

# FHA 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 Federal House Administration (FHA) loan or loan(s) described below (“Loan(s)”) such that Buyer can fulfill Buyer’s obligations hereunder prior to the expiration of this FHA 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.	<b>FIRST MORTGAGE LOAN</b>	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.	<b>SECOND MORTGAGE LOAN</b>	_____ % 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, Buyer shall not be obligated to complete the purchase of Property described herein or to incur any penalty by forfeiture of earnest money deposits or otherwise unless Buyer has been given in accordance with HUD/FHA requirements a written statement by the Federal Housing Commissioner or a Direct Endorsement lender setting forth the appraised value of Property of not less than \$ \_\_\_\_\_. Buyer shall have the privilege and option of proceeding with consummation of the contract without regard to the amount of the appraised valuation. The appraised valuation is arrived at to determine the maximum mortgage the Department of Housing and Urban Development will insure. HUD does not warrant the value or condition of the property. The purchaser should satisfy himself/herself that the price and condition of the property are acceptable.

**12. Mortgage Insurance Premium.** The FHA up-front \_\_\_\_\_ percent (%) mortgage insurance premium shall be paid by Buyer as follows: *[select one]*

A. in full at closing,

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 FHA mortgage insurance premium so financed; the monthly payments will increase accordingly.)

**13. When Mortgage Insurance Premium Is Paid.** Buyer is aware that a monthly mortgage insurance premium shall be included in the regular monthly mortgage payments.

**14. Seller shall pay the following lender fees:** Tax Service Fees.

(These costs  are included OR  are in addition to any closing costs that Seller may have agreed to pay in accordance with the Seller's Contributions at Closing paragraph.)

**15. Repairs Required in FHA Commitment.** Any repairs required in the FHA Commitment shall be completed and paid for by \_\_\_\_\_ prior to closing provided such repairs do not exceed \$ \_\_\_\_\_ in total costs.

16. **Seller Pays for Certain Inspections.** Seller shall pay the cost of any lender-imposed inspections of the septic tank and/or well systems.

17. **Home Warranty.** If the improvements on Property are less than one year old at the time of closing, Seller shall, if required by FHA, provide a home warranty certificate acceptable to FHA.

18. **May Be Obligated to Connect to Public Sewer.** As required by FHA, both Buyer and Seller agree that if public water or a public sewer system is available at the street, Property must be connected, and that [select one]:  \_\_\_\_\_ agrees to pay the cost of said connection not to exceed \$ \_\_\_\_\_ **OR**  Buyer to pay \$ \_\_\_\_\_ and Seller to pay \$ \_\_\_\_\_ for the cost of connection. At the time of closing, Seller shall provide certification from the proper authority that Property is connected to and serviced by the public system.

19. **Certification of Truthfulness and Completeness.** Seller, Buyer, and Broker (and its Affiliated Licensees) certify that the above referenced Purchase and Sale Agreement is true and complete to the best of our knowledge and fully represents the transaction between them. No agreements exist outside this Purchase and Sale Agreement, and any agreements made from this date until closing, shall be revealed to lender.

20. **Certification of Arms Length Transaction.** Buyer and Seller certify that [select one]:  
 This is an arms length transaction as there is no relationship between the Buyer and Seller **OR**  this is not an arms length transaction because \_\_\_\_\_

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

22. If the Property is a condominium unit, the purchase of the Property shall be contingent upon the condominium in which the unit is located being eligible for and approved by FHA. In the event the Property is not a condominium unit, this paragraph shall not be deemed a part of this Exhibit.

\_\_\_\_\_  
**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