

AGREEMENT TO BUY AND SELL

1. **DATE AND PARTIES:** This agreement made this _____ day of _____, 20____ by Purchaser(s) _____ and Seller(s) _____

[] PURCHASER [] SELLER IS LICENSED UNDER THE LAWS OF SOUTH CAROLINA AS A REAL ESTATE LICENSEE.

2. **OFFER AND DESCRIPTION:** Purchaser agrees to buy and Seller agrees to sell all that lot or parcel of land, with the buildings and improvements thereon and fixtures therein, if any, situated in _____ County, State of South Carolina, and being described as follows, _____

Block Map Ref.# _____

3. **PRICE:** The purchase price is \$_____. To be paid as follows:
[] Cash [] Check [] herewith \$_____ [] AND/OR \$_____ due on or before _____ which shall be held in trust escrow account by _____ as a deposit of earnest money, and the balance in cash and/or financing upon delivery of a deed as herein provided.

4. **FINANCING:** [] Conventional [] F.H.A. [] V.A. [] Seller [] Assumption [] Cash [] Other _____

Maximum loan to value ratio to be _____%. This property must appraise for at least the sale price.

5. **CONTINGENCIES:** This sale is contingent upon Purchaser's ability to obtain financing as herein stated, and also:

[] Purchaser completing sale and closing of Purchaser's home located at _____

[] House is under contract and due to close on or before _____

[] House is not under contract (Is Addendum to be used for notice regarding this contingency?) [] No [] Yes []

Other: _____

6. **CLOSING COSTS:** At closing _____ shall pay allowable non-recurring closing costs and _____ shall pay allowable recurring closing costs. Discount points will be paid by _____ not to exceed _____%.
OTHER: _____

7. **LOAN PROCESSING:** It is understood that the Purchaser will advance in addition to the earnest money deposit, the necessary money to process this loan. Purchaser also agrees to apply for financing as called for above, from the institution of his/her choice, within _____ consecutive days from the execution of this contract and provide all documents or information requested by the lending company in a prompt and timely manner. If the Purchaser's bonafide application to two lending institutions for such loan shall be rejected, the Purchaser shall, for the purpose of this contract, be deemed unable to obtain such commitment.

8. **FHA/VA ADDENDUM:** If either FHA or VA financing is to be obtained, an additional addendum will be signed by Purchaser and Seller and shall become a part of this contract.

9. **CONVEYANCE:** Conveyance shall be made subject to all easements as well as covenants of record (provided they do not make the title unmarketable) and to all governmental statutes, ordinances, rules and regulations. Seller agrees to convey by marketable title and deliver a proper general warranty deed, free of encumbrances, except as herein stated. Seller agrees to pay all statutory deed recording fees. The deed shall be prepared in the name of _____ and delivered at the stipulated place of closing, and transaction closed on or before _____, 20____, not later than 9:00 p.m. **Time is of the essence.** Seller and Purchaser authorize their respective attorneys and the settlement agent to furnish to Listing Broker and Selling Broker copies of the final HUD-1 settlement statement for the transaction for their review prior to closing.

10. **EXTENSION AGREEMENT:** If the sale has not closed within the stipulated time limit of this contract because a contingency has not been satisfied through the fault of neither party, then both parties agree to extend said contract for a period not to exceed _____ consecutive days from the date designated for original closing. Closing of the sale shall be within _____ consecutive days after removal of all contingencies within the extension period, but in no event later than the above extension date, time being of the essence.

11. **TIME OF ESSENCE:** The offer from the Purchaser shall be withdrawn at _____ (am/pm) on the _____ day of _____, 20____, unless accepted by the Seller in written form and communicated by the Listing Broker to the Selling Broker prior to such time. Communication of written acceptance may be written or verbal.

Counteroffer: If counteroffer is made by the Seller, the counteroffer from the Seller shall be withdrawn at _____ (am/pm) on the _____ day of _____, 20____, unless accepted by the Purchaser in written form and communicated by the Selling Broker to the Listing Broker prior to such time. Communication of written acceptance may be written or verbal.

12. **POSSESSION:** Possession of said property will be given to Purchaser at the time of closing. Seller agrees to deliver property free of debris and in a clean condition. The property, including but not limited to, landscaping and lawn, shall be maintained in the same condition from the effective date of this agreement until possession is delivered, ordinary wear and tear excepted. Possession by Purchaser before closing or by Seller after closing shall be subject to the terms and conditions of a separate agreement to be executed prior to closing or occupancy.

Purchaser's initial(s): X _____ Seller's initial(s): X _____

13. **CONDITION OF PROPERTY:** The property is being sold in "as is" condition with the following stipulations:

- a) All heating and air conditioning (if applicable) electrical and plumbing systems and all appliances shall be operative and functioning properly at time of closing or the day of possession whichever occurs first, notwithstanding any other provisions of this contract to the contrary.
- b) If the lender's commitment requires any additional inspections or certifications not herein stated, these are to be paid by the Purchaser.
- c) Except as to a new home where the builder's warranty applies, Purchaser acknowledges the Seller gives no warranty of any kind, expressed or implied.

(A) **Seller's Property Condition Disclosure Statement:** (check one)

- Purchaser and Seller agree that seller will **not** complete nor provide Purchaser a Seller's Property Condition Disclosure statement in accordance with South Carolina Code of Laws, as amended, Section 27-50-30, Paragraph 13.
- Purchaser and Seller agree that a Seller's Property Condition Disclosure statement, as required by South Carolina Code of Laws, as amended, Section 27-50-10, et.seq., has been provided to Purchaser by Seller prior to the ratification of this agreement. If the Seller discovers, after his delivery of a disclosure statement to a Purchaser, a material inaccuracy in the disclosure statement or the disclosure is rendered inaccurate in a material way by the occurrence of some event or circumstance, the Seller shall correct promptly the inaccuracy by delivering a corrected disclosure statement to the Buyer, or make reasonable repairs necessitated by the occurrence before closing. Purchaser understands and agrees that the Seller's Property Condition Disclosure statement is not intended to replace a professional home inspection. Purchaser understands and agrees that the Seller's Property Condition Disclosure statement contains statements made solely by the Seller. The Purchaser and Seller agree that the Listing and Selling Broker and all affiliated agents are not responsible for the accuracy of any information contained in the Seller's Property Condition Disclosure statement. The Purchaser and Seller understand and agrees that the Listing and Selling Broker and all affiliated agents have fully met the requirements of Section 27-50-70 of the South Carolina Code of Laws, as amended.

(B) **Inspection:** Purchaser at Purchaser's expense shall have the privilege and responsibility of inspecting the structure, square footage, environmental concerns including but not limited to radon gas, lead-based paint and lead-based paint hazards, wetlands study, appurtenant buildings, heating, air conditioning, electrical and plumbing systems as well as built-in appurtenant equipment or appliances prior to the day of closing or possession. In the event repairs are necessary to place the heating system, air conditioning, plumbing and electrical systems, and appliances to be conveyed in operative condition and to make the roof free of leaks, and the dwelling structurally sound, the Seller shall be notified within _____ consecutive days of this accepted Agreement. **Time is of the essence.** If Purchaser fails to notify Seller within this time, Purchaser shall have waived any and all rights under the terms of this paragraph. If Lender's commitment requires any additional inspections or certifications, these are to be provided by Purchaser.

(C) **Maintenance:** After any inspection by Purchaser and after repairs, if any, made as a result of any such inspection, the Seller agrees to maintain the heating, air conditioning, plumbing, and electrical systems, as well as all appliances to be conveyed in operative condition, normal wear and tear excepted, until the day of closing or the day possession is given, whichever occurs first. Seller agrees to maintain the property, including lawn, shrubbery and grounds until the day of closing or possession, whichever occurs first.

(D) **Wood Infestation Report:** The Purchaser Seller shall obtain and furnish a current Official South Carolina Wood Infestation Report (Form CL-100) from a licensed Pest Control Operator, issued 45 days or less prior to closing, to be paid for by Purchaser Seller, certifying that the main structure below the main floor level shall be free and clear of infestation of termites and wood destroying insects and that the inspected area is free of excessive moisture conditions and active wood destroying fungi as defined in S.C. Department of Pesticide Regulation Policy. Any infestation or structural damage caused by termites or other wood destroying insects and fungi determined by the licensed Pest Control Operator or a qualified licensed building expert shall be corrected prior to closing by the Seller for costs not to exceed 1% of the purchase price. Should the costs exceed that amount and should the Seller fail to or refuse to pay for such repairs and treatment in excess of 1%, the Purchaser has the option to: (1) Accept the property in its present condition; (2) Negotiate with the Seller for the payment of the repairs and treatment; (3) Declare this contract null and void and have the earnest deposit refunded in full. (Note: reporting of fungi damage to wood commonly called water damage, decay or rot, is limited to the crawl space area of the structure). This report does not include any obstructed or inaccessible areas.

(E) **Repairs:** The cost of any home repairs [other than treatment and repairs called for in the preceding paragraphs 13a) and 13(D)] will be paid by the Seller at his option. Should the Seller fail to or refuse to pay for such repairs, the Purchaser has the option to: (1) Accept the property in its present condition; (2) Negotiate with the Seller for the payment of such repairs; (3) Declare this contract null and void and have the earnest money deposit refunded in full. It is understood and agreed that these terms are in addition to paragraphs 13a) and 13(D) above are not intended to void those provisions.

Purchaser's initial(s): _____ Seller's initial(s): _____

(F) **Residential Dwellings Built before 1978:** (check one of the following)

- 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 which shall be done, at the Purchaser's expense, by midnight on the tenth day after ratification of this contract or by midnight on _____, 20____. (**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" for more information.**) This contingency will terminate at the above predetermined deadline unless the Purchaser (or Buyer's agent) delivers to the Seller (or Seller's agent) a written contract addendum listing the specific existing deficiencies and corrections needed, together with a copy of the inspection and/or risk assessment report. The Seller may, at the Seller's option, within _____ consecutive days after delivery of the addendum, elect in writing whether to correct the condition(s) prior to settlement. If the Seller will correct the condition, the Seller shall furnish the Purchaser with certification from a risk assessor or inspector demonstrating that the condition has been remedied before the date of the settlement. If the Seller does not elect to make the repairs or if the Seller makes a counter-offer, the Purchaser shall have _____ consecutive days to respond to the counter-offer or remove this contingency and take the property in "as-is" condition or this contract shall become void. Upon such termination, the earnest money deposit of Purchaser shall be returned to Purchaser and neither party shall have any further rights hereunder. The Purchaser may remove this contingency at any time without cause; or
- Purchaser waives the opportunity to conduct a risk assessment or inspection for lead-based paint and/or lead-based paint hazards.

(G) **Megan's Law:** The Purchaser and Seller agree that the Listing and Selling Broker and all affiliated agents are not responsible for obtaining or disclosing any information contained in the South Carolina Sex Offender Registry. The Purchaser and Seller agree that no course of action may be brought against the Listing and Selling Broker and all affiliated agents for failure to obtain or disclose any information contained in the South Carolina Sex Offender Registry. The Purchaser agrees that the Purchaser has the sole responsibility to obtain any such information. The Purchaser understands that Sex Offender Registry information may be obtained from the local sheriff's department or other appropriate law enforcement officials.

(H) **Disclaimer:** The Purchaser acknowledges the Seller, except as provided in subparagraphs 13a) and (C) of this section, gives no guarantee or warranty of any kind, express or implied, as to the physical condition of the property or to the condition of or existence of improvements, services, appliances or system thereto, or as to merchantability or fitness for a particular purpose as to the property or improvements thereof, and any implied warranty is hereby disclaimed by the Seller. Neither Purchaser nor Seller will hold Cooperating or Listing Broker responsible for any act of negligence or intent by any inspection or repair company employed by Seller or Purchaser for the purposes of this agreement. The Seller is not required to make any repairs under any circumstances until Purchaser's financing has been approved.

14. **FIXTURES AND PERSONAL PROPERTY:** This sale includes all improvements, fixtures and appurtenances as described and stated in MLS # _____, with a "Full Detail" printed from the MLS computer system dated _____, (attached herewith and made a part of this agreement) which are to remain and be considered part of this sale. (Indicate any changes here.) _____
15. **ADJUSTMENTS:** Taxes, water, cable, sewer charges, fuel oil, power, rents when collected, deposits, homeowner's association fees and other assessments shall be adjusted as of the date of closing. Tax proration pursuant to this contract shall be based on the taxes of record as of the date of closing and are, therefore prorated on that basis. Apportionment shall be computed by the day. The Purchaser will be responsible for applying for any applicable tax exemptions.
16. **HOME WARRANTY:** It is understood that a third party home warranty will will not be provided at closing. If applicable, the cost will be paid at closing by Purchaser Seller and provided through _____ Warranty Company at a cost not to exceed \$_____. No additional home warranty will be provided if one is currently offered by the Seller. All parties understand that one or both of the real estate brokers involved in the transaction, may receive compensation from the Home Warranty Company.
17. **FIRE OR CASUALTY:** In case the property herein referred to is destroyed wholly or partially by fire or other casualty prior to delivery of deed, the Purchaser or Seller shall have the option for 10 consecutive days thereafter of proceeding hereunder, or of terminating this agreement.
18. **NON-RESIDENT TAX:** Seller covenants and agrees to comply with the provisions of the South Carolina Code Section 12-8-580 (as amended) regarding withholding requirements of sellers who are not residents of South Carolina as defined in the said statute.
19. **BINDING CONTRACT:** This contract shall be binding on both parties, their principals, heirs, personal representatives, successors and assigns as State law permits.
20. **EFFECT OF CONTRACT:** The parties hereto further agree that this written contract along with any duly executed addenda expresses the entire agreement between the parties, and that there is no other agreement, oral or otherwise, modifying the terms hereof.

Purchaser's initial(s): _____ Seller's initial(s): _____

21. **DEFAULT:** If the Purchaser shall default under this agreement, the Seller shall have the option of suing for specific performance, or damages, including but not limited to reasonable attorney's fees, or rescinding this contract. In the event the contract is rescinded, one half of the earnest money deposit shall then be paid to the Broker(s), (not to exceed the original commission due), and the remaining balance of earnest money shall be paid to the Seller. Upon default by the Seller, the Purchaser shall have the option of suing for specific performance, or damages, or rescinding this contract. If the Purchaser elects to rescind this contract, he will be refunded all sums paid hereunder and in addition, shall be reimbursed by the Seller for actual costs incurred. Actual costs incurred shall include all costs and expenses incurred or obligated for by Purchaser, Seller or Broker in an effort to consummate this sale. Such costs shall include, but not be limited to, cost of credit report, appraisal, survey, inspections and reports, title examination and Broker's fee or commission for the sale. If this contract is rescinded, both parties shall execute a written release of the other from this contract, and both parties shall agree to hold the Broker(s) harmless. If either party refuses to execute a release, Escrow Agent will hold earnest money in trust until said releases are executed or until the court orders legal disposition, or the statute of limitations terminates the parties' cause of action.

22. **EARNEST MONEY:** Escrow Agent does not guarantee payment of check, or checks accepted as earnest money. If any contingency of this contract cannot be satisfied by no fault of the Purchaser, and upon proper written release, the earnest money will be refunded within 10 banking days.

The parties understand that, under all circumstances, including default, the escrow agent holding the earnest money deposit will not disburse it to either party until both parties have executed an agreement authorizing the disbursement or until a court of competent jurisdiction has directed a disbursement.

23. **INSURANCE, SURVEY, TITLE AND HOME INSPECTION:** Listing and selling Broker(s) recommend that Purchaser (1) Furnish a hazard insurance policy from a company of his/her choice at closing, (2) Have survey of the subject property, (3) Have an Attorney of his/her choice examine and certify the title, (4) Obtain a home inspection.

24. **BROKERS:**

Listing Agency in this transaction is _____ Agent _____
 Selling Agency in this transaction is _____ Agent _____
 Selling Agent in this transaction represents the [] Purchaser, [] Seller, [] both Purchaser and Seller.

25. **FACSIMILE:** The Purchaser and Seller agree that the receipt of a signed contract by facsimile or other electronic means that can be reproduced as a hard copy will be the same as a receipt of an original signed contract.

26. **MEDIATION CLAUSE:** Any dispute or claim arising out of or related to this Agreement, the breach of this Agreement or the services provided in relation to this Agreement, shall be submitted to mediation in accordance with the Rules and Procedures of the Dispute Resolution System of the NATIONAL ASSOCIATION OF REALTORS®. Disputes shall include representations made by the Purchaser(s), Seller(s) or any real estate broker or other person or entity in connection with the sale, purchase, financing, condition or other aspect of the property to which this Agreement pertains, including without limitation allegations of concealment, misrepresentation, negligence and/or fraud. Any agreement signed by the parties pursuant to the mediation conference shall be binding. This mediation clause shall survive for a period of 120 consecutive days after the date of closing.

The following matters are excluded from mediation hereunder: (a) judicial or non-judicial foreclosure or other action or proceeding to enforce a deed of trust, mortgage, or land contract; (b) an unlawful detainer action; (c) the filing or enforcement of a mechanic's lien; or (d) any matter which is within the jurisdiction of a probate court. The filing of a judicial action to enable the recording of a notice of pending action, for order of attachment, receivership, injunction, or other provisional remedies, shall not constitute a waiver of the right to mediate under this provision, nor shall it constitute a breach of the duty to mediate.

27. **SPECIAL STIPULATIONS:** These stipulations shall preempt printed matter herein: _____

THIS IS A LEGALLY BINDING AGREEMENT. BOTH PURCHASER AND SELLER SHALL SEEK FURTHER ASSISTANCE IF THE CONTENTS ARE NOT UNDERSTOOD. BOTH PURCHASER AND SELLER ACKNOWLEDGE RECEIPT OF A COPY OF THIS AGREEMENT. BOTH PURCHASER AND SELLER ACKNOWLEDGE RECEIVING, READING, AND UNDERSTANDING THE SOUTH CAROLINA REAL ESTATE COMMISSION'S AGENCY DISCLOSURE BROCHURE. SIGNATURES SIGNIFY ACCEPTANCE OF ALL TERMS AND CONDITONS STATED ON EACH PAGE.

Signed, Sealed and Delivered in the Presence of:

_____	_____	X	_____
Witness to Purchaser	Date & Time		Purchaser
_____	_____	X	_____
Witness to Purchaser	Date & Time		Purchaser
_____	_____	X	_____
Witness to Seller	Date & Time		Seller
_____	_____	X	_____
Witness to Seller	Date & Time		Seller