

## SALE OF 2637 BEN HILL AVE., EAST POINT AND BID PROCEDURES

Pursuant to Federal Court Order in Civil Action No 06CV2431, S. Gregory Hays has contracted (the "Contract") to sell real property owned by an affiliate of Pinnacle Development Partners. Buyers may submit competing written offers as set forth below. CONTRACT TERMS: Price: \$99,000; Deposit \$500; AS-IS. See [www.haysconsulting.net](http://www.haysconsulting.net) for details. BID PROCEDURES: Offers must meet all of the following criteria: (i) the price must be at least \$108,900; (ii) the deposit must be at least \$1,000 and must be submitted with the offer; and (iii) the offer must be on similar terms as those in the Contract. Send offers to: Hays Financial Consulting, 3343 Peachtree Road, Suite 200, Atlanta, GA 30326. Offers and deposits must be received by 5:00 p.m. 11/15/07.

**RIDER 1**

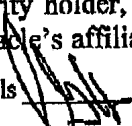
This Rider 1 to that certain Purchase and Sale Agreement with an offer date of October 8, 2007, for the purchase and sale of real property located at 2637 Ben Hill Avenue, East Point, Fulton County, Georgia 30344, is entered into between the parties as of the 15 day of October, 2007 (the "Effective Date"). All items and conditions of the Agreement, as modified by this Rider, are agreed to and accepted by the undersigned.

1. **Overbid Procedure.** Buyer acknowledges that Seller is acting solely in its capacity as Receiver for the record owner of the Property, pursuant to court order from the U.S. District Court for the Northern District of Georgia (the "Court"). Notwithstanding anything in this Agreement to the contrary, the consummation of the transaction contemplated herein is subject to a court ordered bidding process (the "Overbid Procedure") whereby a notice of the sale of the Property setting forth the terms of this Agreement shall be published for up to ten (10) days to allow third parties to submit competing offers to purchase the Property. In the event the Overbid Procedure yields a superior bid than that contained in the Agreement (the "Overbid"), the Receiver shall have the right to submit the Overbid to the Court for approval in which event Buyer shall have the opportunity to (i) submit new terms for Seller's consideration and (ii) oppose the Court's approval of the Overbid. If the Court approves the Overbid, then Seller shall instruct Holder to return the Deposit to Buyer within five (5) banking days, and this Agreement shall be deemed terminated without either party having any further liability to the other, unless otherwise agreed to by the parties. Buyer acknowledges that the Overbid Procedure will not commence until the expiration of the Inspection Period, provided Buyer elects to proceed to closing. At Buyer's request, Seller agrees to commence the Overbid Procedure prior to the expiration of the Inspection Period upon payment by Buyer to Seller of the actual costs incurred (the "Notice Amount") to publish required notice commencing the Overbid Procedure. In such event, the Notice Amount paid by Buyer to Seller shall be non-refundable. If Closing occurs, the Notice Amount shall be applicable to the Purchase Price and if Closing does not occur, it shall be used to pay the costs incurred in connection with Notice Amount. The complete terms of the Overbid Procedure are available at the offices of the Receiver.

2. **Court Approval.** In addition to other contingencies set forth in this Agreement, Seller's obligations under this Agreement are contingent upon obtaining all necessary and required approvals of the transactions expressed in this Agreement from the Court. Seller's obligations under this Contract shall be further subject to any conditions, qualifications or restrictions which the Court may impose. In the event Seller has not obtained Court approval prior to the Closing, Seller may unilaterally extend Closing, at its option, for up to sixty (60) days in order to obtain such approvals. In the event the Court has not granted its approval, prior to the extended Closing Date, Seller shall instruct Holder to return the Deposit to Buyer within five (5) banking days, and this Agreement shall be deemed terminated without either party having any further liability to the other, unless otherwise agreed to by the parties.

3. **Disinterested Party.** Buyer represents and warrants that neither it nor any of its employees, officers, directors, principals, managers, members or affiliates: (a) is a creditor, an equity security holder, or an insider of Seller, Pinnacle Development Partners ("Pinnacle"), or any of Pinnacle's affiliates (collectively, Seller, Pinnacle and Pinnacle's affiliates are defined as

Seller's Initials


Buyer's Initials R.B.

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the "Interested Parties"); (b) is not currently, nor has been within the previous two (2) years, a director, officer, principal, member, manager or employee of any of the Interested Parties; and (c) has any contractual relationship with any of the Interested Parties, other than arising from this Agreement. The representations and warranties contained in this Section 3 shall be reaffirmed by Buyer at Closing and shall survive Closing.

4. Earnest Money. Section 3 of the Agreement is hereby modified to read that Hays Financial Consulting, LLC shall be the Holder.

5. Seller's Property Disclosure. Section 8 of the Agreement is hereby deleted in its entirety.

6. As-Is. Buyer acknowledges and agrees that notwithstanding anything in the Agreement to the contrary, except for the warranties and representations contained in the Agreement and in the closing documents delivered by Seller to Buyer at Closing, upon Closing, Seller shall sell and convey to Buyer and Buyer shall accept the Property **AS IS, WHERE IS, and WITH ALL FAULTS**.

7. Title. Section 12.A. of the Agreement is hereby modified to read that Seller shall convey the Property to Buyer at Closing by limited warranty deed.

8. Examination. The first two sentences of Section 12.B. of the Agreement are hereby deleted in its entirety and substituted in lieu thereof shall be the following:

"B. Examination: Buyer shall have fifteen (15) days following the Effective Date to examine title and to obtain a survey of the Property, and to advise Seller in writing of any defects or objections affecting the title to the Property disclosed by the title commitment or the survey. Seller shall have two (2) days after receipt of such notice to advise Buyer in writing which of such title defects or objections Seller will satisfy or cure. In the event Seller fails to give such notice, Seller shall be deemed to have elected not to satisfy or cure any such defects or objections. In the event Seller does not agree to satisfy or cure such defects or objections (except monetary liens which Seller must cure), Buyer may elect either (a) to terminate this Agreement by written notice to Seller or (b) to accept title subject to such encumbrances and proceed to Closing. Good and marketable title as used herein shall mean title which a title insurance company licensed to do business in Georgia will insure, subject to standard exceptions."

9. Miscellaneous. The Special Stipulations set forth on page 7 of the Agreement are hereby deleted in their entirety and of no further force or effect.

[signatures appear on following page]

Seller's Initials




Buyer's Initials

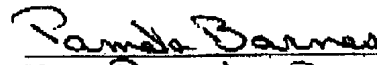
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SELLER:

  
\_\_\_\_\_  
S. Gregory Hays, Receiver for Pinnacle  
Development Partners, L.L.C. and  
Ben Hill Avenue Development Partners

BUYER:

  
\_\_\_\_\_  
Name: Pamela Barnes

Seller's Initials 

Buyer's Initials P.B.

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# PURCHASE AND SALE AGREEMENT

Offer Date: October 8, 2007



2007 Printing

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 194 of the 17 District, 0 Section of Fulton County, Georgia, and being known as Address 2055 Hill Ave City East Point, Georgia, Zip Code 30344 according to the present system of numbering in and around this area, being more particularly described as Lot 41, Block 0 Unit 0, Phase/Section of None Subdivision, as recorded in Plat Book 0 Page 0, Fulton County, Georgia records, together with all fixtures, landscaping, improvements, and appurtenances (hereinafter collectively referred to as "Property") The full legal description of Property is the same as is recorded with the Clerk of the Superior Court of the county in which Property is located and is incorporated herein by reference.

2. **Purchase Price.** At the closing Buyer agrees to pay Seller the purchase price of the Property in cash, cashiers check, money order, certified check or wire transfer of immediately available funds of: \$ 59,000.00 ~~59,000.00~~ noety-nine thousand U.S. Dollars.

3. **Amount and Deposit of Earnest Money.** Buyer has paid to Bethel Turner Jones ("Holder") earnest money of \$ 500.00 check, OR \$ \_\_\_\_\_ cash, which has been received by Holder. The earnest money shall be deposited in Holder's escrow/trust account (with Holder retaining the interest if the account is interest bearing) within 5 banking days from the Binding Agreement Date. If Buyer writes a check for earnest money and the same is deposited into Holder's escrow/trust account, Holder shall not be required to return the earnest money until the check has cleared the account on which the check was written. In the event any earnest money check is dishonored by the bank upon which it is drawn, Holder shall promptly give notice of the same to Buyer and Seller. Buyer shall have 3 banking days after receiving such notice to deliver good funds to Holder. In the event Buyer does not timely deliver good funds, Seller shall have the right to terminate this Agreement upon notice to Buyer.

4. **Date of Closing and Transfer of Possession.** This transaction shall be closed on the 12<sup>th</sup> day of November, 2007 or on such other date as may be agreed to in writing by the parties. In the event Seller fails to satisfy valid title objections or the closing attorney or Buyer's mortgage lender (including in "all cash" transactions) fail to timely complete their respective obligations, then Buyer or Seller, may by unilateral notice to the other party (which notice must be received on or before the closing date) extend the closing date for 7 days or such shorter period as may be agreed to by the parties in writing. The exercise of this right by either party shall cause the unilateral right to extend the closing date to terminate and no longer be a part of this Agreement. Buyer agrees to allow Seller to retain possession of Property until and through: [Select section A, B or C below. The sections not marked are not a part of this Agreement.]  
 A. the closing; or  B. \_\_\_\_\_ hours after the closing, or  C. \_\_\_\_\_ days after the closing at \_\_\_\_\_ o'clock \_\_\_\_\_ m.

5. **Seller's Contributions at Closing.** Seller shall, at the time of closing, contribute a sum not to exceed \$ 3000.00 to be used by Buyer to pay for: a) the preparation of the warranty deed and owner's affidavit by the closing attorney; and b) at Buyer's discretion any of the following (if allowed by the lender): closing costs, prepaid items, escrow establishment charges, loan discount points, survey costs, and insurance premiums (including flood insurance, if applicable) relating to Property and/or Loan(s). Buyer shall pay all other costs, fees, and amounts for the above referenced items and to fulfill lender requirements or otherwise close this transaction.

6. **Method of Payment.** Buyer warrants that Buyer will have sufficient cash at closing, which when combined with the loan(s), if any, described below ("Loan(s)"), will allow Buyer to complete the purchase of Property. Buyer does not need to sell or lease other real property in order to complete the purchase of Property. The method of payment for the Property is as follows: [Select section A, B or C below. The sections not marked shall not be a part of this Agreement.]

- A. Purchase Subject to Loan Being Assumed: See Exhibit \_\_\_\_\_
- B. All Cash at Closing: Buyer's obligation to close shall not be subject to Buyer having the ability to obtain any Loan(s).
- C. Purchase Subject to Limited Financing Contingency: Buyer shall have 21 days from the Binding Agreement Date ("Financing Contingency Period") to determine if Buyer has the ability to obtain the Loan(s) described below: [Select 1 or 1 and 2 below. Any box not checked shall not be a part of this Agreement.]
  - 1. First Mortgage (promissory note secured by first priority security deed)
    - a. Loan Amount: 100 percent (%) of the purchase price of Property
    - b. Term: 30 years
    - c. Interest rate at par of 7 percent (%) per annum (or initial interest rate if interest rate adjusts)
    - d. Loan Type:  Conventional  FHA (see exhibit)  VA (see exhibit)  Other (see exhibit)
    - e. Rate Type:  Fixed Rate Mortgage  Adjustable Rate Mortgage  Interest Only Mortgage
    - f. Source of Loan:  Institutional Lender  Seller (see Exhibit \_\_\_\_\_)  Other \_\_\_\_\_

2. **Second Mortgage (promissory note secured by second priority security deed)**

- a. Loan Amount: \_\_\_\_\_ percent (%) of the purchase price of Property  
 b. Term: \_\_\_\_\_ years  
 c. Interest rate at par of \_\_\_\_\_ percent (%) per annum (or initial interest rate if interest rate adjusts)  
 d. Rate Type:  Fixed Rate Mortgage  Adjustable Rate Mortgage  Interest Only Mortgage  Equity Line  
 e. Source of Loan:  Institutional Lender  Seller (see Exhibit \_\_\_\_\_)  Other \_\_\_\_\_

3. **Ability to Obtain.** The term "ability to obtain" as used herein shall mean that Buyer, as of the end of the Financing Contingency Period, is qualified to obtain the Loan(s) described above based upon the lender's customary and standard underwriting criteria. If Buyer does not have the ability to obtain either or both of the Loan(s) described above, Buyer shall cause a letter from the lender denying either of the Loan(s) to be delivered to Seller prior to the end of the Financing Contingency Period setting forth the Loan(s) described above for which Buyer applied and all of the reasons why Buyer does not have the ability to obtain said Loan(s). Except as may be provided below, this Agreement shall terminate without penalty to Buyer if the above-described letter is delivered to Seller in a timely manner.

Buyer shall be deemed to have the ability to obtain the Loan(s), this Agreement shall thereafter no longer be subject to any financing contingency and the method of payment shall thereafter be deemed to be "all cash" if either: a) Buyer does not deliver the above-referenced letter to Seller within the time frame set forth above, or b) Buyer delivers the above-referenced letter but the basis upon which Buyer does not have the ability to obtain the Loan(s) is that Buyer: (1) lacks sufficient funds to close; (2) is required to lease or sell other property as a condition of obtaining the Loan(s); or (3) did not timely provide the lender(s) with needed information to evaluate whether Buyer had the ability to obtain the Loan(s). Buyer shall not intentionally make any material changes in Buyer's financial condition which would adversely affect Buyer's ability to obtain the Loan(s) during Financing Contingency Period. Buyer shall be responsible for obtaining and providing to the lender(s) all required loan documentation, Official Georgia Wood Infestation Report, structural letter, well tests, septic system certifications, flood plain certifications and any other similar information.

7. **Closing Attorney.** This transaction shall be closed by the law firm of Jererson + Thompson. If Buyer is given the right to select a law firm from a mortgage lender's approved list of closing attorneys, Buyer agrees to select said law firm. If the law firm named above is not on the mortgage lender's approved list, and cannot be added in time to close this transaction, Buyer may select another law firm from lender's approved list to close this transaction. The closing attorney shall represent the mortgage lender in any transaction in which the Buyer obtains mortgage financing (including transactions where the method of payment referenced herein is "all cash"). In transactions where the Buyer does not obtain mortgage financing, the closing attorney shall represent the:  Buyer  Seller. If the closing attorney declines to represent the party selected, the party may select a different closing attorney.

8. **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 date this Agreement is last signed or initiated by Seller.

9. **Inspection.**

A. **Right of Buyer to Inspect Property:** Buyer and/or Buyer's representatives shall have the right to enter Property at Buyer's expense and at reasonable times (including immediately prior to closing) to inspect, examine, test and survey Property. Seller shall cause all utility services and any pool, hot tub and similar items to be operational so that Buyer may complete all inspections under this agreement. Buyer agrees to hold Seller and all Brokers harmless from all claims, injuries, and damages arising out of or related to the exercise of these rights.

B. **Duty of Buyer to Inspect Neighborhood:** Buyer acknowledges that: (1) in every neighborhood there are conditions which different buyers may find objectionable and (2) Buyer has had the full opportunity to become acquainted with any present or future neighborhood conditions which could affect the Property including without limitation land-fills, quarries, high-voltage power lines, cemeteries, airports, prisons, stadiums, other producing factories, crime, schools serving the Property, political jurisdictional maps and land use and transportation maps and plans. It shall be Buyer's sole duty to become familiar with neighborhood conditions of concern to Buyer. If Buyer is concerned about the possibility of a registered sex offender residing in a neighborhood in which Buyer is interested, Buyer should review the Georgia Violent Sex Offender Registry available on the Georgia Bureau of Investigation Website at [www.state.ga.us/gbi/disclaim.htm](http://www.state.ga.us/gbi/disclaim.htm).

C. **Termites:** Buyer shall be solely responsible for inspecting for any wood destroying organisms and obtaining any Official Georgia Wood Infestation Report that may be of interest to Buyer or required by Buyer's mortgage lender(s).

10. **Property Sold with Right to Request Repairs, Subject to Due Diligence Period or "As-Is".**  
 [Select Section A, B or C below. The sections not marked shall not be a part of this Agreement.]

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

1. Buyer shall have the right to request that Seller repair and/or replace Defects, if any, in Property identified by Buyer's Inspector(s) in a written report(s). Within \_\_\_\_\_ days from Binding Agreement Date, Buyer shall provide Seller with: (a) a signed written amendment to this Agreement requesting Defects to be repaired and/or replaced and (b) a copy of all reports of inspectors describing those Defects. If Buyer does not timely present the written amendment and inspection report(s), Buyer shall be deemed to have accepted Property "as is."
2. If Buyer timely submits the written amendment and accompanying inspection reports, Buyer and Seller shall have \_\_\_\_\_ days from the Binding Agreement Date (hereinafter "Defect Resolution Period") to attempt to negotiate the Defects to be repaired

and/or replaced, sign an amendment to the Agreement regarding the same and have it delivered to Buyer and Seller. If the requirements of the preceding sentence have not occurred before the expiration of the Defect Resolution Period, Buyer may accept in writing the other party's last written offer or counteroffer regarding the repair and/or replacement for Defects (regardless of whether the offer or counteroffer is made by Seller or Buyer). If neither party timely accepts the other party's last offer or counteroffer or Buyer does not elect to buy Property "as-is", this Agreement shall terminate.

- 3. Notwithstanding any other provision to the contrary, in the event the Inspector, in a written report provided to Seller, recommends any additional test, study, inspection or evaluation of any product, item or condition in Property, then the time period to inspect Property and the Defect Resolution Period may be extended once by Buyer, upon notice to Seller, delivered prior to the expiration of the original period to inspect Property, for up to 7 additional days. The date of closing shall also be extended for the same number of days but only if the original closing date would, as a result of the above time periods being extended, fall within the new Defect Resolution Period.
- 4. Nothing herein shall require Seller to replace a product or item (or portion thereof) in Property if it can be repaired such that at closing it is reasonably fit for the purpose(s) for which it was intended.
- 5. Definitions:

- (a) **Inspector** - The term "Inspector" shall mean a person or company with specific, professional expertise in conducting inspections or in an item, building product or condition contained therein for which the Inspector is inspecting, examining, testing and/or surveying. With respect to inspections for termites and other wood destroying organisms, the Inspector shall mean a licensed Georgia pest control operator.
- (b) **Defects** - The term "Defects" shall mean any infestation by termites, insects or other wood destroying organisms or any condition, building product or item in Property, or portion thereof identified by an Inspector in a written report, which: (1) constitutes an imminent risk of injury or damage to persons or property; (2) constitutes a violation of current laws, governmental codes or regulations except if it is "grandfathered" because it was initially installed or constructed prior to or in accordance with all applicable laws, codes or regulations; or (3) is not at the present time in good working order and repair (including damage caused by termites, infiltrating pests, and any other wood destroying organisms), excepting other normal wear and tear. All parties acknowledge that certain building products are or have been the subject of class action lawsuits and are generally considered by Inspectors to be defective ("Defective Product"). Notwithstanding the above, all parties agree that if the existence of a particular Defective Product has been disclosed by Seller to Buyer in the Seller's Property Disclosure Statement prior to Buyer contracting to purchase Property, then that Defective Product, or any portion thereof, as the case may be, shall not be considered to be a Defect if at the time of the inspection it is functioning in accordance with manufacturer's specifications and is reasonably fit for the purposes for which it was intended. However, if a particular building product is identified by the Inspector in a written report as generally being a Defective Product and the particular building product is not disclosed in the Seller's Property Disclosure Statement as set forth above, all parties agree that such a Defective Product shall be considered a Defect which Buyer can request Seller to repair and/or replace.

**B. Property Sold Subject to Due Diligence Period.** For and in consideration of the additional payment of \$10.00 by the Buyer to the Seller, the receipt and sufficiency of which is hereby acknowledged, Seller does hereby grant Buyer the option of terminating this Agreement, for any reason, for a 7 day period from the Binding Agreement Date ("Due Diligence Period"). During the Due Diligence Period, Buyer may conduct at Buyer's sole expense whatever evaluations, inspections, examinations, surveys, and testing, if any, Buyer deems appropriate to determine whether Buyer's option to terminate this Agreement should be exercised. This shall include but not be limited to testing for lead-based paint and/or lead-based paint hazards, inspecting for active infestation of and/or damage from termites and other wood destroying organisms and determining if the Property or the improvements thereon are in a flood plain. During the Due Diligence Period, Buyer may also propose an amendment(s) to this Agreement to address any concerns of Buyer with the Property. If Buyer decides to exercise Buyer's option to terminate this Agreement, Buyer must give notice of the same to Seller prior to the end of the Due Diligence Period. If Buyer fails to give such notice in a timely manner, the Due Diligence Period shall expire and terminate and Buyer shall be deemed to have accepted the Property "as-is". The expiration of the Due Diligence Period shall not terminate any other contingencies to which this Agreement may be subject. Buyer is  or is not  currently under contract (including option contracts) to purchase other real property. Buyer shall  or shall not  have the right to enter into other such contracts during the Due Diligence Period. This Agreement shall be an option contract until the Due Diligence Period has ended without the Buyer terminating the same.

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

**11. Waiver of Certain Rights Regarding Lead-Based Paint.** Other than the rights set forth in the Property Sold With Right to Request Repairs, Subject to Due Diligence Period or "As-Is" paragraph above, Buyer expressly waives the right afforded buyers under federal law: a) to inspect and test for lead-based paint and/or lead-based paint hazards and b) not to be obligated under this Agreement for at least 10 days from the Binding Agreement Date.

**12. 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 as of the Binding Agreement Date and

improvements do not encroach; (3) subdivision and/or condominium declarations, covenants, conditions, and easements of record on the Binding Agreement Date; and (4) ...

The deed of conveyance and owner's affidavit in this transaction shall be prepared by the closing attorney ...

Inspection: Buyer may, prior to closing, examine title and furnish Seller with a written statement of objections ...

Buyer shall have the right to terminate this Agreement upon written notice to Seller if a new survey performed by a surveyor ...

13. Taxes and Prorations. Real estate taxes, and any community association dues and assessments for the calendar year in which the sale is closed shall be prorated as of the date of closing.

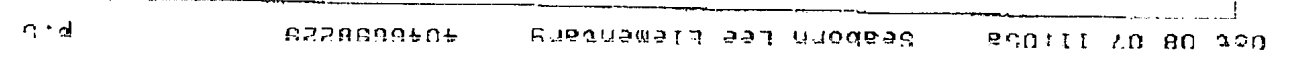
14. Risk of Damage to Property. Seller warrants that at the time of receipt of the deed of possession ...

Entitlement to and Disbursement of Earnest Money.

- A. Entitlement to Earnest Money: Subject to the Disbursement ...
1. Buyer shall be entitled to the earnest money upon: a) failure of the parties to enter into a binding agreement; b) failure of ...
2. Seller shall be entitled to the earnest money if this Agreement is terminated due to the default of Buyer. In such event, Holder shall pay the earnest money to Seller by check, which if accepted and deposited by Seller, shall constitute liquidated damages in full settlement of all claims of Seller. It is agreed to by the parties that the amount of earnest money shall constitute a pre-estimate of Seller's actual damages, which damages are subject to arbitration.
B. Disbursement: Holder shall disburse the earnest money upon: (1) the closing of Property; (2) a subsequent written agreement of Buyer and Seller; (3) an order of a court of competent jurisdiction; (4) a court order in a dispute over the formation or enforceability of the Agreement. In addition, Holder may disburse the earnest money if the parties agree in writing that the disbursement will be made. Any party may object to the disbursement of the earnest money if the objection is filed with the Holder within the 15 day notice period. Objections not filed within the 15 day notice period shall be deemed waived. If Holder received no objection to the disbursement of the earnest money as required by the parties of Holder's action. If Holder decides to modify its proposed disbursement, Holder shall first send a new 15 day notice to the parties stating the date when the disbursement will now be made.
C. Interpleader: If there is a dispute over the earnest money which the parties cannot resolve, Holder may interplead the earnest money into a court of competent jurisdiction. Holder shall be and may deduct from any funds interpleaded, its costs and expenses including reasonable attorney's fees actually incurred. The prevailing defendant in the interpleader action shall be entitled to court costs and the amount deducted by Holder from the non-prevailing defendant.
D. Hold Harmless: All parties hereby agree to indemnify and hold Holder harmless from all claims, damages and expenses, including reasonable attorney's fees and court costs and the amount deducted by Holder from the non-prevailing defendant, and damages arising out of or related to the performance by Holder of its duties hereunder. All parties further covenant and agree not to sue Holder for damages relating to any decision of Holder to disburse earnest money made in accordance with the requirements of this Agreement.

16. Agency and Brokerage.

Agency Disclosure: In this Agreement, the term "Broker" shall mean a licensed Georgia real estate broker or brokerage firm and, where the context would indicate, the broker's affiliated licensees. No Broker in this transaction shall owe any duty to Buyer or Seller greater than what is set forth in their brokerage engagements and the Brokerage Relationships in Real Estate Transactions



Act, O.C.G.A. § 10-6A-1 et. seq.;

1. **No Agency Relationship.** Buyer and Seller acknowledge that, if they are not represented by a broker, they are each solely responsible for performing ministerial acts for that party.

2. **Listing Broker.** Broker working with the Seller is identified on the signature page of this agreement and said Broker is  OR, is NOT  representing Seller;

3. **Selling Broker.** Broker working with Buyer is identified on the signature page of this agreement and said Broker is  OR, is NOT  representing Buyer; and

4. **Dual Agency or Designated Agency.** If Buyer and Seller are both being represented by a designated agency , OR, dual agency  shall exist.

5. **Dual Agency Disclosure.** [Applicable only if dual agency has been selected.] Buyer and Seller are aware that Broker is acting as a dual agent and, with the consent of the same, Buyer and Seller have been advised that:

- (1) In serving as a dual agent, Broker is representing two clients whose interests are or at times could be different or even adverse;
- (2) Broker will disclose all adverse, material facts referred to them by either party in the transaction except for information made confidential by request or instructions from each client which is not required by law;
- (3) Buyer and Seller do not have to consent to dual agency and, if they do, they shall understand their brokerage engagement agreements.

6. **Confidentiality.** Notwithstanding any provision to the contrary in any agreement entered into by a dual agent, to keep confidential and not reveal to the other party any information which could materially and adversely affect the transaction.

b. **Designated Agency Assignment.** [Applicable only if a designated agency has been selected.] Broker has assigned \_\_\_\_\_ to work exclusively with Buyer as Buyer's designated agent and \_\_\_\_\_ to work exclusively with Seller as a client and shall not represent either party.

7. **Brokerage Services and Commission.** Brokerage services and are to be paid a commission pursuant to a separate agreement or agreement. Unless otherwise provided in writing, the Selling Broker will receive a portion of the commission pursuant to a cooperative brokerage agreement. The commission shall be paid to the party owing the commission. If the sale proceeds are insufficient to pay the full commission, the party owing the commission shall pay each Broker its respective portion of said commission. In the event the sale is not closed because of Buyer's and/or Seller's failure to perform, the party shall immediately pay the Broker(s) the commission and/or broker(s) would have received had the sale closed, and shall independently pursue the non-performing party for their portion of the commission.

c. **Material Relationship Disclosure:** Broker and/or affiliated licensees have no material relationship with either Buyer or Seller except as follows: \_\_\_\_\_

17. **Disclaimer.**

Buyer and Seller acknowledge that they have not relied upon any advice, representations or statements of brokers and are responsible to advise Buyer and Seller on any matter including but not limited to the condition of Property, any portion thereof, or any item therein; including proceeds and construction techniques; the presence of mold, lead paint, asbestos, radon, or other hazardous materials; or substances; termites and other wood destroying organisms; and any condition(s) existing off Property which may affect Property; the terms, conditions and availability of financing; and the availability of any other matters are of concern to them, they should seek independent expert advice and that, if any of those matters that Brokers shall not be responsible to monitor or supervise any portion of any construction or repairs to Property and that such tasks are outside the scope of real estate brokerage services.

18. **Notices.**

A. **All Notices Must Be In Writing.** All notices, including but not limited to notices of termination and other notices, shall be in writing, signed by the party giving the notice, and shall be delivered by hand, by overnight delivery service, prepaid; (3) by facsimile transmission (FAX), if a receipt is requested, or (5) by e-mail.

C. **When Notice is Deemed Received.** Except as may be provided herein, a notice shall be deemed to be received by the party to whom it was sent on the date and time it is transmitted provided that the sender has taken reasonable steps to ensure the correct date and the time of the transmission and the telephone number referenced herein to which the notice should have been sent.

D. **When Notice to Broker is Notice to Broker's Client.** Except in cases where the Broker is practicing designated agency, notice to the Broker shall be deemed to be notice to the Broker's client.

the Broker or the affiliated licensee of Broker... notice to that party. In any transaction where the... agency, only notice to the affiliated licensee delivered to the person intended to receive the... of a Broker. Notices by fax or e-mail to a Broker or the affiliated licensee of a Broker may only be sent to the e-mail address... Agreement or subsequently provided by the Broker or Broker/Licensee Contact Information section of... of communication not provided shall not be valid for any purpose herein. Notice to a Broker or the affiliated licensee by fax or email shall send an original copy of the notice if so requested by the other party. A faxed or emailed signature shall be deemed to be a signature.

**F. Notice to (Unrepresented Party).** A party who is not represented by a Broker in this transaction may receive notices by fax or e-mail address or fax number, if any, of the party set forth below or at such other fax number or e-mail address as the party may provide following the notice procedures set forth herein. If no e-mail address or fax number is provided, then notice through the means of communication not provided shall not be valid for any purpose herein.

Unrepresented Buyer:  
 Fax No. N/A  
 E-Mail Address: N/A

Unrepresented Seller:  
 Fax No. N/A  
 E-Mail Address: N/A

**19. Other Provisions.**

**A. Warranties Transfer:** Seller agrees to transfer to Buyer all existing manufacturer's warranties, service contracts, termite bond or treatment guarantee, and other warranties.

**B. Repairs:** All agreed upon repairs and workmanlike manner prior to closing. This Agreement constitutes the sole and entire agreement between the parties and shall be binding upon the parties. This Agreement may not be amended, modified or waived except by the written agreement of Seller. All the terms and conditions of this Agreement.

**F. Time of Essence:** Time is of the essence of this Agreement. All references to time shall mean the time in Georgia. Multiple counterparts each of which shall be deemed to be an original and shall be interpreted in accordance with the laws of the State of Georgia. If drafted in multiple counterparts, each of which shall be deemed to be an original and shall be interpreted less favorably against one party than another.

**G. Terminology:** As the context may require, the singular shall mean the plural and vice versa; and (2) all references to "parties" shall include the parties to which they relate.

**H. Binding Agreement Date:** The Binding Agreement Date shall be the date that the party representing this party) shall fill in the Binding Agreement Date below and promptly give notice of this date to the other party.

**I. Cooperate:** All parties agree to take all actions and do all things reasonably necessary to carry out the terms and conditions of this Agreement.

**J. GAR Forms:** This Georgia Association of REALTORS® (GAR) form is intended to be used in compliance with the writing by GAR. It is not required to be used in any transaction, may not be necessary, goals and purposes of the parties. Parties seeking legal advice should consult with their attorney. No sections removed, altered or modified unless the changes are visible on the form itself or in a stipulation, addendum, exhibit or amendment thereto.

**20. Exhibits and Addenda.** All exhibits and/or addenda attached hereto, listed below, are part of this Agreement. If any such exhibit or addendum conflicts with any preceding paragraph (including any changes thereto made by the parties), said exhibit or addendum shall control.

SPECIAL STIPULATIONS: The following Special Stipulations, if conflicting with any exhibit, addendum, or preceding paragraph (including any changes thereto made by the parties), shall control:

- Seller will provide one-year home warranty.
- Seller to provide a clear termite letter within 7 days of contract acceptance.
- Seller will provide refing

Attach here if additional Special Stipulations are arranged

This Offer shall be open for acceptance until 5 o'clock PM on the 10/10/07 day of October

Acceptance: This Offer is hereby accepted, without change, at \_\_\_\_\_ o'clock \_\_\_\_\_ m. on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_

Buyer's Signature  
Pamela Barnes  
Print or Type Name

Seller's Signature  
\_\_\_\_\_  
Print or Type Name

Buyer's Signature  
\_\_\_\_\_  
Print or Type Name

Seller's Signature  
\_\_\_\_\_  
Print or Type Name

Selling Broker  
Bethel Turner + Jensen

Listing Broker  
Mal R...

By: Robert Anthony III  
Print or Type Name

By: Gary Mills  
Broker or Broker's Affiliated Licensee  
Print or Type Name

MLS Office Code H-5 4425  
Brokerage Firm License Number

MLS Office Code \_\_\_\_\_  
Brokerage Firm License Number \_\_\_\_\_

Multiple Listing Number 02269713

Licensee Contact Information:

Phone# 770-92-6394  
Fax# 770-629-2078  
E-Mail robertanthonyiii@aol.com  
322534

Listing Broker/Licensee Contact Information:

Phone# \_\_\_\_\_  
Fax# \_\_\_\_\_  
E-Mail \_\_\_\_\_

Listing Agent's Georgia Real Estate License Number \_\_\_\_\_

Listing Agent's Georgia Real Estate License Number \_\_\_\_\_

The Binding Agreement Date in this transaction is the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_ and has been filed in by \_\_\_\_\_