller or Seller's Broker to Buyer's Broker: Buyer hereby approves or disapproves Buyer's Broker receiving Compensation from Seller or Seller's Broker. Nothing herein should be interpreted as a promise by Seller or Seller's Broker to pay or offer to pay Compensation to Buyer's Broker herein.

If Buyer approves such Compensation being paid by the Seller and/or Seller's Broker to the Buyer's Broker, the maximum amount the Buyer's Broker may receive from Seller and/or Seller's Broker is as follows:

- _____ percent (_____ %) of the sales price;
- \$ _____;
- (other) _____.

D. Possible Reduction in Buyer's Compensation Obligation to Buyer's Broker: Any Compensation Buyer's Broker receives from Seller or Seller's Broker shall: *[Select one. The boxes not checked shall not be a part of this Agreement.]*

- reduce the Compensation Buyer shall pay to Buyer's Broker dollar for dollar;
- not reduce the Compensation Buyer shall pay to Buyer's Broker;
- special exceptions to the Compensation paid from Buyer to Buyer's Broker, as set forth below:

- E. When Compensation is Due:** Buyer shall be obligated to pay Buyer's Broker the Compensation referenced above at the closing of any property that Buyer purchases that was shown to or identified by Buyer's Broker to Buyer within the later of ____ days of the date of this Agreement (referenced above) or the last date that Buyer's Broker showed any Property to Buyer. Notwithstanding the above, this section shall not apply if Buyer enters into an exclusive buyer brokerage agreement with another broker.
- F. Definition of Buyer and Seller:** For the purposes of determining whether Buyer has purchased real property herein, thus triggering Buyer's obligation to pay the Compensation, the term "Buyer" shall include Buyer, all members of Buyer's immediate family, any legal entity in which Buyer or any member of Buyer's immediate family owns or controls, directly or indirectly, more than ten percent (10%) of the shares or interest therein, and any third-party who is acting under the direction or control of any of the above parties. For the purposes of this Agreement, the term "seller" shall include seller, all members of seller's immediate family, any legal entity in which seller or any member of seller's immediate family owns or controls, directly or indirectly, more than ten percent (10%) of the shares or interest therein, and any third-party who is acting under the direction or control of any of the above parties.
- G. Definition of Contract to Purchase:** For all purposes hereunder, the term "Contract to Purchase" shall mean a real estate purchase and sale agreement, option to purchase real property, agreement to exchange real property or contract to purchase shares, partnership or membership interests in a legal entity owning real property (hereinafter "Contract to Purchase").
- 5. LIMIT ON BROKER'S LIABILITY. BUYER ACKNOWLEDGES THAT BROKER:**
- A. SHALL, UNDER NO CIRCUMSTANCES, HAVE ANY LIABILITY GREATER THAN THE AMOUNT OF COMPENSATION PAID HEREUNDER TO BROKER (EXCLUDING ANY COMPENSATION AMOUNT PAID TO A COOPERATING REAL ESTATE BROKER, IF ANY) OR, IF NO COMPENSATION IS PAID TO BROKER, THAN A SUM OF \$100; AND**
- B. NOTWITHSTANDING THE ABOVE, SHALL HAVE NO LIABILITY IN EXCESS OF \$100 FOR ANY LOSS OF FUNDS AS THE RESULT OF WIRE OR CYBER FRAUD.**
- 6. Independent Contractor Relationship.** This Agreement shall create an independent contractor relationship between Broker and Buyer. Broker shall at no time be considered an employee of Buyer. Unless otherwise stipulated, all affiliated licensees of Broker are independent contractors of Broker.
- 7. Buyer's Duties. Buyer agrees to:**
- A.** inform Broker in the event Buyer enters into an Exclusive Buyer Brokerage Engagement Agreement with another broker;
- B.** be reasonably available to see property with Broker or property for which Broker has arranged Buyer to see;
- C.** timely respond to communications from Broker;
- D.** provide Broker with accurate and complete information;
- E.** inspect and become familiar with any property that Buyer enters into a real estate purchase and sale agreement, option to purchase real property, agreement to exchange real property or contract to purchase the shares, partnership or membership interests in a legal entity owning real property (hereinafter "Contract to Purchase"), including, but not limited to, potentially adverse conditions and conditions of special concern to Buyer relating to the physical condition of any property in which Buyer becomes interested, any improvements located thereon and the neighborhood surrounding such property;
- F.** carefully read the terms of all disclosures, reports and Contract to Purchase and comply with the duties and deadlines contained therein;
- G.** work non-exclusively with Broker in identifying, previewing and seeing property for purchase by Buyer;
- H.** disclose to Broker at the commencement of this Agreement whether Buyer previously worked with any other real estate broker and the address of the properties, if any, Buyer made an offer to purchase or for which Buyer may owe a commission to another broker if Buyer now purchases.
- 8. Fair Housing Disclosure.** Buyer acknowledges that Broker is committed to providing equal housing opportunities to all persons. While Broker may show Buyer properties of a type or in any specific geographical area requested by Buyer, Broker may not steer buyers to or away from particular areas based upon race, color, religion, national origin, sex, familial status, disability, sexual orientation or gender identity.
- 9. Disclaimer Regarding the Purchase of Certain Property.** Buyer acknowledges that O.C.G.A. § 2-1-7 prohibits certain nonresident aliens, foreign persons, foreign companies and U.S. companies owned by any of the above from buying or possessing certain land within a ten (10) mile radius of any military base, military installation, or military airport. If Buyer fits into one of the above categories, Buyer agrees to carefully read the entirety of the above referenced Code section before contracting to purchase such land. Buyer should consult with legal counsel to fully understand the law. In such event, Buyer shall indemnify and hold Broker harmless from any and all claims, causes of action, suits and damages arising out of or relating to Buyer's failure to comply with the law. Violating the law can subject Buyer to civil and criminal penalties. The law also requires certain sellers and others to divest themselves of such property within certain time periods if they are now no longer legally able to purchase such property.
- 10. Statute of Limitations.** All claims of any nature whatsoever against Broker and/or their affiliated licensees, whether asserted in litigation or arbitration and sounding in breach of contract and/or tort, must be brought within two (2) years from the date any claim or cause of action arises. Such actions shall thereafter be time-barred

PURCHASE AND SALE AGREEMENT

Offer Date: _____



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A. KEY TERMS AND CONDITIONS

1. Purchase and Sale. The undersigned buyer(s) ("Buyer") agree to buy and the undersigned seller(s) ("Seller") agree to sell the real property described below including all fixtures, improvements and landscaping therein ("Property") on the terms and conditions set forth in this Agreement.

a. Property Identification: Address: _____
City _____, County _____, Georgia, Zip Code _____
MLS Number: _____ Tax Parcel I.D. Number: _____

b. Legal Description: The legal description of the Property is [select one of the following below]:
 (1) attached as an exhibit hereto;
 (2) Condominium (attach F204 Condominium Resale Purchase and Sale Exhibit)
 (3) the same as described in Deed Book _____, Page _____, et. seq., of the land records of the above county; **OR**
 (4) Land Lot(s) _____ of the _____ District, _____ Section/ GMD, Lot _____, Block _____, Unit _____, Phase/Section _____ of _____ Subdivision/Development, according to the plat recorded in Plat Book _____, Page _____, et. seq., of the land records of the above county.

2. Purchase Price of Property to be Paid by Buyer.
\$ _____

3. Closing Costs.
Seller's Contribution at Closing: \$ _____

4. Closing Date and Possession.
Closing Date shall be _____ with possession of the Property transferred to Buyer
 upon Closing **OR** _____ days after Closing at _____ o'clock AM **OR** PM (attach F219 Temporary Occupancy Agreement).

5. Closing Law Firm ("Closing Attorney"). Phone Number: _____

6. Holder of Earnest Money ("Holder"). (If Holder is Closing Attorney, F510 must be attached as an exhibit hereto, and F511 must be signed by Closing Attorney.)

7. Earnest Money. Earnest money will be paid to Holder in a method of payment acceptable to the Holder of immediately available funds as follows:
 a. \$ _____ as of the Offer Date.
 b. \$ _____ within _____ days from the Binding Agreement Date.
 c. _____

8. Inspection and Due Diligence.
a. Due Diligence Period: Property is being sold subject to a Due Diligence Period of _____ days from the Binding Agreement Date.
b. Option Payment for Due Diligence Period: In consideration of Seller granting Buyer the option to terminate this Agreement, Buyer:
(1) has paid Seller \$10.00 in nonrefundable option money, the receipt and sufficiency of which is hereby acknowledged; plus
(2) shall pay directly to Seller additional option money of \$ _____ by check ACH or wire transfer of immediately available funds either as of the Offer Date; **OR** within _____ days from the Binding Agreement Date. Any additional option money paid by Buyer to Seller shall (subject to lender approval) or shall not be applied toward the purchase price at Closing and shall not be refundable to Buyer unless the Closing fails to occur due to the default of the Seller.

9. Lead-Based Paint. To the best of Seller's knowledge, the residential dwelling(s) on the Property (including any portion thereof or painted fixture therein) was (attach F316 Lead-Based Paint Exhibit) **OR** was not built prior to 1978.

10. Brokerage Relationships in this Transaction.

<p>a. Buyer's Broker is _____ and is:</p> <p>(1) <input type="checkbox"/> representing Buyer as a client. (2) <input type="checkbox"/> working with Buyer as a customer. (3) <input type="checkbox"/> acting as a dual agent representing Buyer and Seller. (4) <input type="checkbox"/> acting as a designated agent where: _____ has been assigned to exclusively represent Buyer.</p>	<p>b. Seller's Broker is _____ and is:</p> <p>(1) <input type="checkbox"/> representing Seller as a client. (2) <input type="checkbox"/> working with Seller as a customer. (3) <input type="checkbox"/> acting as a dual agent representing Buyer and Seller. (4) <input type="checkbox"/> acting as a designated agent where: _____ has been assigned to exclusively represent Seller.</p>
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c. Material Relationship Disclosure: The material relationships required to be disclosed by either Broker are as follows:

11. Time Limit of Offer. The Offer set forth herein expires at _____ o'clock _____ m. on the date _____.

Buyer(s) Initials _____ Seller(s) Initials _____

B. FURTHER EXPLANATIONS TO CORRESPONDING PARAGRAPHS IN SECTION A.

1. Purchase and Sale.

- a. **Warranty:** Seller warrants that at the time of Closing Seller will convey good and marketable title to said Property by limited warranty deed subject only to: (1) zoning; (2) general utility, sewer, and drainage easements of record as of the Binding Agreement Date and upon which the improvements (other than any driveway or walkway) do not encroach; (3) declarations of condominium and declarations of covenants, conditions and restrictions of record on the Binding Agreement Date; and (4) leases and other encumbrances specified in this Agreement. Buyer agrees to assume Seller's responsibilities in any leases specified in this Agreement.
- b. **Examination:** Buyer may examine title and/or obtain a survey of the Property and furnish Seller with a written statement of title objections at or prior to the Closing. If Seller fails or is unable to satisfy valid title objections at or prior to the Closing or any unilateral extension thereof, which would prevent the Seller from conveying good and marketable title to the Property, then Buyer, among its other remedies, may terminate the Agreement without penalty upon written notice to Seller. Good and marketable title as used herein shall mean title which a title insurance company licensed to do business in Georgia will insure at its regular rates, subject only to standard exceptions.
- c. **Title Insurance:** Buyer hereby directs any mortgage lender involved in this transaction to quote the cost of title insurance based upon the presumption that Buyer will be obtaining an enhanced title insurance policy, if such a policy can be issued on the Property or for the Buyer in this transaction.

2. **Purchase Price to be Paid by Buyer.** The purchase price shall be paid in U.S. Dollars by such method of delivery acceptable to the Closing Attorney including, but not limited to, wire transfer of immediately available funds. Where this Agreement refers to sales price, it shall mean the same thing as the purchase price.

3. Closing Costs.

- a. **Seller's Contribution at Closing:** At Closing, Seller shall make the referenced Seller's Monetary Contribution which Buyer may use to pay any cost or expense of Buyer related to this transaction, including without limitation, any compensation obligations of Buyer. Buyer acknowledges that Buyer's mortgage lender(s) may not allow the Seller's Monetary Contribution, or the full amount thereof, to be used for some costs or expenses. In such event, any unused portion of the Seller's Monetary Contribution shall remain the property of the Seller.
- b. **Additional Items Paid by Seller:** In addition to the above, the Seller shall also pay the fees and costs of the Closing Attorney: (1) to prepare and record title curative documents; (2) for Seller not attending the Closing in person; and (3) to handle and deliver Seller's payoffs and proceeds.
- c. **Items Paid by Buyer:** At Closing, Buyer shall pay: (1) Georgia property transfer tax; (2) the cost to search title and tax records and prepare the limited warranty deed; and (3) all other costs, fees and charges to close or relating to the transaction.
- d. **Prorations:** Ad valorem property taxes, community association fees, solid waste and governmental fees and utility bills for which service cannot be terminated as of the date of Closing shall be prorated as of the date of Closing. Notwithstanding any provision to the contrary, in the event ad valorem property taxes are based upon an estimated tax bill or tax bill under appeal, Buyer and Seller shall, upon the issuance of the actual tax bill or the appeal being resolved, promptly make such financial adjustments between themselves as are necessary to correctly prorate the tax bill. In the event there are tax savings resulting from a tax appeal, third party professional costs to handle the appeal may be deducted from the savings for that tax year before re-prorating. Any pending tax appeal for the year in which the Property is sold shall be deemed assigned to Buyer at Closing. The liability to the county and if applicable, city, in which the Property is located for ad valorem real property taxes for the year in which the Property is sold shall be assumed by Buyer upon the Closing of the Property. Buyer agrees to indemnify Seller against any and all claims of the county and if applicable, city, for unpaid ad valorem real property taxes for the year in which the Property is sold.

4. Closing Date and Possession.

- a. **Right to Extend the Closing Date:** Buyer or Seller may unilaterally extend the Closing Date for eight (8) days upon notice to the other party given prior to or on the date of Closing if: (1) Seller cannot satisfy valid title objections (excluding title objections that: (a) can be satisfied through the payment of money or by bonding off the same; and (b) do not prevent Seller from conveying good and marketable title, as that term is defined herein, to the Property); (2) Buyer's mortgage lender (including in transactions where the financing contingency has expired) or the Closing Attorney is delayed and cannot fulfill their respective obligations by the date of Closing, provided that the delay is not caused by Buyer; or (3) Buyer has not received required estimates or disclosures and Buyer is prohibited from closing under federal regulations. The party unilaterally extending the Closing Date shall state the basis for the delay in the notice of extension. If the right to unilaterally extend the Closing Date is exercised once by either the Buyer or Seller, the right shall thereafter terminate.
- b. **Keys and Openers:** At Closing, Seller shall provide Buyer with all keys, door openers, fobs, access cards, codes and other similar equipment allowing access to the Property, the community, and community amenities. In the event Seller is required to return the above items to a third-party, Seller shall provide Buyer with instructions on how to contact the third-party to obtain such items.
- c. **Devices and Fixtures:** Except as set forth above, if a system, device, or fixture conveyed with the Property ("Device") cannot be operated without a specific controller, then not later than time of possession, Seller will provide Buyer with all controllers which are required for the operation of the Devices. Seller will also provide Buyer with all Device credentials, including but not limited to usernames and passwords, for all Devices including access and guest codes OR Seller may reset Devices to factory defaults and provide Buyer with default credentials for all Devices. Seller will terminate Seller's administrative access and any access granted to a third-party. The cost of transferring third-party support to these Devices and confirming that Seller's and/or third-parties' administrative access is terminated is the responsibility of the Buyer.

- 5. Closing Law Firm.** Buyer shall have the right to select the Closing Attorney to close this transaction, and hereby selects the Closing Attorney referenced herein. In all cases where an individual Closing Attorney is named in this Agreement but the Closing Attorney is employed by or an owner, shareholder, or member in a law firm, the law firm shall be deemed to be the Closing Attorney. If Buyer's mortgage lender refuses to allow that Closing Attorney to close this transaction, Buyer shall select a different Closing Attorney acceptable to the mortgage lender. The Closing Attorney shall represent the mortgage lender in any transaction in which the Buyer obtains mortgage financing. In transactions where the Buyer does not obtain mortgage financing, the Closing Attorney shall represent the Buyer in preparing the Closing documents, attempting to clear title of the Property to the satisfaction of the title insurance company, conducting the Closing, disbursing funds according to the settlement statement signed by the parties and Closing Attorney, timely recording deeds and issuing an owner's title insurance policy. Other than those services specifically listed above, nothing herein shall obligate the Closing Attorney to perform other legal services, including, but not limited to, certifying or warranting title of the Property, for the Buyer, except pursuant to a separate engagement agreement signed by the Closing Attorney and the Buyer.
- 6. Holder of Earnest Money.** The earnest money will be paid to Holder in a method of payment acceptable to the Holder. Holder has the right to charge Buyer for any cost associated with receiving of earnest money. Such charge shall be collected separately from the payment of earnest money. The earnest money will be deposited into Holder's escrow/trust account (with Holder being permitted to retain the interest if the account is interest bearing) not later than: (a) five (5) banking days after the Binding Agreement Date hereunder or (b) five (5) banking days after the date it is actually received if it is received after the Binding Agreement Date. If Buyer writes a check or pays with an ACH for earnest money and the same is deposited into Holder's escrow/trust account, Holder shall not return the earnest money until the check or ACH has cleared the account on which the check was written or from which the ACH was sent. In the event any earnest money check is dishonored by the bank upon which it is drawn, or earnest money is not timely paid, Holder shall promptly give notice of the same to Buyer and Seller. Buyer shall have three (3) banking days from the date of receiving the notice to cure the default and if Buyer does not do so, Seller may within seven (7) days thereafter terminate this Agreement upon notice to Buyer. If Seller fails to terminate the Agreement timely, Seller's right to terminate based on the default shall be waived.
- 7. Earnest Money.**
- a. Entitlement to Earnest Money:** Subject to the paragraph below, Buyer shall be entitled to the earnest money upon the: (1) failure of the parties to enter into a binding agreement; (2) failure of any unexpired contingency or condition to which this Agreement is subject; (3) termination of this Agreement due to the default of Seller; or (4) termination of this Agreement in accordance with a specific right to terminate set forth in the Agreement. Otherwise, the earnest money shall be applied towards the purchase price of the Property at Closing or if other funds are used to pay the purchase price then the earnest money shall be returned to Buyer.
 - b. Disbursement of Earnest Money:** Holder shall disburse the earnest money upon: (1) the Closing of the Property; (2) a subsequent written agreement of Buyer and Seller; (3) an order of a court or arbitrator having jurisdiction over any dispute involving the earnest money; or (4) the failure of the parties to enter into a binding agreement (where there is no dispute over the formation or enforceability of the Agreement). In addition, Holder may disburse the earnest money upon a reasonable interpretation of the Agreement, provided that: 1) Holder first gives all parties at least ten (10) days notice stating to whom and why the disbursement will be made; and 2) no interpretation shall be made by Holder dividing the earnest money between Buyer and Seller. Any party, real estate licensee or any other person having knowledge of or an interest in the disbursement of the earnest money may object to or provide information regarding the proposed disbursement by giving written notice of the same to Holder within the above referenced notice period. Objections not timely made in writing shall be deemed waived. If Holder receives an objection or other information and, after considering it, decides to disburse the earnest money as originally proposed, Holder may do so and send notice to the parties of Holder's action. If Holder decides to modify its proposed disbursement, Holder shall first send a new ten (10) day notice to the parties stating the rationale for the modification and to whom the disbursement will now be made. Holder shall disburse the earnest money to Seller by check in the event Holder: (1) makes a reasonable interpretation of the Agreement that the Agreement has been terminated due to Buyer's default; and (2) sends the required ten (10) day notice of the proposed disbursement to Buyer and Seller. The above-referenced check shall constitute liquidated damages in full settlement of all claims of Seller against Buyer and the Brokers in this transaction. Holder may require Seller to sign a W-9 before issuing a check to Seller for liquidated damages of \$600 or more. Such liquidated damages are a reasonable pre-estimate of Seller's actual damages, which damages the parties agree are difficult to ascertain and are not a penalty.
 - c. Interpleader:** If an earnest money dispute cannot be resolved after a reasonable time, Holder may interplead the earnest money into a court of competent jurisdiction if Holder is unsure who is entitled to the earnest money. Holder shall be reimbursed for and may deduct its costs, expenses and reasonable attorney's fees from any funds interpleaded. The prevailing defendant in the interpleader lawsuit shall be entitled to collect its attorney's fees, court costs and the amount deducted by Holder to cover Holder's costs and expenses from the non-prevailing defendant.
 - d. Hold Harmless:** All parties hereby covenant and agree to: (1) indemnify and hold Holder harmless from and against all claims, injuries, suits and damages (collectively, "Claims") arising out of the performance by Holder of its duties, including Claims caused, in whole or in part, by the negligence of the Holder; (2) not to sue Holder for any decision of Holder to disburse earnest money in accordance with this Agreement.
- 8. Inspection and Due Diligence.**
- a. Buyer's Right to Inspect Property:** Unless otherwise specified herein, the Property is being sold in "as-is" condition with any and all faults. Therefore, Buyer and/or Buyer's representative(s) have the right to carefully inspect the Property to make sure it meets the needs of the Buyer. **If Buyer is concerned that the Property may have been used as a laboratory for the production of methamphetamine, or as a dumpsite for the same, Buyer should review the National Clandestine Laboratory Register – Georgia at www.dea.gov.**
 - b. Buyer's Right to Inspect Neighborhood:** In every neighborhood there are conditions which different buyers may find objectionable. Buyer is solely responsible for becoming familiar with neighborhood conditions of concern to Buyer that could affect the Property such as landfills, quarries, power lines, airports, cemeteries, prisons, stadiums, odor and noise producing activities, crime and school, land use, government and transportation maps and plans. **If Buyer is concerned about the possibility of a registered sex offender residing in a neighborhood in which Buyer is interested, Buyer should review the Georgia Violent Sex Offender Registry available on the Georgia Bureau of Investigation Website at www.gbi.georgia.gov.**

- c. **Buyer's Inspection Rights Continue through Closing:** Upon prior notice to Seller, Buyer and/or Buyer's representatives shall have the continuing right through Closing to enter the Property at Buyer's expense and at reasonable times to, among other things, and without limitation, conduct inspections, examinations, evaluations, appraisals, surveys and tests, meet contractors and vendors, measure for renovations, determine the condition of the Property and confirm that any agreed upon repairs have been made. Seller shall cause all utilities, systems and equipment to be on and all parts of the house to be accessible, including basements, attics, and crawlspaces so that Buyer may complete all inspections.
- d. **Buyer's Inspection Indemnification Obligations:** Buyer agrees to hold Seller and all Brokers harmless from all claims, injuries and damages related to the exercise of the above inspection rights by Buyer and Buyer's representatives, and Buyer shall promptly pay Seller the actual cost to restore any portion of the Property damaged or disturbed from testing or other evaluations to a condition equal to or better than the condition it was prior to such testing or evaluations. Notwithstanding the above, this indemnification obligation shall not apply to damage resulting from defects in the Property uncovered during the inspection of the Property.
- e. **Lead-Based Paint Hazard Evaluation:** If any portion of the Property was built prior to 1978, the Lead-Based Paint Exhibit (F316) is hereby attached as an Exhibit to the Agreement. Buyer shall have the right to conduct a lead hazard evaluation within ten (10) days from the Binding Agreement Date (or other mutually agreed upon time period) and to terminate this Agreement without penalty upon notice to Seller if lead-based paint and/or lead hazards are found (unless these rights are waived by Buyer in the Lead-Based Paint Exhibit (F316)). If the Lead-Based Paint Exhibit (F316) gives Buyer the right to terminate this Agreement if lead-based paint or lead hazards are found and such notice of termination is not given within ten (10) days from Binding Agreement Date (or other mutually agreed upon time period), the right to terminate for lead-based paint and/or lead hazards shall be waived.
- f. **Due Diligence Period:** If the Property is being sold subject to a Due Diligence Period, then: a) this Agreement shall be an option contract during which time Buyer shall have the option, for any reason or for no reason, to terminate this Agreement upon notice to the Seller given prior to the expiration of the Due Diligence Period, in which case Buyer shall be entitled to a return of Buyer's earnest money without penalty; b) Buyer may, during the Due Diligence Period, seek to amend this Agreement to address any concerns Buyer has with the Property or this Agreement; and c) if Buyer has not terminated this Agreement as set forth above, Buyer shall accept the Property in "as-is" condition, subject to any amendment to this Agreement to address concerns agreed to by the parties.
- g. **Seller's Duty to Disclose:** Seller shall disclose to Buyer any and all known latent or hidden defects in the Property that could not be discovered by the Buyer during a reasonably careful inspection of the Property.
- h. **Warranties Transfer:** Seller agrees to transfer to Buyer, at Closing, subject to Buyer's acceptance thereof (and at Buyer's expense, if there is any cost associated with said transfer), Seller's interest in any existing manufacturer's warranties, service contracts, termite treatment and/or repair guarantee and/or other similar warranties which, by their terms, may be transferable to Buyer.
- i. **Repairs:** All agreed upon repairs and replacements shall be performed in a good and workmanlike manner prior to Closing unless otherwise agreed to in writing by the Buyer and Seller.
9. **Lead-Based Paint.** If any portion of a residential dwelling on the Property was built prior to 1978, the Lead-Based Paint Exhibit (F316) is hereby attached as an exhibit to this Agreement. The term "residential dwelling" includes any painted fixture or material used therein that was built or manufactured prior to 1978.
10. **Brokerage Relationships and Compensation in this Transaction.**
- a. **Agency Disclosure:** No Broker in this transaction shall owe any duty to Buyer or Seller greater than what is set forth in their brokerage engagements and the Brokerage Relationships in Real Estate Transactions Act, O.C.G.A. § 10-6A-1 et. seq.;
- (1) **No Agency Relationship:** Buyer and Seller acknowledge that: a) if they are not represented by Brokers in a client relationship, they are each solely responsible for protecting their own interests, and that Broker's role is limited to performing ministerial acts for that party; and b) if the same brokerage firm is representing one party as a client and working with the other party as a customer, the Broker and all of Broker's affiliated licensees are representing the client.
- (2) **Consent to Dual Agency:** If Broker is acting as dual agent in this transaction, Buyer and Seller consent to the same and acknowledge having been advised of the following:
- i. **Dual Agency Disclosure:** *[Applicable only if Broker is acting as a dual agent in this transaction.]*
- (a) As a dual agent, Broker is representing two clients whose interests are or at times could be different or even adverse;
- (b) Broker will disclose all adverse material facts relevant to the transaction and actually known to the dual agent to all parties in the transaction except for information made confidential by request or instructions from each client which is not otherwise required to be disclosed by law;
- (c) Buyer and Seller do not have to consent to dual agency and the consent of Buyer and Seller to dual agency has been given voluntarily and the parties have read and understand their brokerage engagement agreements.
- (d) Notwithstanding any provision to the contrary contained herein Buyer and Seller each hereby direct Broker while acting as a dual agent to keep confidential and not reveal to the other party any information which could materially and adversely affect their negotiating position.
- ii. **Designated Agency Disclosure:** If Broker in this transaction is acting in a designated agency capacity, where one licensee of Broker is exclusively representing Buyer and another licensee of Broker is exclusively representing Seller, Buyer and Seller consent to the same and acknowledge that each designated agent shall exclusively represent the party to whom each has been assigned as a client and shall not represent the client assigned to the other designated agent in this transaction.

b. Compensation of Broker(s): The Compensation of Seller's Broker and Buyer's Broker, if any, for professional brokerage services shall be as set forth herein or in a separate written agreement. [If the Compensation of any Broker is to be set forth in this Agreement or is modifying the previously agreed upon Compensation of the Broker, the parties should attach a Broker Compensation Agreement (F259) to this Agreement to reflect the same.] If any provision(s) in this Agreement, including a provision(s) in any amendment hereto, changes the total amount of Compensation due to any Broker from the total amount of Compensation said Broker has previously agreed to in writing, then such change to the Broker's Compensation shall only be binding if the Broker impacted by such change consents to the same in writing. If the Broker in question does not agree to such change in Compensation in writing, it shall not be binding upon them. If a licensee of Broker is signing this Agreement on behalf of Broker, such licensee hereby warrants that they have full authority to sign this Agreement on behalf of and bind Broker. Whether the Brokers involved in this transaction sign this Agreement or not, they shall be deemed to be express third party beneficiaries of this Agreement, shall have the right to enforce all provisions in this Agreement that benefit them or afford them rights and defenses and shall have all remedies at law or in equity in the event of a breach of this Agreement. Buyer and Seller agree that any Compensation to be paid to Broker(s) shall be shown on the settlement statement and collected by the Closing Attorney as a pre-condition to Buyer and Seller closing on the Property so long as the same is permitted by Buyer's mortgage lender, if any. The Closing Attorney is hereby authorized and directed to pay the Broker(s) at Closing, the Compensation of the respective Broker(s) pursuant to this Agreement, or if the Compensation is not in this Agreement, then pursuant to a side agreement or written instructions from the Broker(s) at Closing. If the sale proceeds are insufficient to pay the agreed upon Compensation, the party owing the Compensation shall pay any shortfall at Closing. The acceptance by the Broker(s) of partial Compensation at Closing shall not relieve the party owing the same from paying the remainder after the Closing (unless the Broker(s) have expressly agreed in writing to accept the amount paid in full satisfaction of Broker's Compensation). Any Broker acting as Holder herein shall sign this Agreement, or a separate agreement, consenting to the same. This Agreement and any amendment thereto shall be enforceable, as between the parties, even without the signature of any Broker referenced herein.

c. Disclaimer: Buyer and Seller have not relied upon any advice or representations of Brokers other than what is included in this Agreement. Brokers shall have no duty to determine whether the identities of the Buyer and/or Seller are legitimate, inspect the Property for defects, hazardous conditions, repairs or any other matter or to advise Buyer or Seller on any matter relating to the Property which could have been revealed through a survey, appraisal, title search, Official Georgia Wood Infestation Report, utility bill review, septic system inspection, well water test, tests for radon, asbestos, mold, methamphetamine, and lead-based paint; moisture test of stucco or synthetic stucco, inspection of the Property by a professional, construction expert, structural engineer or environmental engineer; review of this Agreement and transaction by an attorney, financial planner, mortgage consultant or tax consultant; and consulting appropriate governmental officials to determine, among other things and without limitation, the zoning of Property, the propensity of the Property to flood, flood zone certifications, whether any condemnation action is pending or has been filed or other nearby governmental improvements are planned. Buyer and Seller acknowledge that Broker does not perform or have expertise in any of the above tests, inspections, and reviews or in any of the matters handled by the professionals referenced above. Buyer and Seller should seek independent expert advice regarding any matter of concern to them relative to the Property and this Agreement. Buyer and Seller acknowledge that Broker shall not be responsible to monitor, supervise, or inspect any construction or repairs to Property and such tasks clearly fall outside the scope of real estate brokerage services. Buyer and Seller further acknowledge that Brokers have no duty to ensure that Seller has terminated Seller's and/or third-parties' administrative access to Devices. If Broker has written any special stipulations herein, the party for whom such special stipulations were written: a) confirms that each such stipulation reflects the party's complete understanding as to the substance and form of the special stipulations; b) hereby adopts each special stipulation as the original work of the party; and c) hereby agrees to indemnify and hold Broker who prepared the stipulation harmless from any and all claims, causes of action, suits, and damages arising out of or relating to such special stipulation. Buyer acknowledges that when and if Broker answers a question of Buyer or otherwise describes some aspect of the Property or the transaction, Broker is doing so based upon information provided by Seller rather than the independent knowledge of Broker (unless Broker makes an independent written disclosure to the contrary).

11. Time Limit of Offer. The Time Limit of the Offer shall be the date and time referenced herein when the Offer expires unless prior to that date and time both of the following have occurred: (a) the Offer has been accepted by the party to whom the Offer was made; and (b) notice of acceptance of the Offer has been delivered to the party who made the Offer.

C. OTHER TERMS AND CONDITIONS

1. Notices.

a. Generally: All notices given hereunder shall be in writing, legible and signed by the party giving the notice. In the event of a dispute regarding notice, the burden shall be on the party giving notice to prove delivery. The requirements of this notice paragraph shall apply even prior to this Agreement becoming binding. Notices shall only be delivered: (1) in person; (2) by courier, overnight delivery service or by certified or registered U.S. mail (hereinafter collectively "Delivery Service"); or (3) by e-mail or facsimile. The person delivering or sending the written notice signed by a party may be someone other than that party.

b. Delivery of Notice: A notice to a party shall be deemed to have been delivered and received upon the earliest of the following to occur: (1) the actual receipt of the written notice by a party; (2) in the case of delivery by a Delivery Service, when the written notice is delivered to an address of a party set forth herein (or subsequently provided by the party following the notice provisions herein), provided that a record of the delivery is created; (3) in the case of delivery electronically, on the date and time the written notice is electronically sent to an e-mail address or facsimile number of a party herein (or subsequently provided by the party following the notice provisions herein) even if it is not opened by the recipient. Notice to a party shall not be effective unless the written notice is sent to an address, facsimile number or e-mail address of the party set forth herein (or subsequently provided by the party following the notice provisions herein).

- c. When Broker Is Authorized to Accept Notice for Client:** Except where the Broker is acting in a dual agency capacity, the Broker and any affiliated licensee of the Broker representing a party in a client relationship shall be authorized agents of the party for the limited purpose of receiving notice and such notice to any of them shall for all purposes herein be deemed to be notice to the party. Notice to an authorized agent shall only be effective if the written notice is sent to an address, facsimile number or e-mail address of the authorized agent set forth herein (or subsequently provided by the authorized agent following the notice provisions herein) whether or not it is not opened by the recipient. Except as provided for herein, the Broker's staff at a physical address set forth herein of the Broker or the Broker's affiliated licensees are authorized to receive notices delivered by a Delivery Service. The Broker, the Broker's staff and the affiliated licensees of the Broker shall not be authorized to receive notice on behalf of a party in any transaction in which a brokerage engagement has not been entered into with the party or in which the Broker is acting in a dual agency capacity. In the event the Broker is practicing designated agency, only the designated agent of a client shall be an authorized agent of the client for the purposes of receiving notice.
- 2. Default.**
- a. Remedies of Seller:** In the event this Agreement fails to close due to the default of Buyer, Seller's sole remedy shall be to retain the earnest money as full liquidated damages. Seller expressly waives any right to assert a claim for specific performance. The parties expressly agree that the earnest money is a reasonable pre-estimate of Seller's actual damages, which damages the parties agree are difficult to ascertain. The parties expressly intend for the earnest money to serve as liquidated damages and not as a penalty.
- b. Remedies of Buyer:** In the event this Agreement fails to close due to the default of Seller, Buyer may either (i) seek the specific performance of this Agreement or (ii) terminate this Agreement upon notice to Seller and Holder, in which case all earnest money deposits and other payments Buyer has paid towards the purchase of the Property shall be returned to Buyer following the procedures set forth elsewhere herein, and Buyer may pursue any other remedy available at law.
- c. Rights of Broker:** In the event this Agreement is terminated or fails to close due to the default of a party hereto, the defaulting party shall pay as liquidated damages to Broker in this transaction the Compensation the Broker would have received had the transaction closed. For purposes of determining the amount of liquidated damages to be paid by the defaulting party, all written agreements establishing the amount of Compensation to be paid to any broker involved in this transaction are incorporated herein by reference. The liquidated damages referenced above are a reasonable pre-estimate of the Broker(s) actual damages and are not a penalty.
- d. Attorney's Fees:** In any litigation or arbitration arising out of this Agreement, including but not limited to breach of contract claims between Buyer and Seller and Compensation claims brought by a broker, the non-prevailing party shall be liable to the prevailing party for its reasonable attorney's fees and expenses.
- 3. Risk of Damage to Property.** Seller warrants that at the time of Closing the Property and all items remaining with the Property, if any, will be in substantially the same condition (including conditions disclosed in the Seller's Property Disclosure Statement or Seller's Disclosure of Latent Defects and Fixtures Checklist) as of the Offer Date, except for changes made to the condition of Property pursuant to the written agreement of Buyer and Seller. At time of possession, Seller shall deliver Property clean and free of trash, debris, and personal property of Seller not identified as remaining with the Property. Notwithstanding the above, if the Property is destroyed or substantially destroyed prior to Closing, Seller shall promptly give notice to Buyer of the same and provide Buyer with whatever information Seller has regarding the availability of insurance and the disposition of any insurance claim. Buyer or Seller may terminate this Agreement without penalty not later than fourteen (14) days from receipt of the above notice. If Buyer or Seller do not terminate this Agreement, Seller shall cause Property to be restored to substantially the same condition as on the Offer Date. The date of Closing shall be extended until the earlier of one year from the original date of Closing, or seven (7) days from the date that Property has been restored to substantially the same condition as on the Offer Date and a new certificate of occupancy (if required) is issued.
- 4. Other Provisions.**
- a. Condemnation:** Seller shall: (1) immediately notify Buyer if the Property becomes subject to a condemnation proceeding; and (2) provide Buyer with the details of the same. Upon receipt of such notice, Buyer shall have the right, but not the obligation for 7 days thereafter, to terminate this Agreement upon notice to Seller in which event Buyer shall be entitled to a refund of all earnest money and other monies paid by Buyer toward the Property without deduction or penalty. If Buyer does not terminate the Agreement within this time frame, Buyer agrees to accept the Property less any portion taken by the condemnation and if Buyer closes, Buyer shall be entitled to receive any condemnation award or negotiated payment for all or a portion of the Property transferred or conveyed in lieu of condemnation.
- b. Consent to Share Non-Public Information:** Buyer and Seller hereby consent to the Closing Attorney preparing and distributing an American Land Title Association ("ALTA") Estimated Settlement Statement-Combined or other combined settlement statement to Buyer, Seller, Brokers and Brokers' affiliated licensees working on the transaction reflected in this Agreement for their various uses.
- c. Duty to Cooperate:** All parties agree to do all things reasonably necessary to timely and in good faith fulfill the terms of this Agreement. Buyer and Seller shall execute and deliver such certifications, affidavits, and statements required by law or reasonably requested by the Closing Attorney, mortgage lender and/or the title insurance company to meet their respective requirements.
- d. Electronic Signatures:** For all purposes herein, an electronic or facsimile signature shall be deemed the same as an original signature; provided, however, that all parties agree to promptly re-execute a conformed copy of this Agreement with original signatures if requested to do so by, the buyer's mortgage lender or the other party.
- e. Entire Agreement, Modification and Assignment:** This Agreement constitutes the sole and entire agreement between all of the parties, supersedes all of their prior written and verbal agreements and shall be binding upon the parties and their successors, heirs and permitted assigns. No representation, promise or inducement not included in this Agreement shall be binding upon any party hereto. This Agreement may not be amended or waived except upon the written agreement of Buyer and Seller. Any agreement to terminate this Agreement or any other subsequent agreement of the parties relating to the Property must be in writing and signed by the parties. This Agreement may only be assigned (SS611) or listed for sale in a multiple listing service by Buyer prior to Closing with the written approval of Seller which may be withheld for any reason or no reason. Any assignee shall fulfill all the terms and conditions of this Agreement, including but not limited to, the obligation to pay the Compensation owed by the assignor.
- f. Extension of Deadlines:** No time deadline under this Agreement shall be extended by virtue of it falling on a Saturday, Sunday or federal holiday except for the date of Closing.

- g. FIRPTA Affidavit:** Unless Seller is a “foreign person”, as that term is defined in Section 1445(f)(3) of the Internal Revenue Code, Seller shall deliver to the Closing Attorney at Closing a FIRPTA (Foreign Investment in Real Property Tax Act) Affidavit indicating that Seller is not a “foreign person”. If Seller is a “foreign person”, additional taxes may need to be withheld at Closing.
- h. GAR Forms:** The Georgia Association of REALTORS®, Inc. (“GAR”) issues certain standard real estate forms. These GAR forms are frequently provided to the parties in real estate transactions. No party is required to use any GAR form. Since these forms are generic and written with the interests of multiple parties in mind, they may need to be modified to meet the specific needs of the parties using them. If any party has any questions about his or her rights and obligations under any GAR form, he or she should consult an attorney. Provisions in the GAR Forms are subject to differing interpretations by our courts other than what the parties may have intended. At times, our courts may strike down or not enforce provisions in our GAR Forms, as written. No representation is made that the GAR Forms will protect the interests of any particular party or will be fit for any specific purpose. The parties hereto agree that the GAR forms may only be used in accordance with the licensing agreement of GAR. While GAR forms may be modified by the parties, no GAR form may be reproduced with sections removed, altered or modified unless the changes are visible on the form itself or in a stipulation, addendum, exhibit or amendment thereto.
- i. Governing Law and Interpretation:** This Agreement may be signed in multiple counterparts each of which shall be deemed to be an original and shall be interpreted in accordance with the laws of Georgia. No provision herein, by virtue of the party who drafted it, shall be interpreted less favorably against one party than another. All references to time shall mean the time in Georgia. If any provision herein is held to be unenforceable, it shall be severed from this Agreement while the remainder of the Agreement shall, to the fullest extent permitted by law, continue to have full force and effect as a binding contract.
- j. No Authority to Bind:** No Broker or affiliated licensee of Broker, by virtue of this status, shall have any authority to bind any party hereto to any contract, provisions therein, amendments thereto, termination thereof or to notices signed by Broker but not the party. However, if authorized in this Agreement, Broker shall have the right to accept notices on behalf of a party (but not send notices from Broker on behalf of a party unless they are signed by the party). Additionally, any Broker or real estate licensee involved in this transaction may perform the ministerial act of filling in the Binding Agreement Date. In the event of a dispute over the Binding Agreement Date, it shall be resolved by a court or arbitrator having jurisdiction over the dispute, by the written agreement of the Buyer and Seller, or by the Holder but only in making a reasonable interpretation of the Agreement in disbursing earnest money.
- k. Notice of Binding Agreement Date:** The Binding Agreement Date shall be the date when a party to this transaction who has accepted an offer or counteroffer to buy or sell real property delivers notice of that acceptance to the party who made the offer or counteroffer in accordance with the Notices section of the Agreement. Notice of the Binding Agreement Date may be delivered by either party (or the Broker working with or representing such party) to the other party. If notice of accurate Binding Agreement Date is delivered, the party receiving notice shall sign the same and immediately return it to the other party. Notwithstanding any other provision to the contrary contained in this Agreement, it is the express intent of this section that (1) a broker or licensee involved in the real estate transaction may perform the ministerial task of filling in the Binding Agreement Date and (2) sending a fully signed purchase and sale agreement with a specific Binding Agreement Date included, that one of the parties has agreed to, constitutes notice of the Binding Agreement Date to the other party.
- l. Objection to Binding Agreement Date:** If the Buyer or Seller objects to the date entered as the Binding Agreement Date, then within one (1) day from receiving notice of Binding Agreement Date, the party objecting shall send notice of the objection to the other party. The objection shall be resolved by the written amendment between the Buyer and Seller by executing a binding agreement date confirmation (F733). The absence of an agreement on the Binding Agreement Date shall not render this Agreement unenforceable. The failure of a party to timely object will result in the parties accepting the Binding Agreement Date as entered.
- m. Rules for Interpreting This Agreement:** In the event of internal conflicts or inconsistencies in this Agreement, the following rules for how those conflicts or inconsistencies shall be resolved will apply:
- (1) Handwritten changes shall control over pre-printed or typed provisions;
 - (2) Exhibits shall control over the main body of the Agreement;
 - (3) Special Stipulations shall control over both exhibits and the main body of the Agreement;
 - (4) Notwithstanding the above, the Amendatory Clause in any FHA or VA exhibit shall control over inconsistent or conflicting provisions contained in another exhibit or a special stipulation.
 - (5) Notwithstanding the above, the Amendatory Clause in the FHA or VA Exhibit shall control over inconsistent or conflicting provisions contained elsewhere in this Agreement. Buyer and Seller acknowledge and agree that the “Further Agreement Pertaining to Amendatory Clause” section in the FHA or VA Exhibits does not conflict and is not inconsistent with the Amendatory Clause.
- n. Statute of Limitations:** All claims of any nature whatsoever against Broker(s) and/or their affiliated licensees, whether asserted in litigation or arbitration and sounding in breach of contract and/or tort, must be brought within two (2) years from the date any claim or cause of action arises. Such actions shall thereafter be time-barred.
- o. Survival of Agreement:** The following shall survive the Closing of this Agreement: (1) the obligation of a party to Compensation referenced herein; (2) any warranty of title; (3) all written representations of Seller in this Agreement regarding the Property or neighborhood in which the Property is located; (4) Buyer’s indemnification obligations arising out of the inspection of the Property by Buyer and Buyer’s representatives; (5) the section on condemnation; (6) the section on attorney’s fees; (7) the obligations of the parties regarding ad valorem real property taxes; (8) the section on devices and fixtures; (9) Seller’s liability for not timely removing items from the Property that Seller agreed to remove; and (10) any obligations which the parties herein agree shall survive the Closing or may be performed or fulfilled after the Closing.
- p. Terminology:** As the context may require in this Agreement: (1) the singular shall mean the plural and vice versa; and (2) all pronouns shall mean and include the person, entity, firm, or corporation to which they relate.
- q. Time of Essence:** Time is of the essence of this Agreement.

5. Definitions.

- a. Banking Day:** A “Banking Day” shall mean a day on which a bank is open to the public for carrying out substantially all of its banking functions. For purposes herein, a “Banking Day” shall mean Monday through Friday excluding federal holidays.
- b. Binding Agreement Date:** The “Binding Agreement Date” shall be the date when a party to this transaction who has accepted an offer or counteroffer to buy or sell real property delivers notice of that acceptance to the party who made the offer or counteroffer in accordance with the Notices section of the Agreement. Once that occurs, this Agreement shall be deemed a Binding Agreement.

- c. **Broker:** In this Agreement, the term "Broker" shall mean the licensed Georgia real estate broker(s) or brokerage firm(s) and their affiliated licensees in this transaction unless the context would indicate otherwise.
- d. **Business Day:** A "Business Day" shall mean a day on which substantially all businesses are open for business. For all purposes herein, a "Business Day" shall mean Monday through Friday excluding federal holidays.
- e. **Client:** "Client" shall mean a party who is being represented by a Broker pursuant to a written brokerage engagement agreement.
- f. **Closing:** The Closing shall be the event in which the parties consummate the transaction set forth in this Agreement by: (1) the Seller tendering the deed referenced herein to the Property; (2) the Buyer paying the required consideration hereunder; (3) both parties properly signing all documents and paperwork as required by the Closing Attorney; and (4) both parties fulfilling other agreements set forth herein that must be fulfilled by the Closing (unless the same have been waived or amended). The Closing shall be deemed consummated when the Closing Attorney confirms to the parties that the Closing Attorney is in receipt of all required paperwork, funds, and approvals necessary to complete the transaction and directs for funds to be disbursed and documents to be recorded. All parties acknowledge that the deed will not normally be recorded in the land records on the day of Closing, and the payment of the sales proceeds may not always be made to Seller on the day of Closing (even though the Closing has been consummated) due to certain circumstances such as, for example, the Seller not being at the Closing in person, the Closing occurring after the cutoff for wiring funds that day, or the terms of an escrow agreements signed by the Seller have not been fulfilled resulting in which a portion of Seller's funds being held back.
- g. **Compensation:** The term "Compensation" as used in this Agreement shall mean the compensation to be received by Broker, for performing real estate brokerage services in this transaction, regardless of whether it is a flat fee, percentage, bonus or some other method of compensation.
- h. **Customer:** The term "Customer" shall mean a party or parties who are not being represented as clients by the Broker with whom the party or parties are working and for whom the Broker may only perform ministerial acts.
- i. **Day:** For the purposes of this Agreement, the term "Day" shall mean a full calendar day ending at 11:59 p.m., except as may be provided for elsewhere herein. For the purposes of counting days for determining deadlines, the specific date referenced as either the Binding Agreement Date or the date from which the deadline shall be counted will be day zero.
- j. **Material Relationship:** A material relationship shall mean any actually known personal, familial, social, or business relationship between the broker or the broker's affiliated licensees and any other party to this transaction which could impair the ability of the broker or affiliated licensees to exercise fair and independent judgment relative to their client.
- k. **Use of Initials "N/A":** The use of the initials "N/A" or "N.A." in filling out a blank in this Agreement shall mean "not applicable".
6. **WARNING TO BUYERS AND SELLERS: BEWARE OF CYBER-FRAUD.** Fraudulent e-mails attempting to get the buyer and/or seller to wire money to criminal computer hackers are increasingly common in real estate transactions. Specifically, criminals are impersonating the online identity of the actual mortgage lender, Closing Attorney, real estate broker or other person or companies involved in the real estate transaction. In that role, the criminals send fake wiring instructions attempting to trick buyers and/or sellers into wiring them money related to the real estate transaction, including, for example, the buyer's earnest money, the cash needed for the buyer to close, and/or the seller's proceeds from the Closing. These instructions, if followed, will result in the money being wired to the criminals. In many cases, the fraudulent email is believable because it is sent from what appears to be the email address/domain of the legitimate company or person responsible for sending the buyer or seller wiring instructions. The buyer and/or seller should verify wiring instructions sent by email by independently looking up and calling the telephone number of the company or person purporting to have sent them. Buyers and sellers should never call the telephone number provided with wiring instructions sent by email since they may end up receiving a fake verification from the criminals. Buyer and sellers should be on special alert for: 1) emails directing the buyer and/or seller to wire money to a bank or bank account in a state other than Georgia; and 2) emails from a person or company involved in the real estate transaction that are slightly different (often by one letter, number, or character) from the actual email address of the person or company.
7. **HEIGHTENED IDENTIFICATION PROCEDURES TO HELP PREVENT FRAUD; COVENANT NOT TO SUE:** There has been a significant increase in criminals attempting to sell properties they do not own by posing as the owners of those properties. To help prevent such crimes, Seller shall immediately, upon request of either the Seller's Broker and/or the Closing Attorney: 1) provide the requesting party with information confirming the Seller's identity, including a current government issued photo identification; 2) meet in person or through audio-visual conferencing to confirm the Seller's identity; and 3) if the Seller is a legal entity, provide the requesting party with the organizational and operating documents of such entity and current photo identification and either meet in-person or in audio-visual meeting with the executor, manager, trustee, general partner, officer, administrator, or other person in a comparable role of the legal entity to confirm their identity. Seller further agrees to cooperate with the Closing Attorney's heightened identification procedures which shall at least meet the standards, if any, supplied by a title insurance company for whom the Closing Attorney is an agent. Seller acknowledges that the transaction may not be able to close unless such procedures are followed. In the event Seller breaches its obligations hereunder, Seller shall be in default of this Agreement. Buyer acknowledges that identity theft may occur regardless of the measures undertaken by the parties, their respective brokers and the attorney(s) involved in the transaction to confirm the Seller's identity. For and in consideration of \$10.00 and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Buyer covenants not to sue any Broker(s) and/or the Closing Attorney involved in this real estate transaction for damages arising out of or relating to a fraudulent seller.
8. **LIMIT ON BROKER'S LIABILITY. BUYER AND SELLER ACKNOWLEDGE THAT BROKER(S):**
- a. **SHALL, UNDER NO CIRCUMSTANCES, HAVE ANY LIABILITY GREATER THAN THE AMOUNT OF COMPENSATION PAID HEREUNDER TO BROKER (EXCLUDING ANY COMPENSATION AMOUNT PAID TO A COOPERATING REAL ESTATE BROKER, IF ANY) OR, IF NO COMPENSATION IS PAID TO BROKER, THEN THE SUM OF \$100; AND**
- b. **NOTWITHSTANDING THE ABOVE, SHALL HAVE NO LIABILITY IN EXCESS OF \$100 FOR ANY LOSS OF FUNDS AS THE RESULT OF WIRE OR CYBER FRAUD.**

9. Exhibits and Addenda. All exhibits and/or addenda attached hereto, listed below, or referenced herein are made a part of this Agreement.

- Back-up Agreement Contingency Exhibit (F604) “_____”
- Broker Compensation Agreement (F259) “_____”
- Closing Attorney Acting as Holder of Earnest Money Exhibit (F510) “_____”
- Community Association Disclosure Exhibit (F322) “_____”
- Condominium Resale Purchase and Sale Exhibit (F204) “_____”
- Conventional Loan Contingency Exhibit (F404) “_____”
- FHA Loan Contingency Exhibit (F407) “_____”
- Lead-Based Paint Exhibit (F316) “_____”
- Lease Purchase and Sale Exhibit (F207) (to be used with F916) “_____”
- Lease for Lease/Purchase Agreement (F916) (to be used with F207) “_____”
- Legal Description Exhibit (F807 or other) “_____”
- Loan Assumption Exhibit (F416) “_____”
- No Financing Contingency Exhibit (F401) “_____”
- Sale or Lease of Buyer’s Property Contingency Exhibit (F601) “_____”
- Seller’s Property Disclosure Statement Exhibit (F301, F302, F304, F307 or F310) “_____”
- Survey of Property as Exhibit “_____”
- Temporary Occupancy Agreement for Seller after Closing Exhibit (F219) “_____”
- USDA-RD Loan Contingency Exhibit (F413) “_____”
- VA Loan Contingency Exhibit (F410) “_____”
- Other _____
- Other _____
- Other _____

SPECIAL STIPULATIONS: The following Special Stipulations are made a part of this Agreement.

Additional Special Stipulations (F246) are attached.

By signing this Agreement, Buyer and Seller acknowledge that they have each read and understood this Agreement and agree to its terms.

Buyer Acceptance and Contact Information

1 Buyer's Signature

Print or Type Name _____ Date _____

Buyer's Address for Receiving Notice _____

Buyer's Phone Number: Cell Home Work

Buyer's E-mail Address _____

2 Buyer's Signature

Print or Type Name _____ Date _____

Buyer's Address for Receiving Notice _____

Buyer's Phone Number: Cell Home Work

Buyer's E-mail Address _____

Additional Signature Page (F267) is attached.

Seller Acceptance and Contact Information

1 Seller's Signature

Print or Type Name _____ Date _____

Seller's Address for Receiving Notice _____

Seller's Phone Number: Cell Home Work

Seller's E-mail Address _____

2 Seller's Signature

Print or Type Name _____ Date _____

Seller's Address for Receiving Notice _____

Seller's Phone Number: Cell Home Work

Seller's E-mail Address _____

Additional Signature Page (F267) is attached.

Buyer's Broker/Affiliated Licensee Contact Information

Buyer Brokerage Firm _____

Broker/Affiliated Licensee Signature _____ **Date** _____

Print or Type Name _____ GA Real Estate License # _____

Licensee's Phone Number _____ Fax Number _____

Licensee's E-mail Address _____

REALTOR® Membership _____

Broker's Address _____

Broker's Phone Number _____ Fax Number _____

MLS Office Code _____ Brokerage Firm License Number _____

Seller's Broker/Affiliated Licensee Contact Information

Seller Brokerage Firm _____

Broker/Affiliated Licensee Signature _____ **Date** _____

Print or Type Name _____ GA Real Estate License # _____

Licensee's Phone Number _____ Fax Number _____

Licensee's Email Address _____

REALTOR® Membership _____

Broker's Address _____

Broker's Phone Number _____ Fax Number _____

MLS Office Code _____ Brokerage Firm License Number _____

Binding Agreement Date: The Binding Agreement Date in this transaction is the date of _____ and has been filled in by _____.

PRE-SHOWING COMPENSATION AGREEMENT



DATE: _____

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RE: Property located at _____

For and in consideration of Ten Dollars (\$10.00) and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the undersigned Seller and/or Seller's Broker, depending on who is paying the compensation to the Buyer's Broker, hereby confirms to Buyer's Broker the compensation for professional brokerage services ("Compensation") to which Buyer's Broker shall be entitled in the event the buyer with whom Buyer's Broker is working with or representing (and who will be identified in any offer made by such buyer through Buyer's Broker) contracts to purchase and closes on the Property. Such Compensation shall be paid to Buyer's Broker by the party identified below at the Closing of such transaction. The Agreement is contingent upon the offer to purchase that is made through the Buyer's Broker working with or representing the Buyer being delivered to Seller's Broker within _____ days of the above-referenced date. The offer of Compensation shall expire if no offer to purchase the property is made within this time frame and this Pre-Showing Compensation Agreement is not otherwise extended by agreement of the Buyer's Broker and the party or Broker paying the Compensation.

1. Compensation Being Offered to Buyer's Broker.

A. The Compensation being offered to Buyer's Broker shall be paid to Buyer's Broker at the closing of the purchase and sale contract as follows: *[Select one. The boxes not checked shall not be a part of this Agreement.]*

- _____ % of the purchase price;
- \$ _____;
- _____ (other)

B. The above-referenced Compensation shall be paid by: *[Select one. The boxes not checked shall not be a part of this Agreement.]*

- Seller (in addition to the Compensation Seller is paying to Seller's Broker)
- Seller's Broker (out of the Compensation Seller is paying to Seller's Broker)
- Seller and Seller's Broker as set forth in the "other" section above.

2. General.

- A. Neither Broker shall have a claim for Compensation against the other in the event a closing does not occur.
- B. Buyer's Broker and all other parties and Brokers signing this Agreement shall have the right to rely on this offer of Compensation set forth herein as a binding offer that cannot be changed by Seller or Seller's Broker without the written permission of Buyer's Broker once the Property is shown by Buyer's Broker to the buyer with whom Buyer's Broker is working or representing during the term of this Agreement.
- C. This Pre-Showing Compensation Agreement shall not modify or amend any separate agreement regarding Buyer's Broker's Compensation between Buyer's Broker and the buyer.
- D. If Buyer's Broker has a previous agreement with Seller and/or Seller's Broker regarding Buyer's Broker's Compensation related to the purchase and sale of the Property, this Pre-Showing Compensation Agreement shall modify and amend such agreement.
- E. Buyer's Broker and all other parties signing this Agreement shall have all remedies available at law or in equity in the event this Pre-Showing Agreement is breached.
- F. The offer of Compensation made herein shall only apply if the offer to purchase the Property that is ultimately accepted by Seller is made through the Buyer's Broker.
- G. If the Compensation being offered to Buyer's Broker is more than Buyer's Broker is permitted to accept, and the buyer does not consent to the additional Compensation being paid, then the offer of Compensation herein shall be reduced to the amount of Compensation Buyer's Broker is permitted to accept.
- H. Any licensee signing this Agreement on behalf of their Broker warrants that they have full authority to sign on behalf of and bind the Broker to this Pre-Compensation Agreement.
- I. For the transaction involving the parties and Broker(s) herein, this Pre-Showing Compensation Agreement shall modify any previous compensation agreement entered into by the Seller and Seller's Broker – if they both sign this Agreement.

SPECIAL STIPULATIONS: The following Special Stipulations, if conflicting with any preceding paragraph or any exhibit or addendum hereto shall control:

Additional Special Stipulations (F246) are attached.

Buyer Broker

Seller Broker

Buyer Broker's (or authorized representative's) Signature

Date

Seller Broker's (or authorized representative's) Signature

Date

Broker's Phone#

Broker's Phone#

Broker's FAX#

Broker's FAX#

REALTOR® Membership

REALTOR® Membership

If Seller is paying Buyer's Broker Compensation referenced herein, Seller hereby signs this Agreement to confirm Seller's agreement to pay the Compensation to be made by Seller. SELLER DOES NOT NEED TO SIGN THIS AGREEMENT IF ALL COMPENSATION TO BE PAID HEREIN TO BUYER'S BROKER IS BEING PAID BY SELLER'S BROKER.

Seller's Signature

Date

Seller's Signature

Date

Additional Signature Page (F267) is attached.

BROKER COMPENSATION AGREEMENT
Exhibit “ _____ ”



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(THIS AGREEMENT SHOULD NOT BE USED IF THE BROKER(S) COMPENSATION AND THE PARTY OR BROKER PAYING IT HAVE ALREADY BEEN AGREED TO IN A SEPARATE WRITTEN AGREEMENT AND IS NOT BEING MODIFIED)

This Broker Compensation Agreement (“Compensation Agreement”) is made this _____ day of _____, 20____ by the undersigned parties in connection with a real estate transaction to purchase and sell real property located at _____, Georgia _____ (“Property”), dated _____ by and between _____ (“Buyer”) and _____ (“Seller”).

WITNESSETH

For and in consideration of \$10.00 and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the undersigned do hereby agree as follows:

1. Compensation Being Offered to Buyer’s Broker. The compensation of the undersigned Broker(s) for professional brokerage services (“Compensation”) provided in the above-referenced transaction is set forth below and shall be paid by the following party or the Broker working with or representing such party:

Compensation of Buyer’s Broker:

_____ % of the purchase price;
\$ _____;
(other) _____

The Compensation of Buyer’s Broker Shall Be Paid By:

Compensation of Seller’s Broker:

_____ % of the purchase price;
\$ _____;
(other) _____

The Compensation of Seller’s Broker Shall Be Paid By:

2. General.

- A. This Compensation Agreement is intended to amend and modify all previous agreements, if any, regarding: 1) the Compensation of the undersigned Broker(s) and 2) the party, parties or Broker responsible for paying such Compensation.
- B. This Compensation Agreement shall be enforceable and binding upon all parties and Brokers signing this Compensation Agreement even if it is not signed by all parties and brokers to the purchase and sale agreement to which it is attached as an exhibit.
- C. This Compensation Agreement shall not be binding upon any Broker or party who does not sign and consent to this Compensation Agreement.
- D. Any licensee signing this Compensation Agreement on behalf of their Broker warrants that they have full authority to sign on behalf of and bind the Broker to this Compensation Agreement.
- E. Once this Compensation Agreement is signed, it cannot be further modified without the express written consent of the Broker(s) whose Compensation is set forth herein and any such modification shall be null and void without the affected Broker’s written consent.
- F. The Brokers referenced herein are express beneficiaries of this Compensation Agreement and shall have all remedies available at law or in equity, in the event this Compensation Agreement is breached.
- G. If the Compensation being paid to Buyer’s Broker is more than Buyer’s Broker is permitted to accept and Buyer does not consent to the additional Compensation being paid, then the offer of Compensation herein shall be reduced to the amount of Compensation Buyer Broker is permitted to accept.

SPECIAL STIPULATIONS: The following Special Stipulations are made a part of this Agreement.

Additional Special Stipulations (F246) are attached.

[SIGNATURES ON FOLLOWING PAGE]

1 Buyer's Signature

Date

2 Buyer's Signature

Date

Additional Signature Page (F267) is attached.

Buyer Brokerage Firm

Broker Signature (or authorized representative)

Date

1 Seller's Signature

Date

2 Seller's Signature

Date

Additional Signature Page (F267) is attached.

Seller Brokerage Firm

Broker Signature (or authorized representative)

Date

SS 619 BUYER REQUESTS SELLER PAY BUYER'S BROKER'S COMPENSATION (VA LOAN)

Since under the VA Loan program Buyer cannot pay Buyer's Broker a commission, Buyer hereby requests, and Seller hereby agrees to pay Buyer's Broker at Closing the following compensation for professional services. *[Select one below.]*

- \$
- _____ % of the purchase price
- _____ (other)

Nothing herein shall be interpreted as a request to alter, modify or change the commission to be received by Seller's Broker, if any, that Seller may have agreed to pay Seller's Broker in any separate written agreement.

SS 620 BUYER REQUESTS SELLER PAY BUYER'S BROKER'S COMPENSATION

Buyer hereby requests, and Seller hereby agrees to pay Buyer's Broker at Closing the following compensation for professional services. *[Select one below.]*

- \$
- _____ % of the purchase price
- _____ (other)

Nothing herein shall be interpreted as a request to alter, modify or change the commission to be received by Seller's Broker, if any, that Seller may have agreed to pay Seller's Broker in any separate written agreement.

FOR TRAINING ONLY