

# PURCHASE AND SALE AGREEMENT

Date: July 10, 2002

1. **Purchase and Sale.** The undersigned buyer ("Buyer") agrees to buy and the undersigned seller ("Seller") agrees to sell all that tract or parcel of land, with such improvements as are located thereon, described as follows: All that tract of land lying and being in: Land Lot \_\_\_\_\_ of the 13th District, \_\_\_\_\_ Section of Clayton County, Georgia, and being known as Address 325 & 327, City Riverdale, Zip Code 30274, according to the present system of numbering in and around this area, being more particularly described as Lot 1, Block B, Unit N/A, Phase/Section N/A of Oakridge Subdivision, as recorded in Plat Book N/A, Page N/A, Clayton County, Georgia, records together with all fixtures, landscaping, improvements and appurtenances, all being hereinafter collectively referred to as the "Property." The full legal description of the Property is the same as is recorded with the Clerk of the Superior Court of the county in which the Property is located and is made a part of this Agreement by reference.

2. **Purchase Price and Method of Payment.** Buyer warrants that Buyer will have sufficient cash at closing, which when combined with the loan(s), if any, referenced herein, will allow Buyer to complete the purchase of the Property. Buyer does not need to sell or lease other real property in order to complete the purchase of the Property. The purchase price of the Property to be paid by Buyer at closing is: One Hundred and Thirty-nine Thousand U.S Dollars, \$139,000.00 subject to the following: [Select sections A, B, C, and/or D below. The sections not marked are not a part of this Agreement.]

A. **All Cash At Closing:** Buyer shall pay the purchase price to Seller in cash, or its equivalent. Buyer's obligation to close shall not be subject to any financial contingency. Buyer shall pay all closing costs.

B. **Loan To Be Assumed:** See Exhibit "\_\_\_\_\_."

C. **New Loan To Be Obtained:** This Agreement is made conditioned upon Buyer's ability to obtain a loan (except if the loan is denied because Buyer lacks sufficient cash to close excluding the amount of the loan and/or because Buyer has not sold or leased other real property) in the principal amount of 95 % of purchase price listed above, with an interest rate at par of not more than 7 % per annum on the unpaid balance, to be secured by a first lien security deed on the Property; the loan to be paid in consecutive monthly installment of principal and interest over a term of not less than 30 years. "Ability to obtain" as used herein means that Buyer is qualified to receive the loan described herein based upon lender's customary and standard underwriting criteria. The loan shall be of the type selected below: [The sections not marked are not a part of this Agreement.]

(1) **Loan Type:**  **Conventional;**  **FHA** (see attached exhibit);  **VA** (see attached exhibit);  **Other** (see attached exhibit);

(2) **Rate Type:**  **Fixed Rate Mortgage Loan;**  **Adjustable Rate Mortgage ("ARM") Loan;**

(3) **Closing Cost and Discount Points:** At closing, Seller shall pay a sum not to exceed \$4000.00 to be used to pay for closing costs, loan discount points, survey costs, insurance relating to the Property and/or loan and, if allowed by lender, other costs to close, including escrows and prepaid items. Buyer shall pay any additional fees, closing costs, insurance premiums, or escrow amounts to fulfill lender requirements or to otherwise close this transaction.

(4) **Closing Attorney:** This transaction shall be closed by the law firm selected by Seller and agreeable to the Buyers Lender.

(5) **Loan Obligations:** Buyer agrees to: (a) make application for the loan within Seven (7) days from the Binding Agreement Date; (b) Immediately notify Seller of having applied for the loan and the name of the lender; and (c) pursue qualification for and approval of the loan diligently and in good faith. Should Buyer not timely apply for the loan, Seller may terminate the Agreement if Buyer does not, within five (5) days after receiving written notice thereof, cure the default by providing Seller with written evidence of loan application. Buyer agrees that a loan with terms consistent with those described herein shall satisfy this loan contingency. Buyer may also apply for a loan with different terms and conditions and close the transaction provided all other terms and conditions of this Agreement are fulfilled, and the new loan does not increase the costs charged to the Seller. Buyer shall be obligated to close this transaction if Buyer has the ability to obtain a loan with terms as described herein and/or any other loan for which Buyer has applied and been approved.

D. **Second Loan to be Obtained,** see Exhibit "N/A."

3. **Earnest Money.** Buyer has paid to See special stipulation #1 ("Holder") earnest money of \$ N/A Check, OR \$ N/A cash, which has been received by Holder. This earnest money shall be deposited in Holder's escrow/trust account (with Holder retaining the interest if the account is interest bearing) within five (5) banking days from the Binding Agreement Date and shall be applied toward the purchase price of the property at the time of closing. In the event any earnest money check is not honored, for any reason, by the bank upon which it is drawn, Holder shall promptly notify Buyer. Buyer shall have three (3) banking days after notice to deliver good funds to Holder. In the event Buyer does not timely deliver good funds, the Seller shall have the right to terminate this Agreement upon written notice to the Buyer. Holder shall disburse earnest money only as follows: (a) upon the failure of the parties to enter into a binding agreement; (b) at closing; (c) upon a written agreement signed by all parties having an interest in the funds; (d) upon order of a court or arbitrator having jurisdiction over any dispute involving the earnest money; or (e) upon a reasonable interpretation of this Agreement by Holder. Prior to disbursing earnest money pursuant to a reasonable interpretation of this Agreement, Holder shall give all parties fifteen (15) days notice, stating to whom the disbursement will be made. Any party may object in writing to the disbursement, provided the objection is received by Holder prior to the end of the fifteen (15) day notice period. All objections not raised in a timely manner shall be waived. In the event a timely objection is made, Holder shall consider the objection and shall do one or more of the following: (a) hold the earnest money for a reasonable period of time to give the parties an opportunity to resolve the dispute; (b) disburse the earnest money and so notify all parties; and/or (c) interplead the earnest money into a court of competent jurisdiction. Holder shall

be reimbursed for all amounts paid by Buyer and may deduct its costs and expenses, including reasonable attorneys' fees. The prevailing party in the interpleader action shall be entitled to collect from the other party the costs and expenses reimbursed to Holder. No party shall seek damages from Holder (nor shall Holder be liable for the same) for any matter arising out of or related to the performance for Holder's duties under this earnest money paragraph. If Buyer breaches Buyer's obligations or warranties herein, Holder may pay the earnest money to seller by check, which if accepted and deposited by Seller shall constitute liquidate damages in full settlement of all claims of Seller.

#### 4. Closing and Possession.

- A. **Property Conditions:** Seller warrants that at the time of closing or upon the granting of possession if at a time other than at closing, the property will be in the same condition as it was on Binding Agreement Date, normal wear and tear expected. If the Property is destroyed or substantially damaged prior to closing, Seller shall promptly notify Buyer of the amount of insurance proceeds available to repair the damage. Buyer may terminate this Agreement not later than five (5) days after receiving such notice by giving written notice to Seller. If Buyer does not terminate this Agreement, Buyer shall receive at closing such insurance proceeds as are paid on the claim which are not spent to repair the damage.
- B. **Taxes:** Real estate taxes on said Property for the calendar year in which the sale is closed shall be prorated as of the date of closing. Seller shall pay State of Georgia property transfer tax.
- C. **Closing and Possession:** This transaction shall be closed on August 5th, 2002, or on such other date as may be agreed to by the parties in writing, provided, however, that: (1) in the event the loan described herein is unable to be closed on or before said date; or (2) Seller fails to satisfy valid title objections, Buyer or Seller may, by notice to the other party (which notice must be received on or before the closing date), extend this Agreement's closing date up to seven (7) days from the above-stated closing date. Buyer agrees to allow Seller to retain possession of the Property until and through closing or until N/A, N/A, whichever is later. In the event that Seller retains possession of the Property beyond the date of closing, Seller does hereby guarantee that at the date of surrender of occupancy by Seller, the Property shall be in the same condition as of the day of closing.
- D. **Warranties Transfer:** Seller agrees to transfer to Buyer, at closing, subject to Buyer's acceptance thereof, Seller's interest in any manufacturer's warranties, service contracts, termite bond or treatment guarantee and/or other similar warranties which, by their terms, may be transferable to Buyer.
- E. **Prorations:** Seller and Buyer agree to prorate all utility bills between themselves, as of the date of closing (or the day of possession of the Property by the Buyer, whichever is the later) which are issued after closing and include service for any period of time the Property was owned/occupied by Seller or any other person prior to Buyer.
- F. **Closing Certifications:** Buyer and Seller shall execute and deliver such certifications, affidavits, and statements as are required at closing to meet the requirements of the lender and of federal and state law.

#### 5. Title.

- A. **Warranty:** Seller warrants that, at the time of closing, Seller will convey good and marketable title to said Property by general warranty deed subject only to: (1) zoning; (2) general utility, sewer, and drainage easements of record on the Acceptance Date upon which the improvements do not encroach; (3) subdivision and/or condominium declarations, covenants, restrictions, and easements of record on the Acceptance Date; and (4) leases and other encumbrances specified in this Agreement. Buyer agrees to assume Seller's responsibilities in any leases specified in this Agreement.
- B. **Examination:** Buyer may, prior to closing, examine title and furnish Seller with a written statement of objections affecting the marketability of said title. If seller fails to satisfy valid title objection prior to closing or any extension thereof, then Buyer may terminate the Agreement upon written notice to Seller, in which case Buyer's earnest money shall be returned. Good and marketable title as used herein shall mean title which a title insurance company licensed to do business in Georgia will insure at its regular rates, subject only to standard exceptions.
- C. **Survey:** Any survey of the Property attached hereto by agreement of the parties prior to the Binding Agreement Date shall be a part of this Agreement. Buyer shall have the right to terminate this Agreement upon written notice to Seller if a new survey performed by a surveyor licensed in Georgia is obtained which is materially different from any attached survey with respect to the Property, in which case Buyer's earnest money shall be returned. The term "materially different" shall not apply to any improvements constructed by Seller in their agreed-upon locations subsequent to Binding Date Agreement. Matters revealed in said survey shall not relieve the warranty of title obligations of Seller referenced above.
6. **Seller's Property Disclosure:** Seller's Property Disclosure Statement is attached hereto and incorporated herein. Seller warrants that to the best of Seller's knowledge and belief, the information contained therein is accurate and complete as of the Binding Agreement Date.
7. **Termite Letter:** An official Georgia Wood Infestation Report ("Report") prepared by a licensed pest control operator, covering each dwelling and garage on the Property and dated within one hundred eighty (180) days of the acceptance date is  OR is not  attached to this Agreement as an exhibit. If the Report is not attached, Seller shall provide such a Report to Buyer within Five (5) days from the Binding Agreement Date. Buyer shall have the right to terminate this Agreement within eight (8) days from the Binding Agreement Date if either of the following events occur: (a) the Report is not timely provided to Buyer; or (b) the Report provided after the Binding Agreement Date indicates present infestation of, or damage to, the Property from termites or other wood destroying organisms. If Buyer does not timely give Seller notice of Buyer's decision to terminate this Agreement, Buyer's right to terminate the Agreement pursuant to this paragraph shall be waived. Notwithstanding the above, Buyer shall continue to have whatever other rights to terminate this Agreement, if any, that exist elsewhere in this Agreement. Unless otherwise noted on the Seller's Property Disclosure Statement, to the best of Seller's knowledge, the information contained in any attached or later provided Report is inconsistent with the Report attached hereto. Prior to closing, Seller shall treat active infestation of termites and other wood destroying organisms, if any. At closing, Seller shall provide Buyer with a Report prepared by a licensed pest control operator dated within thirty (30) days of the closing, stating that each dwelling and garage has been found to be free from active infestation of termites and other wood destroying organisms. This paragraph shall not limit Buyer's right to request that Seller repair and/or replace defects resulting from termites and other wood destroying organisms if the Property is sold with the right to request repairs in accordance with the Inspection Paragraph herein.

8. **Inspection:** Buyer and/or Buyer's representatives shall have the right to enter the Property at Buyer's expense and at reasonable times (including immediately prior to closing) to thoroughly inspect, examine, test and survey the

Property. This shall include the right to inspect and test for lead-based paint and lead-based paint hazards for not less than ten (10) days from the Binding Agreement Date. Seller shall cause all utility services and any pool, spa, and similar items to be operational so that Buyer may complete all inspections under this Agreement. The Buyer agrees to hold the Seller and all Brokers harmless from all claims, injuries, and damages arising out of or related to the exercise of these rights.

[Selection section A or B below. The section not marked shall not be part of this Agreement.]

**A. Property Sold With Right to Request Repairs.**

Buyer (s)  
Initials

JAH  
JEN

- (1) Buyer shall have the right to request that Seller repair defects in the Property by providing Seller, within Five (5) days from Binding Agreement Date, with a copy of inspection report(s) and a written amendment to this Agreement setting forth the defects noted in the report which Buyer requests be repaired and/or replaced. The term "defects" shall mean any portion of or item in the Property which: (a) is not in good working order and repair (normal wear and tear expected); (b) constitutes a violation of applicable laws, governmental codes or regulations and is not otherwise grandfathered or (c) is in a condition which represents a significant health risk or an unreasonable risk of injury or damage to persons or property. If Buyer does not timely present the written amendment and inspection report, Buyer shall be deemed to have accepted the Property "as is" in accordance with paragraph B below.
- (2) If Buyer timely submits the inspection report and the written amendment, Buyer and Seller shall have Ten (10) days (hereinafter "Repair Resolution Period") from the Binding Agreement Date to negotiate through written offers and counteroffers the defects to be repaired and/or replaced by Seller.
- (3) Neither party may terminate this Agreement prior to the end of the Repair Resolution Period due to failure to agree on the repair and/or replacement of defects without the written consent of the other party.
- (4) If Seller at any time during the Repair Resolution Period notifies Buyer that Seller will repair and/or replace all of the defects listed in the initial amendment submitted by Buyer, an agreement on the repair and/or replacement of defects shall be deemed to have been reached and all parties shall execute an amendment to that effect.
- (5) If Buyer and Seller have not within the Repair Resolution Period agreed on the defects to be repaired and/or replaced by signing a written amendment to this Agreement, Buyer may either accept the last unexpired counteroffer of Seller or accept the Property "as is" in accordance with the paragraph B below, by giving notice to Seller within three (3) days after the end of the Repair Resolution Period. If Buyer fails to timely give this notice, this Agreement shall terminate immediately, and Buyer's earnest money shall be returned in accordance with the Earnest Money paragraph above. All agreed-upon repairs and replacements shall be completed in a good and workmanlike manner prior to closing.

**OR**

Buyer (s)  
Initials

- B. Property Sold "As Is."** All parties agree that the property is being sold "as is," with all faults including but not limited to lead-based paint and lead-based paint hazards and damage from termites and other wood destroying organisms. The Seller shall have no obligation to make repairs to the Property.

**9. Other Provisions.**

- A. Binding Effect, Entire Agreement, Modification, Assignments:** This Agreement shall be for the benefit of, and be binding upon, Buyer and Seller, their heirs, successors, legal representative and permitted assigns. This Agreement constitutes the sole and entire agreement between the parties hereto and no modification or assignment of this Agreement shall be binding unless signed by all parties to this Agreement. No representative, promise, or inducement not included in this Agreement shall be binding upon any party hereto. Any assignee shall fulfill all the terms and conditions of this Agreement.
- B. Survival of Agreement:** All conditions or stipulations not fulfilled at time of closing shall survive the closing until such time as the conditions or stipulations are fulfilled.
- C. Governing Law:** This Agreement is intended as a contract for the purchase and sale of real property and shall be interpreted in accordance with the laws of the State of Georgia.
- D. Time of Essence:** Time is of the essence of this Agreement.
- E. Terminology:** As the context may require in this Agreement: (1) the singular shall mean the plural and vice versa; and (2) all pronouns shall mean and include the person, entity, firm, or corporation to which they relate.
- F. Responsibility to Cooperate:** All parties agree to timely take such actions and produce, execute, and/or deliver such information and documentation as is reasonably necessary to carry out the responsibilities and obligations of this Agreement.
- G. Notices:** Except as otherwise provided herein, all notices, including demands, required or permitted hereunder shall be in writing and delivered: (1) in person; (2) by an overnight delivery service, prepaid; (3) by facsimile transmission (FAX); or (4) by the United State Postal Service, postage prepaid, registered or certified returned receipt requested. Notice shall be deemed to have been given as of the date and time it is actually received. Notwithstanding the above, notice by FAX shall be deemed to have been given as of the date and time it is transmitted if the sending FAX produces a written confirmation with the date, time and telephone number to which the notice was sent. Receipt of notice by the Broker representing a party as a client shall be deemed to be notice to that party for all purposes herein except in transactions where the Broker is practicing designated agency, in which case, receipt of notice by the designated agent representing a party as a client shall be required to constitute notice to that party.

- 10. Disclaimer.** Buyer and Seller acknowledge that they have not relied upon any advice, representations or statements of Brokers and waive and shall not assert any claims against Brokers involving the same. Buyer and Seller agree that Brokers shall not be responsible to advise Buyer and Seller on any matter, including but not limited to the following: (1) any matter which could have been revealed through a survey, title search or inspection of the Property; (2) the condition of the Property, any portion thereof, or any item therein; (3) building products and construction techniques;

community amenities; (9) the appraised or future value of the Property; (10) any condition(s) existing off the Property which may affect the Property; (11) the terms, conditions and availability of financing; and (12) the uses and zoning of the Property whether permitted or proposed. Buyer and Seller acknowledge that Brokers are not experts with respect to the above matters and that, if any of these matters or any other matter are of concern to them, they shall seek independent expert advice relative thereto. Buyer further acknowledges that in every neighborhood there are conditions which different buyers may find objectionable. Buyer shall therefore be responsible to become fully acquainted with neighborhood and other off site conditions which could affect the Property.

1. **Time Limit of Offer.** This instrument shall be open for acceptance until 6 o'clock PM on the 15th day of July, 2002.
12. **Exhibits and Addenda.** All exhibits and/or addenda attached hereto, listed below, or referenced herein are made a part of this Agreement. If any such exhibit or addendum conflicts with any preceding paragraph, said exhibit or addendum shall control:

**SPECIAL STIPULATIONS:** The following Special Stipulations, if conflicting with any exhibit, addendum, or preceding paragraph, shall control.

1. Earnest money of \$1,500.00 to be paid to Calvin McCully (Seller & Holder) within two (2) business days after acceptance of contract.
2. Seller plans a 1031 exchange, and Buyer agrees to facilitate Seller as long as it is at no cost to Buyer.
3. Seller agrees to forward rent received from tenants for the 30-day period following the closing date minus the management fees of 8%
4. Offer is contingent upon home inspection satisfactory to buyer.
5. Offer is contingent upon final approval of buyer(s) Financial Advisor

[Mark box if additional pages are attached.]

n/a (n/a)  
Selling Broker                      MLS Office Code

By: n/a  
Broker or Broker's Affiliated Licensee

Print or Type Name: n/a

Bus. Phone ( )                      FAX # ( )

Multiple Listing # \_\_\_\_\_

n/a (n/a)  
Listing Broker                      MLS Office Code

By: n/a  
Broker or Broker's Affiliated Licensee

Print or Type Name: n/a

Bus. Phone: ( )                      FAX # ( )

Buyer's Signature: James W Holloway                      SS/FEL# \_\_\_\_\_

Print or Type Name: James W Holloway

Buyer's Signature: B.L. - B.L.                      SS/FEL# \_\_\_\_\_

Print or Type Name: Brian Hendricks

Seller's Signature: \_\_\_\_\_                      SS/FEL# \_\_\_\_\_

Print or Type Name: Calvin R McCully

Seller's Signature: \_\_\_\_\_                      SS/FEL# \_\_\_\_\_

Print or Type Name: Janice J McCully

**Acceptance Date**

The above proposition is hereby accepted, \_\_\_\_\_ o'clock \_\_\_\_\_ M. on the \_\_\_\_\_ day of \_\_\_\_\_.

**Binding Agreement Date**

This instrument shall become a binding agreement on the date ("Binding Agreement Date") when notice of the acceptance of this Agreement has been received by offeror. The offeror shall promptly notify offeree when acceptance has been received.