

**SALE OR LEASE OF BUYER'S  
PROPERTY CONTINGENCY  
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 \_\_\_\_\_ ("Agreement").

1. Buyer warrants that Buyer owns the real property located at \_\_\_\_\_ (City), \_\_\_\_\_ (State) \_\_\_\_\_ (Zip Code) ("Other Property"). Buyer agrees to use Buyer's good faith efforts to sell or lease the Other Property in accordance with the terms of the Agreement prior to the end of the Contingency Period (as that term is defined below).

2. At the time of Offer, Buyer warrants that other Property is: [select all that apply]  
 A. Currently listed with \_\_\_\_\_ ("Other Property Seller's Broker");  
 B. Currently under contract with buyer represented by \_\_\_\_\_ ("Other Property Buyer's Broker") with a Closing Date of \_\_\_\_\_ ("Existing Pending Contract");  
 C. Other: \_\_\_\_\_

3. The Agreement is contingent upon the occurrence of the following on or before either  the Closing Date of the Agreement (including any extension thereof) **OR**  Fill in Date if NOT Closing Date \_\_\_\_\_ ("Contingency Period"). [Select A. and/or B below. Any section not selected shall not be a part of this Agreement.]

A. **Buyer closing on the sale of the Other Property.** Unless the Other Property is under a binding purchase and sale contract at the time of Offer, Buyer shall keep the Other Property listing for sale with a real estate broker at a list price of not more than \$ \_\_\_\_\_ until it is either sold and closed or the Contingency Period expires. (Nothing herein shall give the Buyer an ability to terminate the Agreement if the Property sells for an amount greater than the list price.)

B. **Buyer entering into a lease of the Other Property.** Unless the Other Property is under a binding lease at the time of Offer, Buyer shall keep the Other Property listed for lease with a real estate broker for a lease term of not less than \_\_\_\_\_ months nor more than \_\_\_\_\_ months with a monthly rental of not more than \$ \_\_\_\_\_ until it is leased or the Contingency Period expires.

4. In the event that the Contingency Period ends without either contingency selected above being fulfilled, then, the Agreement shall terminate at that time. Prior to Seller giving Buyer notice that Seller is exercising the Kick-Out Clause, as that term is explained below, the contingency or contingencies referenced above may be waived by Buyer upon notice to Seller. In such event, the Kick-Out Clause below shall no longer be a part of the Agreement, and Buyer shall have no obligation to deposit additional earnest money.

5. In the event that the Existing Pending Contract is terminated for any reason whatsoever, Buyer shall immediately provide notice of the same to Seller. Buyer shall have the right, but not the obligation, to terminate the Agreement at the same time of the notice, in which case Buyer shall have the right to a refund of earnest money.

If Buyer does not terminate the Agreement at the time of notice, Seller shall have the right, but not the obligation to request that Buyer deliver an amendment signed by Buyer to remove all contingencies and Due Diligence Period from the Agreement. If Seller does not exercise this right within three (3) days from Buyer's notice that Existing Pending Contract has terminated, then Seller's right to request the amendment on this basis shall be waived.

In the event Buyer does not deliver the amendment within three (3) days of Seller's request, then Seller shall have the right but not the obligation to terminate the Agreement in which case Buyer shall have the right to a refund of earnest money. If Seller does not terminate the Agreement within three (3) days, then Seller's right to terminate the Agreement on this basis shall be waived.

**6. Kick-Out Clause Explained.** A kick-out clause describes a situation where the seller of a property that is under contract continues to market it for sale to other buyers because the buyer's purchase is contingent on the sale or lease of other property owned by the buyer. If another buyer makes an offer to purchase the property that the seller wants to accept, the seller gives notice of the offer to the first buyer who must then timely submit an amendment to remove certain contingencies and possibly the Due Diligence Period from the agreement and in some cases pay additional earnest money to the seller. If the first buyer does not do these things within the pre-agreed time frame, the seller can then "kick-out" the first buyer, terminate that contract and sell the property to the second buyer. If the buyer meets the pre-agreed requirements of the kick-out clause, then the original contract remains in force subject to the terms of amendment signed by both parties.

**7. Kick-Out Clause in this Transaction.** Select Option 1 **OR** Option 2 below. *[If neither option is selected, Option 2 shall control.]*

**Option 1. This Agreement IS subject to a Kick-Out Clause.** In the event Seller receives a bona fide offer to purchase the Property that Seller would like to accept, then Seller shall give notice of the offer to Buyer. Buyer shall then have \_\_\_\_\_ hours after receipt of the notice to deposit with Holder additional earnest money of \$\_\_\_\_\_ and deliver to Seller an Amendment to the Agreement signed by Buyer in which Buyer agrees to remove from the Agreement the contingencies and/or Due Diligence Period provisions in the Agreement to the extent checked below. *[Complete either (A) or (B) below. If Option 1 is selected but neither section (A) nor section (B) are completed, then option (A) below shall be deemed to have been selected.]*

(A)  All contingencies and the Due Diligence Period shall no longer be part of the Agreement.

(B) The contingencies and/or Due Diligence Period checked below shall no longer be a part of the Agreement.

Sale or Lease of Buyer's Property Contingency;

Due Diligence Period;

Right to Request Repairs;

any Financing Contingency;

any Appraisal Contingency;

Special Stipulation identified as: \_\_\_\_\_;

Other: \_\_\_\_\_

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**(C) All unexpired contingences shall remain a part of this Agreement.**

**Option 2. This Agreement IS NOT subject to a Kick-Out Clause.**

In the event Buyer does not deliver within the time period stated above: (1) the additional earnest money (if any referenced above) to Holder and (2) the above-referenced signed Amendment to Seller, then this Agreement shall terminate, and Buyer shall be entitled to a full refund of Buyer's earnest money.

Notwithstanding any provision to the contrary contained herein, the removal of such checked provisions by Buyer from this Agreement shall not eliminate any rights in either those contingencies or the Due Diligence Period benefitting Seller. Therefore, for example, Seller can still request a proof of funds from the Buyer even though the Agreement is no longer subject to a Financing Contingency. In the event that Buyer delivers the Amendment referenced above to Seller and the additional earnest money (if any referenced above) to Holder within the time period stated above, Seller shall execute the Amendment, return a copy of the same to Buyer and the Agreement shall otherwise remain in full force and effect subject to the Amendment.

**8. Special Stipulations.**

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

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