

VA LOAN CONTINGENCY EXHIBIT “ _____ ”



2019 Printing

This Exhibit is part of the Agreement with an Offer Date of _____ for the purchase and sale of that certain Property known as: _____, Georgia _____.

1. **Application.** Buyer shall promptly apply for and in good faith seek to obtain the Veterans Administration (VA) loan or loans described below (“Loan(s)”) such that Buyer can fulfill Buyer’s obligations hereunder prior to the expiration of this VA Loan Contingency.

[Select A. or A. and B. below. Any box not selected shall not be a part of this Agreement. All Loan terms must be filled in.]

<input type="checkbox"/> A.	FIRST MORTGAGE LOAN	Loan Amount	Term	Interest Rate (at par)	Rate Type	Source Of Loans Term
		_____ % of purchase price	_____ years	_____ % per annum (or initial rate on adjustable loan)	<input type="checkbox"/> Fixed <input type="checkbox"/> Adjustable	<input type="checkbox"/> Institutional
<input type="checkbox"/> B.	SECOND MORTGAGE LOAN	_____ % of purchase price	_____ years	_____ % per annum (or initial rate on adjustable loan)	<input type="checkbox"/> Fixed <input type="checkbox"/> Adjustable <input type="checkbox"/> Interest Only	<input type="checkbox"/> Institutional <input type="checkbox"/> Seller <input type="checkbox"/> Other

2. **Use of Particular Mortgage Lender.** Unless an Approved Mortgage Lender is identified below, Buyer may apply for approval of the Loan(s) with any institutional mortgage lender licensed to do business in Georgia. If an Approved Mortgage Lender(s) is identified below, Buyer shall apply for approval of the Loan(s) with at least one such Approved Mortgage Lender. Nothing herein shall require Buyer to obtain mortgage financing from an Approved Mortgage Lender.

Approved Mortgage Lender(s)

(hereinafter singularly “Approved Mortgage Lender” and collectively “Approved Mortgage Lender(s)”)

3. **Buyer May Apply for Different Loan(s).** A Loan Denial Letter (as that term is defined below) must be for the Loan(s) described above. Buyer may also apply for different loans than the Loan(s) described above. However, the denial of such other loans shall not be a basis for Buyer to terminate this Agreement.

4. **Buyer to Notify Seller of Intent to Proceed.** When it is known, Buyer shall promptly notify seller of any mortgage lender to whom Buyer has sent a notice of intent to proceed with loan application and the name and contact information for the loan originator.

5. **Financing Contingency.** Buyer shall have _____ days from the Binding Agreement Date (“Financing Contingency Period”) to determine if Buyer has the ability to obtain the Loan(s) described above (“Financing Contingency”). Buyer shall be deemed to have the ability to obtain the Loan(s) unless prior to the end of the Financing Contingency Period, Buyer: a) notifies Seller that Buyer is terminating the Agreement because Buyer has been turned down for the Loan(s) and b) provides Seller within seven (7) days from the date of such notice a letter of loan denial from a mortgage lender based upon the mortgage lender’s customary and standard underwriting criteria (“Loan Denial Letter”). The Loan Denial Letter and mortgage lender issuing the Loan Denial Letter must meet all of the requirements set forth elsewhere in this Exhibit. Notwithstanding any provision to the contrary contained herein, the Loan Denial Letter may be provided to Seller after the Financing Contingency Period has ended if the above-referenced seven (7) day period to provide the Loan Denial Letter falls outside of the Financing Contingency Period.

6. Use of Approved Mortgage Lender and Loan Denial Letter. If Buyer has agreed to apply for the Loan(s) with an Approved Mortgage Lender, the Loan Denial Letter must be from an Approved Mortgage Lender. If Buyer is not required to apply for the Loan(s) with an Approved Mortgage Lender, the Loan Denial Letter may be from any institutional mortgage lender licensed to do business in Georgia. A Loan Denial Letter from a non-institutional mortgage lender shall not be the basis for Buyer to terminate this Agreement.

Notwithstanding any provision to the contrary contained herein, the Loan Denial Letter may not be based solely upon any of the following: (a) Buyer lacking sufficient funds other than the amount of the Loan(s) to close; (b) Buyer not having leased or sold other real property (unless such a contingency is expressly provided for in this Agreement); or (c) Buyer not having provided the lender(s) in a timely fashion with all information required by lender, including but not limited to, loan documentation, Official Wood Infestation Reports, structural letters, well tests, septic system certifications, flood plain certifications and any other similar information required by lender (hereinafter collectively "Required Information"); or (d) Buyer making purchases that adversely affect Buyer's debt to income ratio.

Buyer may terminate this Agreement without penalty based upon an inability to obtain the Loan(s) only if Buyer fulfills all of the applicable requirements set forth in this Exhibit.

7. Right of Seller to Request Evidence of Buyer's Ability to Close. If the Financing Contingency ends without Buyer terminating this Agreement, Seller shall have the right, but not the obligation, to request that Buyer provide Seller with written evidence of Buyer's financial ability to purchase the Property ("Evidence"). A copy of a loan commitment from each institutional mortgage lender from whom Buyer is seeking mortgage financing to purchase the Property stating the type, amount and terms of the loan(s) and the conditions for funding the loan(s), shall be deemed sufficient Evidence. The provision of such Evidence is not a guarantee that the mortgage loan(s) will be funded or that Buyer will close on the purchase of the Property. Buyer shall have seven (7) days from the date Seller delivers notice to Buyer requesting such Evidence to produce the same. No request for such Evidence shall be made by Seller less than seven (7) days from the date of Closing.

8. Seller's Right to Terminate. In the event Buyer fails to provide Seller with the Evidence of Buyer's Ability to Close within the timeframe set forth above, Seller shall notify Buyer of the default and give Buyer three (3) days from the date of the delivery of the notice to cure the same. If Buyer does not timely cure the default, Seller may terminate this Agreement within seven (7) days thereafter due to Buyer's default upon notice to Buyer. In the event Seller does not terminate this Agreement within that timeframe, the right to terminate on this basis shall be waived.

9. Authorization of Buyer to Release Information to Seller and Brokers. Buyer does hereby authorize Seller and the Brokers identified herein to communicate with the lenders with whom Buyer is working to determine and receive from said lenders any or all of the following information: (a) the status of the loan application; (b) Buyer's financial ability to obtain the Loan(s) or other loans for which Buyer has applied; (c) whether and when Buyer provided the lenders with Required Information; (d) whether and what conditions may remain to complete the loan application process and issue of a loan commitment; and (e) the basis for any Loan Denial Letter.

10. Miscellaneous. For the purposes of this Exhibit, the term "mortgage loan" shall refer to a secured lending transaction where the loan or promissory note is secured by a deed to secure debt on the Property. Whether such mortgage loan is a first or second mortgage loan is a reference to the legal priorities of the deeds to secure debt relative to each other and other liens and encumbrances.

11. Amendatory Clause. It is expressly agreed that, notwithstanding any other provisions of this Agreement, the Buyer shall not incur any penalty by forfeiture of earnest money deposits or otherwise be obligated to complete the purchase of the property described herein, if the Agreement purchase price or costs exceeds the reasonable value of the property established by the Veterans Administration ("VA"). The Buyer shall, however, have the privilege and option of proceeding with the consummation of this Agreement without regard to the amount of the reasonable value established by VA. If Buyer elects to complete the purchase at an amount in excess of the reasonable value established by VA, Buyer shall pay such excess amount in cash from a source which Buyer agrees to disclose to VA and which Buyer represents will not be borrowed funds except as approved by VA. If VA reasonable value of the property is less than the purchase price, Seller may reduce the purchase price to an amount equal to the VA reasonable value and the parties to the sale shall close at such lower purchase price with appropriate adjustments to the sales Agreement.

12. VA Funding Fee. The VA Funding fee shall be paid as follows: *[select one]*

- A. In full at closing by _____; **OR**
- B. Added to the loan amount and financed [If this box is checked, then the term "loan amount" as used herein shall mean the amount set forth in the Purchase and Sale Agreement plus the VA Funding fee so financed; the monthly payments will increase accordingly.]; **OR**
- C. No VA Funding fee required for this veteran per the certificate of eligibility.

13. Certain Repairs Paid by Seller. Any repairs required in the VA Certificate of Reasonable Value shall be completed and paid for by Seller prior to closing, provided such repairs do not exceed \$ _____ in total costs. In the event the anticipated costs exceed the amount listed above, an itemized estimate shall be provided to all parties from third-party contractor(s), selected by Seller, of the total costs of repairs to be made to the Property.

Seller or Buyer shall have the option to pay the excess amount. If the parties do not agree in writing who shall pay the excess amount, then this Agreement shall terminate within three (3) days of written notice of itemized estimate.

14. Certain Fees Paid by Seller. Notwithstanding any provision to the contrary contained in this Agreement or in any exhibit attached hereto, Seller shall pay all of the following amounts to the extent the same are charged as part of this transaction even if they exceed Seller's Contributions at Closing:

- A. termite letter, loan closing or settlement fees, document preparation fees, preparing loan papers or conveyance fees, attorneys services (other than for title work), photographs, interest rate lock-in fees, postage and other mailing charges, stationery, telephone calls and other overhead, amortization schedules, pass books, and membership or entrance fees, escrow fees or charges, notary fees, preparation and assignment of mortgage to other secondary market purchasers, trustee's fees or charges, loan application or processing fees, fees for preparation of truth-in-lending disclosure statement, fees charged by loan brokers, finders or other third party fees, and tax service fees.
- B. any other fees, costs and charges which are not permitted or allowed by VA to be paid by the Buyer.

The above-referenced costs, which must be paid by Seller shall first be paid out of Seller's Contribution at Closing, if any. If Seller's Contribution to Closing is zero, Seller shall pay the entire amount of the costs referenced above.

15. Home Warranty. If the improvements on Property are less than one (1) year old at the time of closing, Seller shall, if required by VA, provide a home warranty certificate acceptable to VA at Seller's Cost.

16. Public Water and Sewer. As required by VA, both Buyer and Seller agree that if public water or a public sewer system is available at the street, and the local authority requires it, the Property must be connected, and that Seller agrees to pay the cost of said connection not to exceed \$_____. In the event the anticipated costs exceed the amount listed above, an estimate shall be provided to all parties from third-party contractor(s), selected by Seller, of the total cost to connect to public water or public sewer system to Property.

Seller or Buyer shall have the option to pay the excess amount. If the parties do not agree in writing who shall pay the excess amount, then this Agreement shall terminate within three (3) days of written notice of cost to connect public water or public sewer system to the Property, and Buyer shall be entitled to a refund of Buyer's earnest money.

The responsible party shall provide at or before Closing with a certification from the proper authority that the Property is connected to and serviced by the public system.

17. Exhibit Controls. This exhibit shall control over a conflicting or inconsistent provision set forth in any other Exhibit to this Agreement.

1 Buyer's Signature

Print or Type Name

2 Buyer's Signature

Print or Type Name

Additional Signature Page (F267) is attached.

Selling Brokerage Firm

Broker/Affiliated Licensee Signature

Print or Type Name

REALTOR® Membership

1 Seller's Signature

Print or Type Name

2 Seller's Signature

Print or Type Name

Additional Signature Page (F267) is attached.

Listing Brokerage Firm

Broker/Affiliated Licensee Signature

Print or Type Name

REALTOR® Membership