

# LOAN ASSUMPTION EXHIBIT “ \_\_\_\_\_ ”



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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. Loan Assumption.** At closing, Buyer shall assume the existing mortgage loan on the Property described below (“Loan”) subject to the terms and conditions set forth herein. Buyer shall thereafter be responsible for timely paying all amounts coming due under the Loan.

**2. Determination of Purchase Price. [Select one. The section not marked is not a part of this Agreement.]**

**Purchase Price to Control.** The purchase price includes the amount of the Loan to be assumed by Buyer. At closing, the outstanding principal balance of the Loan shall be subtracted from the purchase price and Buyer shall pay the difference to Seller (along with any other amounts Buyer has agreed to pay in the Agreement).

**Cash to Control the Purchase Price.** The buyer shall pay \$ \_\_\_\_\_ and assume the then current outstanding principal balance as of the date of closing. The sales price shall equal the amount of cash paid as referenced in this paragraph plus the outstanding loan balance.

**3. Loan to be Assumed.**

Name of Lender and Loan #:	Original Loan Amount:	Approximate Loan Balance as of date of this Agreement:	Current Interest Rate:
<b>Current Monthly P&amp;I:</b>	<b>Type of Loan:</b>	<b>Type:</b>	<b>Maturity Date:</b>
	<input type="checkbox"/> FHA <input type="checkbox"/> VA <input type="checkbox"/> Conventional <input type="checkbox"/> Other	<input type="checkbox"/> Fixed Rate <input type="checkbox"/> Adjustable Rate <input type="checkbox"/> Interest Only	

For all purposes herein, the Loan shall be deemed to include all loan documents signed by Buyer at the closing of the Loan including the Promissory Note and Deed to Secure Debt on the Property.

**4. Seller Warranties.** Seller warrants that: (1) the Loan does not contain a due on sale clause and can thus be assumed by Buyer; (2) the Loan is current, not in default; (3) all payments due under the Loan shall be paid in full when due between the Binding Agreement Date and the closing; and (4) Seller shall do all things required to authorize Buyer to assume the Loan and assist in the Loan assumption process.

**5. Loan Assumption Contingent Upon Seller Being Released From Loan.** This Agreement  is OR  is not contingent upon Seller and any other person or entity presently obligated to pay or guarantee the payment of the Loan being fully released from any continuing liability under the Loan as of the closing. In the event Seller is not being released from the Loan, Buyer agrees to indemnify and hold Seller harmless from and against any and all suits, claims, causes of action, damages and injuries arising out of or relating to Buyer not timely paying in full all amounts owing under the Loan.

**6. Financing Contingency.** Buyer shall have \_\_\_\_\_ days from the Binding Agreement Date to apply to assume the Loan with the holder of the Loan (“Lender”). Buyer shall timely provide the Lender with all required information to allow Lender to approve or disapprove the assumption of the Loan. This Agreement is contingent upon Buyer being approved by the Lender to assume the same within \_\_\_\_\_ days from the Binding Agreement Date. In the event Buyer is not approved to assume the Loan within the above time frame, Buyer shall have the right to terminate this Agreement upon notice to the Seller provided that the failure of Buyer to be approved to assume the Loan was not the result of: (a) Buyer lacking sufficient funds to close other than the amount of the Loan to be assumed; (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 in a timely fashion with all information required by Lender.

Nothing herein shall prohibit Buyer from purchasing the Property for the full purchase price in cash without assuming the Loan.

7. **Appraisal Contingency.** In addition to the other rights of Buyer set forth herein, this Agreement  shall or  shall not be subject to the Property appraising for at least the purchase price.
- A. Type of Appraisal.** The appraisal shall be a "certified appraisal" of the Property (as that term is defined in O.C.G.A. § 43-39A-2) performed or signed off by a licensed or certified appraiser (as those terms are defined in the rules and regulations of the Georgia Real Estate Appraiser's Board) and include a statement that the appraiser performed in "independent appraisal assignment" (as that term is defined in O.C.G.A. § 43-39A-2(24)) with respect to the Property.
- B. Selection of Appraiser.** The appraiser shall be selected by: *[Select one. The sections not selected shall not be a part of this Agreement].*  Buyer,  Seller, OR  Other ( \_\_\_\_\_ ) and all parties agree that this appraiser shall only perform a single certified appraisal of the Property.
- C. Rights of Buyer If Property Does Not Appraise.** If any appraisal performed pursuant to and in accordance with this exhibit is for less than the purchase price of the Property, the Buyer shall have the right to request within \_\_\_\_\_ days from the Binding Agreement Date that Seller reduce the sales price of the Property to a price not less than the appraisal price by submitting an Amendment to Sales Price to Seller ("ATSP") along with a complete copy of the appraisal which is for less than the purchase price. In the event that Buyer does not submit an Amendment to Sales Price within the time frame referenced above, Buyer shall be deemed to have waived Buyer's right to request a reduction in the sales price and this Agreement shall no longer be subject to an appraisal contingency.
- The time limit of the offer for the Seller to accept or reject the ATSP shall run through the earlier of: (i) \_\_\_\_\_ days from the date that the ATSP is delivered to Seller, or (ii) the time of closing (excluding any extensions of the closing resulting from the unilateral extension of the closing date).
- If Seller timely accepts the Amendment to Sales Price, Buyer shall be obligated to purchase the Property in accordance with this Agreement as amended.
- If Seller does not accept the ATSP, Buyer shall have the right, but not the obligation to terminate this Agreement without penalty upon notice to Seller, provided that such notice is given within three (3) days of the earlier of: (i) the date that Buyer receives notice that Seller has not accepted the ATSP; or (ii) the last date Seller could have accepted the ATSP. In neither circumstance shall the Buyer's right to terminate extend beyond the time of closing.
- D. Buyer Not Obligated to Seek Price Reduction.** Nothing herein shall require Buyer to seek any reduction in the sales price of the Property. In such event, Buyer shall be obligated to purchase the Property for the price set forth in this Agreement.
8. **Source of Buyer's Funds.** Within five (5) days of a request by Seller, Buyer shall provide Seller with evidence of the source of Buyer's funds, other than the Loan being assumed, to purchase the Property ("Required Information"). The Required Information shall consist of at least one of the following:
- A.** A letter or letters from a trust, stock brokerage firm and/or financial institution holding funds, stocks, bonds and/or other assets (hereinafter collectively referred to as "Assets") of or on behalf of Buyer and dated subsequent to the Binding Agreement Date stating that Buyer has funds of at least an amount specified in the letter and/or Assets on deposit with the institution of a value specified in the letter, that are sufficient to allow Buyer to complete the purchase of the Property;
- B.** An account statement or statements from the trust, stock brokerage firm and/or financial institution(s) holding funds and/or Assets of or on behalf of Buyer confirming a specific amount of funds and/or Assets on deposit with the institution. Such account statement must be for the regular time period that such statements are issued immediately preceding the Binding Agreement Date.
9. **Cost and Fees of the Loan Assumption.** All costs and fees of the Loan Assumption other than Seller's Contribution at Closing, if any, shall be paid for by Buyer.
10. **Lender Escrows.** At closing, Buyer shall reimburse Seller for any amounts being held in any Lender established escrow on the Loan that are transferred to the Buyer.

Buyer's Initials: \_\_\_\_\_

Seller's Initials: \_\_\_\_\_