



# FINANCED SALES CONTRACT



The undersigned Purchaser(s) \_\_\_\_\_ hereby agree to purchase and the undersigned Seller(s) \_\_\_\_\_ hereby agree to sell and convey the following described real estate together with all improvements, shrubbery, plantings and appurtenances, including but not limited to those items described in paragraph 9 herein, on the terms and conditions described below. If any personal items remain with the property, they are left "as is" and at no value to the property.

Address \_\_\_\_\_ City \_\_\_\_\_ County \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_

Lot \_\_\_\_\_ Block \_\_\_\_\_ Subdivision \_\_\_\_\_ Addition \_\_\_\_\_

Legal Description: \_\_\_\_\_

1. **TOTAL PURCHASE PRICE** shall be ..... \$ \_\_\_\_\_

Earnest money ..... \$ \_\_\_\_\_

This contract is **contingent** upon Purchaser obtaining approval of a (i.e. Conventional, FHA, VA) \_\_\_\_\_ loan

(Excluding any financed closing costs) in the amount of ..... \$ \_\_\_\_\_

Balance of down payment due from Purchaser at closing (wire transfer or certified funds) ..... \$ \_\_\_\_\_

Purchaser agrees to apply for said loan within \_\_\_\_\_ working days and to make a diligent and good faith effort to obtain approval.

*For FHA Loans, attach FHA DISCLOSURES Addendum.*

2. **SETTLEMENT CHARGES:** Purchaser's Loan closing costs, prepaid items, escrows, loan discount fees, and funding fees, PMI, MIP, and VA funding fees, are to be paid by Purchaser(s) unless herein excepted. Funding fee to be financed \_\_\_\_\_ (type)  Yes  No

Seller agrees to contribute up to \$ \_\_\_\_\_ towards Purchaser's Total Settlement Charges including purchaser's half of title insurance and those costs Purchaser is not allowed to pay under FHA/VA/Conventional requirements, but exclusive of direct seller costs (i.e., Deed, Seller's half of title insurance, payoff expenses, etc.). Seller(s) obligation to pay or reimburse Purchaser(s) for any loan closing costs is contingent upon transfer of deed.

(a) **SURVEY:** It is recommended that whenever title is passed a new survey be obtained which meets the current standards of the Alabama Society of Professional Land Surveyors. If lender or attorney requires a survey the cost of such is considered a settlement charge.

(b) **CONVEYANCE:** Seller(s) will convey to Purchaser(s) a General Warranty deed insuring a good and merchantable title free from any and all encumbrances except current advalorem taxes, recorded restrictions, easements of record, applicable zoning restrictions, any liens or encumbrances assumed or incurred in this transaction and such state of facts as would be disclosed by an accurate survey of the property.

(c) **TITLE INSURANCE:** An enhanced owner's title insurance policy ("enhanced" policy if property qualifies) and binder will be furnished at closing as part of this contract. The premium for the owner's /lender's title policy, the simultaneous issue fee, and binder fee, will be divided equally between the Seller and Purchaser even if mortgagee is Seller.

(d) **CLOSING AND POSSESSION:** The sale shall be closed and the deed delivered on or before \_\_\_\_\_, except that Seller shall have a reasonable time within which to perfect title or cure defects in the title to said property. Possession is to be given \_\_\_\_\_.

**NOTE:** If Purchaser is given possession prior to closing, or if Seller is to remain in the property after closing, it is recommended that the parties enter into an *Occupancy Agreement or Agreement for Retention of Possession*

3. **AGENCY DISCLOSURE:**

The Listing Company is \_\_\_\_\_

The Selling Company is: \_\_\_\_\_

(Two blocks may be checked)

(Two blocks may be checked)

- An agent of the Seller.       An agent of the Purchaser
- An agent of both Seller and Purchaser, and is acting as a limited consensual dual agent.
- Assisting the Purchaser as a transaction broker.
- Assisting the Seller as a transaction broker

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- Assisting the Purchaser as a transaction broker.
- Assisting the Seller as a transaction broker.

Receipt of the Real Estate Brokerage Services Disclosure form is acknowledged.

→ Purchaser(s) initials \_\_\_\_\_ Seller(s) initials \_\_\_\_\_

4. **CONDITION OF PROPERTY:**

(a) Seller agrees to deliver all built-in appliances, heating, cooling, electrical, gas, plumbing, and septic systems in normal operating condition when title is passed or possession is given, whichever occurs first. It is Purchaser(s) responsibility to make any inspection he/she deems necessary prior to occupancy or closing. It is the Seller(s) responsibility to have the utilities turned on if they have been turned off and to maintain utilities through the date of closing. Seller to leave the house, garage, yard, and outbuildings reasonably clean and free of debris.

→ Purchaser(s) initials \_\_\_\_\_ Seller(s) initials \_\_\_\_\_

(b) **EPA/HUD LEAD-BASED PAINT CONTINGENCY FOR PRE-1978 CONSTRUCTION ONLY:** This contract is **contingent** upon a risk assessment or inspection of the property for the presence of lead-based paint and/or lead-based paint hazards at Purchaser's expense until 9 p.m. on the \_\_\_\_\_ calendar day (no more than 10 days) after acceptance of this contract by all parties. (Intact lead-based paint that is in good condition is not necessarily a hazard. See EPA pamphlet *Protect Your Family From Lead in Your Home*). This contingency will terminate at the above predetermined deadline unless Purchaser (or Purchaser's salesperson) delivers to Seller (or Seller's salesperson) a written contract addendum listing the specific existing deficiencies, and corrections needed, together with a copy of the inspection and/or risk assessment report. Seller may, at Seller's option, within \_\_\_\_\_ days after delivery of the report, elect in writing whether to correct the condition(s) prior to closing. If Seller will correct the condition(s) Seller will furnish Purchaser with certification from a risk assessor or inspector demonstrating that the condition has been remedied before the date of closing period. If Seller elects not to make repairs, or if Seller makes a counter offer, Purchaser(s) will have \_\_\_\_\_ days to respond to the counter offer, or remove this contingency and take the property "as is", or this contract will become void. Purchaser(s) may remove this contingency at any time without cause.

The EPA/HUD Seller's Disclosure is required by Federal law to be attached to this contract and is made a part thereof.  
→ Purchaser(s) hereby removes this contingency. Date \_\_\_\_\_ Purchaser(s) initials    
Purchaser(s) acknowledges receipt of the EPA/HUD pamphlet "Protect Your Family From Lead in Your Home".

→ Purchaser(s) initials    
(c) **OFFICIAL ALABAMA WOOD INFESTATION INSPECTION REPORT:** Purchaser will obtain, at his own expense (unless not allowed by VA guidelines), an Official Alabama Wood Infestation Report from a licensed exterminating company in accordance with VA/FHA/lender regulations. Said report to be presented to the closing attorney no less than 7 working days prior to closing. Purchaser will have no obligation to make any corrections. Corrections to be made by Seller unless otherwise mutually agreed upon by all parties. Follow up inspections are the responsibility of the Purchaser. Transfer of Seller's termite contract will suffice for Official Alabama Wood Infestation Report if acceptable to lender and Purchaser. Any applicable transfer fees will be paid by Purchaser.

(d) **ADDITIONAL PROPERTY INSPECTION(S):** Purchaser  Does  Does Not require property inspections other than those in 4(a) and 4(b). If inspection(s) are required an Inspection Addendum is attached. Purchaser agrees to indemnify Seller and all real estate licensees for the acts of himself, his inspectors and/or representatives in exercising his rights under this Agreement. Purchaser's obligations to indemnify Seller and all real estate licensees shall also survive the termination of this agreement by either party.

(e) Neither the Seller, nor any Licensee makes any representation or warranties regarding the condition of the property except to the extent expressly set forth herein. Purchaser has the obligation to determine any and all conditions of the property material to Purchaser's decision to buy the property, including, but not limited to, the condition of the heating, cooling, electrical, gas, plumbing, and septic systems, and any built-in appliances; the roof and basement, including leaks therein; the age, size or area of the property, construction materials, including floors; structural condition; utility and sewer or septic tank availability or condition; subsurface conditions, including radon and other potentially hazardous materials and/or gases; flood insurance requirements; present or previous pest and termite infestations; fungus, mildew and other similar conditions; any noise exposures and any matters affecting the character of the neighborhood.

(f) **FINAL INSPECTION:** Purchaser and/or his inspectors/representatives shall have the right to conduct a final inspection of the Property prior to closing to confirm the Property is in substantially the same or better condition as it was on the Binding Agreement Date, normal wear and tear excepted and to determine that all agreed upon repairs/replacements have been completed. Closing of this sale constitutes acceptance of the Property in its condition as of the time of closing, unless otherwise noted in writing.

**5. DISCLAIMER:** Seller(s) and Purchaser(s) acknowledge that they have not relied upon any advice or representations of any real estate licensee involved in this sale relative to (i) the legal or tax consequences of this contract and the sale, purchase, or ownership of the property, (ii) the structural condition of the property, including the roof and basement, (iii) construction materials, (iv) the nature and operating condition of the electrical, heating, air conditioning, plumbing and water systems and appliances, (v) the age and square footage of the improvements, and the size or area of the property, (vi) the availability of utilities or sewer service, (vii) the character of the neighborhood, (viii) the investment or resale value of the property, (ix) any other matter affecting their willingness to sell or purchase the property on the terms and price herein set forth. Seller(s) and Purchaser(s) acknowledge that if such matters are of concern to them in the decision to sell or purchase the property, they have sought and obtained independent advice relative thereto.

→ Purchaser(s) initials   Seller(s) initials

**6. FINANCING**  
**FHA LOAN:** If FHA financing is used the attached **FHA DISCLOSURES Addendum** is incorporated herewith and made a part hereof.

**VA LOAN:** If VA financing is used it is expressly agreed that notwithstanding any other provisions of this contract, Purchaser shall not incur any penalty by forfeiture of earnest money or otherwise be obligated to complete the purchase of the property described herein if the contract purchase price exceeds the reasonable value of the property established by the Veterans Administration. Purchaser shall, however, have the privilege and option of proceeding with the consummation of this contract without regard to the amount of the reasonable value established by the Veterans Administration.

**CONVENTIONAL LOAN:** If Conventional financing is used the Purchaser acknowledges that any appraisal required by the lender is used by the lender to determine the maximum mortgage amount and does not warrant the value or condition of the property.

**7. PRORATION:** All taxes, any association dues/fees and rents will be prorated as of the consummation of the sale. The tax proration herein called for will be based upon information obtained from the Tax Assessor or Tax Collector's office. Any changes in such assessment after closing will be adjusted accordingly between Seller and Purchaser.

**8. RISK OF LOSS:** Seller agrees to keep in force sufficient hazard insurance on the property to protect all interests until the sale is closed and the deed delivered. If the property is destroyed or materially damaged between the date hereof and the closing, and Seller is unable or unwilling to restore it to its previous condition prior to closing, Purchaser will have the option of canceling this contract and receive back the earnest money, or accepting the property in its then condition. If Purchaser elects to accept the property in its damaged condition, any insurance proceeds otherwise payable to Seller by reason of such damage will be applied to the balance of the purchase price or otherwise be payable to Purchaser.

**9. SYSTEMS, EQUIPMENT AND APPURTENANCES:** The following items are included in this sale, if present: all heating and cooling equipment, water heaters, door bells, mantels, light fixtures and bulbs and ceiling fans, including fan remote controls; storm doors, garage door openers and remote controls, range, oven, installed dishwasher, permanently installed refrigerator, and all other built-in kitchen appliances; framed bathroom mirrors and permanently attached plate glass mirrors; all bathroom fixtures; blinds, window treatments and hardware; all wall-to-wall carpet; all gas logs, fireplace doors and attached screens; all security system components and controls; permanently installed hot tub, above ground and in ground swimming pool and its equipment; permanently installed outdoor water features, awnings, permanently installed outdoor cooking grills; seller owned propane tanks; all landscaping and all outdoor lighting, both wired and solar; mail boxes; attached basketball goals and backboards; TV wall mounts, TV antennae and seller owned satellite dishes (excluding components); central vacuum systems and attachments. There shall be no substitutions or replacements of any of the above without the express written agreement of the parties. Items which do not belong to the seller, such as leased security systems, satellite system, water softener systems, fuel tank, etc., do not convey and are not a part of this contract. If an item not listed above is being conveyed, such item(s) to be included in a "Personal Property Conveyance" or equivalent. (e.g., refrigerators, washers & dryers).

→ Purchaser(s) initials   Seller(s) initials

**10. SELLER WARRANTS** that Seller has not received from any lawful authority notification regarding any assessments, pending public improvements, repairs, replacements or alterations to the property that have not been satisfactorily made.

11. **DEFAULT:** Should either the Seller or Purchaser fail to carry out the terms of this contract in accordance with all its provisions, an aggrieved party shall have the option to do **one of the following:** 25

→ Purchaser(s) initials   Seller(s) initials

- (a) File a proceeding in a **Court** of competent jurisdiction provided (1) the proceedings are non-jury and THE RIGHT TO TRIAL BY JURY IS WAIVED, (2) the amount in controversy (excluding funds held as earnest money) does **not exceed \$3,000.00** and (3) **no licensed real estate professional** is a party, except as a stake holder of earnest money; OR,
- (b) Reaffirm the contract and proceed through **binding arbitration** under paragraph 13 for the recovery of damages and/or for specific performance.

The damages in either instance may include any cost(s) incurred by the non-breaching party including reasonable attorney's fees.

12. **TRUST ACCOUNT:** Seller and Purchaser hereby direct the **Selling Company** (working with the **Purchaser** and herein referred to as "Holder") to deposit the earnest money in Holder's escrow account pending fulfillment of this contract. Earnest money shall be deposited within two banking days after the Binding Agreement Date. Proof of earnest money will be furnished to the Listing Company upon receipt. It is understood that the Holder is, **(a)** not a party to this contract and does not assume any liability for performance or non-performance of any signatory, **(b)** must require from all signatories a **written release** of liability of the Holder which authorizes the release of the earnest money. In the event a dispute arises between the parties to this contract as to which shall be entitled to said earnest money, the Holder may **interplead said earnest money into the proper court**, and in so doing shall be entitled to deduct from the earnest money for court costs, attorney's fee, and other expenses relating to the interpleader. Alternatively, any party may proceed in a court of competent jurisdiction for interpleading of said earnest money. The prevailing party in any interpleader action shall be entitled to collect from the other party the court costs, attorney's fees and other expenses of the interpleader which shall be paid to the prevailing party. In the event any Earnest Money **check is not honored**, for any reason, by the bank upon which it is drawn, Holder shall promptly notify Purchaser and Seller. Purchaser shall have two (2) working days after notice to deliver good funds to Holder. In the event Purchaser does not timely deliver good funds within two (2) working days, Purchaser is in default and the Seller may cancel the contract by notice to the Purchaser. In any proceedings under this paragraph, the right to trial by jury is waived. 26

→ Purchaser(s) initials   Seller(s) initials

13. **ALTERNATIVE DISPUTE RESOLUTION AGREEMENT BY BINDING ARBITRATION:** In connection with the purchase and sale of the above described property, except for those disputes described in Paragraph 12 Purchaser and Seller mutually covenant, stipulate and agree in connection with the resolution of any dispute or controversy arising out of or relating to this agreement or concerning the within described property, or the breach, termination, or validity thereof, as follows: That the transaction contemplated in this agreement directly involves interstate commerce, and said transaction has been and will continue to be regulated by the laws of the United States of America; and, that the contract(s) entered into by the parties concerning this property evidence transactions involving and affecting commerce. The undersigned agrees that all disputes not barred by applicable statutes of limitations or otherwise barred by law, resulting from or arising out of this agreement; that included herein in matters to be arbitrated are equitable claims and remedies, including specific performance and rescission; that Purchaser and Seller agree to submit such dispute(s) to BINDING ARBITRATION, pursuant to the provisions of 9 U.S.C. Section 1, et seq and according to the Commercial Rules of the American Arbitration Association then existing in the County where the property being sold is located, and shall be decided by an arbitrator recognized by the Alabama Center for Dispute Resolution and pursuant to the rules of American Arbitration Association or, if agreed by both parties, some other recognized body and pursuant to the rules of American Arbitration Association. The prepaid arbitration filing fees and all other prepaid costs of the arbitration proceeding shall be paid by the party seeking to invoke arbitration, with the assignment of those costs to be divided between the parties as the arbitrator sees fit in setting the Arbitration Award. Damages may include reasonable attorney's fees. It is hereby agreed that it is the intent of the parties that the **Arbitrator's Award is to be final and binding**, and judgment upon the award rendered by the arbitration may be entered in any court having jurisdiction thereof. This alternative dispute resolution agreement shall specifically exclude those disputes provided for in paragraph 12 and shall further specifically exclude those disputes as defined in paragraph 11(a); however, it is mutually agreed, covenanted, and stipulated that the **right to a trial by jury is hereby waived**. EXCEPT AS SPECIFICALLY PROVIDED HEREIN, THIS ARBITRATION SHALL BE IN LIEU OF ANY CIVIL LITIGATION IN ANY COURT, AND IN LIEU OF ANY TRIAL BY JURY. 27

14. **TERMINOLOGY:** For the purposes of this contract, (1) the term **working day(s)** used throughout this Agreement shall be deemed to be weekdays (Monday-Friday) ending at 11:59 p.m. local time (at the location of the Premises) unless otherwise specified in this Agreement. (In the event a performance **deadline occurs on a Saturday, Sunday or holiday**, as defined herein, the performance deadline shall be extended to the next following working day. In calculating any time period under this Agreement, the **commencement day** shall be the day following the initial date (e.g. Binding Agreement Date). The following days shall be recognized as holidays: **New Years Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day and Christmas Day.** 28

15. **ELECTRONIC SIGNATURES:** Faxed or other electronically transmitted documents with signatures shall serve as originals and be binding on all parties. 29

16. **ENTIRE AGREEMENT:** This **contract**, together with any **addendums**, constitutes the **entire agreement** between Seller and Purchaser regarding the property and supersedes all prior discussions, negotiations and agreements between Seller and Purchaser **whether oral or written**. Neither Seller, Purchaser, Broker, nor any licensee, shall be bound by any understanding, agreement, promise, or representation concerning the property, expressed or implied, not specified herein. All terms, conditions, and warranties not performed at the time of delivery of deed shall survive such delivery. 30

17. We the **Purchaser and Seller** grant to the closing agent/attorney/lender, **permission** to distribute the **Non-Public Private Information (NPPI) Closing Disclosure to the real estate agents** and brokers noted on this contract, at the same time that it is distributed to us. 31

→ Purchaser(s) initials   Seller(s) initials

**ADDITIONAL PROVISIONS:** 32

	<b>DATE</b>		<b>DATE</b>
<b>PURCHASER</b>		<b>WITNESS</b>	
	<b>DATE</b>		<b>DATE</b>
<b>PURCHASER</b>		<b>WITNESS</b>	
	<b>DATE</b>		<b>DATE</b>
<b>PURCHASER</b>		<b>WITNESS</b>	

**Seller acknowledges receipt of this offer and MUST RESPOND by one of the following: (Initial ONE)**

**ACCEPTS** – this offer. **\*\*Do not initial here unless offer is being accepted! \*\***

**REJECTS** – this offer and makes no counter offer.

**COUNTERS** – separate Counter Offer form is attached.  **Yes**  **No**

- The Seller reserves the right to accept any other Offer prior to Purchaser’s written acceptance of this Counter-Offer. Acceptance shall not be effective until personally received and acknowledged by \_\_\_\_\_ (Listing Agent) as evidenced by signing the Binding Agreement Date below.
- This Counter-Offer shall expire unless a signed copy of acceptance is delivered to the person(s) making this Counter Offer (or their agent) by \_\_\_\_\_  a.m.  p.m. on \_\_\_\_\_ (date).
- Upon acceptance by both parties, as herein specified, this Counter-Offer, if any, together with the offer of the Purchaser, and any addendum, shall compose the entire agreement between the parties hereto.

	<b>DATE</b>		<b>DATE</b>
<b>SELLER</b>		<b>WITNESS</b>	
	<b>DATE</b>		<b>DATE</b>
<b>SELLER</b>		<b>WITNESS</b>	
	<b>DATE</b>		<b>DATE</b>
<b>SELLER</b>		<b>WITNESS</b>	

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**BINDING AGREEMENT DATE:** The listing agent confirms that the contract was accepted, and delivered to all parties (and/or their representatives) either in writing or electronically and the date to begin contract performance is:

Date: \_\_\_\_\_ by \_\_\_\_\_

**Binding Agreement Date** **Listing Agent Signature**

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# AGENT/BROKERAGE INFORMATION

<u>LISTING SALESPERSON</u>		EMAIL
<hr/>		
PHONE	MLS ID	AL LICENSE #
<hr/>		
<u>LISTING BROKERAGE</u>		ADDRESS
<hr/>		
MLS ID	AL LICENSE #	
<hr/>		

<u>SELLING SALESPERSON</u>		EMAIL
<hr/>		
PHONE	MLS ID	AL LICENSE #
<hr/>		
<u>SELLING BROKERAGE</u>		ADDRESS
<hr/>		
MLS ID	AL LICENSE #	
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