

**UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF ALABAMA
EASTERN DIVISION**

In re:	*	
JAMES MICHAEL GARRISON	*	Case No. 18-41820-JJR11
***-** -2936	*	
Debtor.	*	Chapter 11

DEBTOR'S MOTION FOR APPROVAL TO SELL REAL PROPERTY

COMES NOW the Debtor JAMES MICHAEL GARRISON and moves this Court, pursuant to 11 U.S.C. §363, for an order authorizing him to sell certain real property, to-wit: Debtor's marital home located at 447 Copeland Drive, Boaz, Alabama. In support, the Debtor shows:

1. The Debtor filed a petition for relief under Chapter 11 of Title 11, U.S. Code, on October 26, 2018.
2. No Trustee has been appointed in this case.
3. The Debtor and his estranged spouse have entered into an agreement with Charles Douglas and Brenda Douglas for the purchase of Debtor's marital home located at 447 Copeland Drive, Boaz, Alabama for \$179,000.00. A copy of the Purchase Agreement is attached hereto and incorporated herein by reference.
4. The property is subject to a mortgage in favor of Alabama Power Credit Union, with a scheduled debt of \$132,354.78. No claim has been filed. The property is also subject to a one-half ownership interest of Debtor's estranged spouse.
5. This is an arms-length transaction between the Debtor and purchasers.
6. All liens, mortgages, or other interests shall attach to the proceeds of the sale.
7. This sale is not in the ordinary course of Debtor's business.

WHEREFORE, the Debtor moves the Court to approve this motion authorizing the Debtor to sell Debtor's marital home located at 447 Copeland Drive, Boaz, Alabama, and to use the proceeds to pay the balance owed to Alabama Power Credit Union and his estranged spouse's one-half interest. The net proceeds to Debtor shall be deposited into Debtor's plan account. Debtor prays for such other relief to which he may be entitled.

This 7th day of December, 2018.

/s/ Tameria S. Driskill
Attorney for Debtor
P.O. Box 8505
Gadsden, AL 35902
(256) 546-5591

CERTIFICATE OF SERVICE

I certify that I have served a copy of the foregoing on the Debtor and all creditors and parties in interest listed on the mailing matrix attached hereto, and on purchasers Charles Douglas and Brenda Douglas, 145 Stardust Drive, Boaz, AL 35956, by placing the same in the U.S. mail, postage prepaid and properly addressed; on Hon. Robert J. Landry, III, Assistant US Bankruptcy Administrator, at Robert_landry@alnb.uscourts.gov; Hon. James Cameron, attorney for The Southern Bank Company, Peoples Independent Bank and Liberty Bank, at james@jmcgville.com; Hannah Gilbert, Paralegal-Bankruptcy, Stearns Bank Equipment Finance Division, at HannahG@stearnsbank.com; and Hon. Jeffrey L. Cook, attorney for Redstone Federal Credit Union, at jcook7117@yahoo.com; Hon. Shannon Millican, counsel for Debtor, at shannonmillican@gmail.com; and Hon. John Robertson, counsel for Sandra Garrison, at jrobertson@srlawfirm.concastbiz.net; by electronic mail; and on Alabama Power Credit Union, c/o Derrick E. Ragland, Jr., its President & CEO, 750 17th Street North, Birmingham, AL 35203, by certified mail (7018 0360 0000 0853 2043).

This 7th day of December, 2018.

/s/ Tameria S. Driskill

PURCHASE AGREEMENT

Marshall County Board of REALTORS®

Purchaser [name or names exactly as title is to be held]: Charles Douglas and Brenda Douglas			
Seller [list names of all owners who presently hold title]: Janie Garrison and Sandra Garrison			
Property: Street Address <u>447 Copeland Drive</u>			
City <u>Boaz</u>	County <u>Etowah</u>	State <u>Al</u>	Zip <u>35956</u>
Lot _____	Block _____	Subdivision <u>Motes and Bounds</u>	Addition _____
Legal Description: <u>Parcel ID 01055-04-03-07-0-001-232.002</u>			

This Purchase Agreement is entered into between the undersigned Purchaser named above (whether one or more, hereinafter collectively called Purchaser) who agrees to purchase, and the undersigned Seller named above (whether one or more, hereinafter collectively called Seller) who agrees to sell and convey the above-described real estate together with all improvements, including but not limited to those items described in paragraph 5 below (hereinafter called the Property), on the following terms and conditions:

1. **PURCHASE PRICE:**

The Total Purchase Price shall be.....	\$ <u>179,000.00</u>
Earnest Money, receipt of which is hereby acknowledged.....	\$ <u>500.00</u>
Or check <input type="checkbox"/> if Purchaser will pay no later than _____	date
All parties to the contract acknowledge that earnest money will be deposited into the Trust Account referred to in Paragraph 11 below upon acceptance of contract.	
This contract is contingent upon Purchaser obtaining approval of a (i.e. Conventional, USRDA, FHA, VA) <u>VA</u> loan (excluding any financed closing cost) in the amount\$ _____	
or check <input type="checkbox"/> if Purchaser will pay cash with no financing contingency]	
Balance of down payment due from Purchaser at closing (cash or certified funds)	\$ _____

If a financed transaction, Purchaser agrees to apply for a loan within 5 business days (5 days if not specified) after Binding Agreement Date and to make a diligent and good faith effort to obtain approval. Within 10 business days (5 days if not specified) after Binding Agreement Date, Purchaser shall provide to Seller or Seller's Real Estate Licensee a conditional commitment letter from Purchaser's lender (hereinafter called Lender).

SELLER INITIALS:
SD

REVISED MAY 2017

PURCHASER INITIALS
CD BD

FOR USE ONLY BY MEMBERS OF MARSHALL COUNTY BOARD OF REALTORS

2. SETTLEMENT CHARGES:

(a) Purchaser's Loan Fees and Closing Costs: Purchaser's loan closing cost, prepaid items, escrows, loan origination charges, loan discount fees and funding fees, PMI, MIP, VA funding fees, and any costs for inspections, title examination, settlement fees, or other expense or cost associated with the closing (hereinafter called Settlement Charges) are to be paid by Purchaser unless specifically provided otherwise.

(b) Seller Contribution: Seller agrees to pay or otherwise contribute up to \$6,000.00 toward Purchaser's total Settlement Charges including those costs Purchaser is not allowed to pay under FHA/VA/Conventional requirements, but exclusive of direct Seller costs (i.e., deed preparation expense, pro-rated property taxes, commissions, payoff expenses, costs to cure defects in title, etc.). However, if VA or FHA financing, notwithstanding anything above to the contrary, Seller's contribution shall not be less than the total of those closing costs which Purchaser is not allowed to pay. Seller's obligation to pay or reimburse Purchaser for any loan closing cost or Settlement Charge is contingent upon successful closing and transfer of deed.

(c) Survey: *It is recommended that whenever title is passed a new survey be obtained which meets the current standards of the Alabama Society of Professional Land Surveyors.* The Marshall County Board of Realtors advises that, without a survey, neither the quantity of land conveyed nor the locations of land lines can be known with certainty. No Real Estate Licensee makes or has made any representations about the quantity of land conveyed or the location of land lines, building set-back lines, or easements. If Lender, title insurance company, or attorney requires survey, or if Purchaser requests a new survey, the cost of such is considered a Settlement Charge. Seller may supply a previous survey in lieu of a new survey, provided that it reflects all existing improvements and is acceptable to Purchaser. If a survey discloses any issue which significantly reduces the value or practical use of the Property, for five (5) days from delivery to Purchaser of the survey, Purchaser shall have the option of: (i) accepting the Property in its present condition; or (ii) requesting in writing for Seller to correct the specific condition, in which case, if an agreement concerning the survey issue is not made between Purchaser and Seller within three (3) days of notice to Seller, Purchaser may cancel this Purchase Agreement and Purchaser is to receive a full refund of Earnest Money. Purchaser requires a survey: Yes No.

(d) Conveyance: Seller will convey to Purchaser by General Warranty Deed insuring good and merchantable title free from any and all encumbrances except current ad valorem taxes, recorded restrictions, easements of record, applicable zoning restrictions, mining and mineral rights, any liens or encumbrances assumed or incurred in this transaction, and such state of facts as would be disclosed by an accurate survey of the Property.

(e) Title Insurance / Examination: An owner's title insurance policy (and binder, if required) will be furnished at closing as part of this contract. The premium for the owner's title policy, the simultaneous issue fee for a lender title policy, if applicable, and binder fee will be paid by Purchaser.

(f) Closing & Possession:

(i) The sale shall be closed and the deed delivered on or before the Closing Date of December 10, 2018 except that Seller shall have a reasonable time within which to perfect title or cure defects in the title to the Property.

(ii) Possession is to be given on or before upon closing NOTE: If Purchaser is given possession prior to closing, or if Seller is to remain in the property after closing, it is recommended that the parties enter into an Occupancy Agreement or Agreement for Retention of Possession.

3. FINANCING:

(a) FHA Loan: If FHA financing is used, any FHA Disclosures Addendum which may be attached hereto is incorporated herewith and made a part of this agreement.

(b) VA Loan: If VA financing is used, it is expressly agreed that notwithstanding any other provisions of this contract, Purchaser shall not incur any penalty by forfeiture of Earnest Money or otherwise be obligated to complete the purchase of the Property if the contract purchase price exceeds the reasonable value of the Property established by the Veterans Administration. Purchaser shall, however, have the privilege and option of proceeding with the consummation of the contract without regard to the amount of the reasonable value established by the Veterans Administration.

(c) Conventional Loan: If Conventional financing is used, Purchaser acknowledges that any appraisal required by Lender is used by Lender to determine the maximum mortgage amount and does not warrant the value or condition of the Property.

SELLER INITIALS:
SR

REVISED MAY 2017

PURCHASER INITIALS
CR

FOR USE ONLY BY MEMBERS OF MARSHALL COUNTY BOARD OF REALTORS

(d) Appraisal Contingency: Should the value determined by an appraisal commissioned by Lender be less than the Purchase Price, Purchaser shall have five (5) days from the date said appraisal is submitted to Lender to give the Seller notice that Purchaser elects to cancel this agreement, upon which notice the contract shall be void and Purchaser shall be entitled to full return of Earnest Money.

4. CONDITION OF PROPERTY AND INSPECTIONS:

(a) Appliances and Systems: Seller agrees to deliver all built-in appliances, heating, cooling, electrical, gas, and plumbing systems in normal operating condition when title is passed or possession is given, whichever occurs first. It is Purchaser's responsibility to make any inspection Purchaser deems necessary prior to occupancy or closing.

(b) Utilities Remain On: It is Seller's responsibility to have the utilities turned on if they have been turned off and to maintain utilities through the date of closing or transfer of possession, whichever is sooner. If utilities are turned on for inspection purposes, Seller and Purchaser hold Real Estate Licensees harmless from any damages or injury caused therefrom.

(c) EPA/HUD Lead-Based Paint Contingency for Pre-1978 Construction Only: 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 at Purchaser's expense until 9 p.m. on the [] calendar day (no more than 10 days) after acceptance of this contract by all parties (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*). This contingency will terminate at the above predetermined deadline unless Purchaser or Purchaser's Real Estate Licensee delivers to Seller or Seller's Real Estate Licensee a written contract addendum listing the specific existing deficiencies, and corrections needed, together with a copy of the inspection and/or risk assessment report. Seller may, at Seller's option, within [] calendar days (5 days if not otherwise specified) after delivery of the report, elect in writing whether to correct the condition(s) prior to closing. If Seller will correct the condition(s), Seller will furnish Purchaser with certification from a risk assessor or inspector demonstrating that the condition has been remedied before the date of closing period. If Seller elects not to make repairs, or if Seller makes a counter offer, Purchaser will have [] calendar days (5 days if not otherwise specified) to respond to the counter offer, or remove this contingency and take the property "as is" concerning lead-based paint, or this contract will become void. Purchaser may remove this contingency at any time without cause.

N/A

If Pre-1978 construction, the EPA/HUD Seller's Disclosure is required by Federal law to be attached to this contract and is made a part thereof.

Purchaser hereby removes this contingency: Date _____ Purchaser Initials _____

Purchaser acknowledges receipt of the EPA/HUD pamphlet "Protect Your Family From Lead in Your Home"

Purchaser acknowledges that receipt: Date _____ Purchaser Initials _____

(d) Official Alabama Wood Infestation Inspection Report:

(i) Purchaser will obtain an *Official Alabama Wood Infestation Inspection Report (AWIIR)* from a licensed pest control company. That Report is to be presented to the closing attorney, the Real Estate Licensee for Seller, and Lender (if applicable) no less than five (5) business days prior to closing date.

(ii) Treatment of active infestation and correction of damage are to be made by Seller unless otherwise mutually agreed by all parties. If Seller refuses to treat or otherwise correct, Purchaser may elect to cancel this contract and receive a full refund of the Earnest Money. Follow-up inspections are the responsibility of Purchaser.

(iii) If new construction, a soil treatment statement shall be provided by Seller from a State licensed pest control company in lieu of a Report, unless a Report is required by Lender.

(e) Septic / Sewer System: Seller represents that the residential structure located at the Property is connected to sewer and all impact and connection fees have been paid, or is not connected to a sewer system. If not on sewer, Seller represents that the structure is is not connected to a septic tank system. If Purchaser or Lender requires a sewer or septic inspection, the fee for that inspection shall be paid by Purchaser.

(f) Additional Property Inspections: Purchaser does does not require property inspections other than those in 4(a), (b), (c) and (d) above. Purchaser agrees to indemnify Seller and all Real Estate Licensees for the acts of himself, Purchaser's inspectors

SELLER INITIALS:

SH

PURCHASER INITIALS

CD

FOR USE ONLY BY MEMBERS OF MARSHALL COUNTY BOARD OF REALTORS

and/or representatives in exercising Purchaser's rights under this provision, which obligations to indemnify shall also survive the termination of this agreement by either party. Purchaser acknowledges that a professional property inspection is recommended. Any inspection shall be done at Purchaser's expense, and shall be subject to the following time and notification provisions.

(i) Inspections are to be completed within seven (7) days of the Binding Agreement Date. In the event that an inspection identifies any item for repair, Purchaser shall transmit a complete copy of the inspection report to Seller within three (3) days of completion of that report. For purposes of this provision, an inspection shall be done to identify Major Defects and/or Hazardous Conditions. A Major Defect is a defect that threatens the structural integrity or significantly shortens the life or denies the intended use of a substantial portion of the Property. A Hazardous Condition is one that threatens health and safety. Conditions that meet current government guidelines are not considered hazardous. Neither are conditions that meet local building codes in effect at the time of construction or modification unless such codes have been changed to require a retroactive correction. If the inspection reveals a Major Defect or Hazardous Condition, Purchaser shall have the option of: (1) accepting the Property in its present condition; or (2) requesting in writing that Seller to correct the defect or condition, in which case Seller must respond in writing within three (3) days of receipt of that request. If an agreement is not made between Purchaser and Seller, either may cancel this Purchase Agreement and Purchaser is to receive a full refund of Earnest Money. Notwithstanding anything to the contrary, and unless specifically designated in Additional Provisions below, all inspections must be conducted by a licensed home inspector. The closing and sale will constitute acknowledgment by Purchaser that the Property was acceptable at time of closing, with the exception of any repairs agreed to in writing by Purchaser and Seller which shall survive the closing.

(ii) Purchaser recognizes that the Property, if a resale Property, is not new construction, and normal wear and tear is to be expected (for example, cracks in tile and counter-tops, mildew and housekeeping items such as filters, light bulbs, painting and cleaning are considered normal wear and tear and are not subject to repair unless otherwise noted herein).

(iii) Neither Seller nor any Real Estate Licensee makes any representation or warranties regarding the condition of the Property except to the extent expressly set forth herein. Purchaser has the obligation to determine any and all conditions of the property material to Purchaser's decision to buy the Property, including, but not limited to: the condition of the heating, cooling, electrical, gas, and plumbing systems, and any built-in appliances; the condition of roof and basement, including leaks therein; the age, size or area of the Property, construction materials, including floors; structural conditions; utility and sewer or septic tank availability or condition; subsurface conditions including radon and other potentially hazardous materials and/or gases; flood insurance requirements; present or previous pest and termite infestations; fungus, mold, mildew and other similar conditions; wetlands or the presence of threatened or endangered species or its habitat; any noise exposures; restrictive covenants, if any; applicable school or fire districts; use zoning, if any; character of the neighborhood; and any Matters referred to in paragraph 6 below.

(g) Final Inspection: Purchaser and/or Purchaser's inspectors/representatives shall have the right to conduct a final inspection of the Property prior to closing to confirm the Property is in compliance with 4(a) of this Agreement, and that the Property is in substantially the same or better condition as it was on the Binding Agreement Date, normal wear and tear excepted, and to determine that all agreed upon repairs/replacements have been completed. Closing of this sale constitutes acceptance of the Property in its condition as of the time of closing, unless otherwise noted in writing.

(h) Expenses: Seller and Purchaser authorize Real Estate Licensees, in the event such party may choose to do so, to order any reports or inspections required by Lender or Purchaser including, but not limited to an AWIIR, septic inspection, structural report, and survey. Seller and Purchaser agree to hold harmless and waive any action against Real Estate Licensee from any error or omission in the findings of those inspections, and for the selection, if any, of inspection providers. Seller and Purchaser acknowledge that in the event this contract is cancelled or not closed, any fees paid are non-refundable. Except as specifically provided herein, any expenses incurred by Real Estate Licensee on behalf of Seller or Purchaser shall be reimbursed to Real Estate Licensee by the party benefitting from this expense. Unless otherwise agreed herein, any reports or inspections required by Lender shall be at Purchaser's expense.

(i) Disclosure of Findings: Seller and Purchaser authorize Real Estate Licensees and Lender to have access to all reports, comments, findings, and inspections performed according to this contract, and to disclose, on an as needed basis, such information to any other party and Lender.

(j) Debris: Seller is to leave the house, garage, outbuildings and yard reasonably clean and free of debris.

(k) Seller Warranty: Seller warrants that Seller has received no notification from any lawful authority regarding any assessments, pending public improvements, repairs, replacements or alterations of the Property that have not been satisfactorily made.

SELLER INITIALS:


PURCHASER INITIALS


FOR USE ONLY BY MEMBERS OF MARSHALL COUNTY BOARD OF REALTORS

5. **SYSTEMS, EQUIPMENT AND APPURTENANCES:**

The following items are included in this sale, if present: all heating and cooling equipment; water heaters; door bells; mantels; light fixtures and bulbs; ceiling fans including fan remote controls; storm doors; garage door openers and remote controls; all permanently installed or built-in kitchen appliances; fire/smoke/gas detectors; framed bathroom mirrors and permanently attached plate glass mirrors; all bathroom fixtures; window treatments and hardware; all wall-to-wall carpet; all gas logs, fireplace doors and attached screens; all security system components and controls; hot tub, swimming pool and its equipment; outdoor water features, awnings, and permanently installed outdoor cooking grills; Seller owned propane tanks and any propane fuel owned by Seller contained in a tank on the Property; all landscaping and all outdoor lighting, both wired and solar; mail boxes; attached basketball goals and backboards; TV antennae and Seller owned satellite dishes (excluding components); central vacuum systems and attachments; fences; and detached storage sheds or other outbuildings. There shall be no substitutions or replacements of any of the above without the express written agreement of the parties. Items which do not belong to Seller, such as leased security systems, satellite system, water softener systems, fuel tank, etc., do not convey and are not a part of this contract. However, any personal property left by Seller on the Property after possession has been given shall be considered to have no value and shall become the personal property of Purchaser, unless, prior to possession, a written agreement to the contrary has been signed by both parties.

Purchaser initials CD AD

Seller initials JP

6. **DISCLAIMER:** Seller and Purchaser acknowledge that they have not relied upon any advice or representations of any Real Estate Licensee involved in this sale relative to the following or any inspection or assessment thereof: (a) the legal or tax consequences of this contract and the sale, purchase, or ownership of the property; (b) the structural condition of the Property, including the roof and basement; (c) the quality of workmanship and construction materials; (d) the nature and operating condition of the electrical, heating, air conditioning, plumbing and water systems and appliances; (e) the age and square footage of the improvements; (f) the size or area of the Property, including the location of boundary lines and the presence of encroachments, if any; (g) the availability of utilities or sewer service; (h) the character of the neighborhood; (i) the roof and basement, including any leaks therein; (j) synthetic stucco or other exterior siding materials; (k) defective or otherwise harmful drywall or other building materials; (l) the existence of asbestos, radon or other hazardous or potentially hazardous gases; (m) toxic mold or other toxic materials; (n) utility and sewer or septic system condition including existence, location, availability, adequacy, capacity and function thereof; (o) subsurface or subsoil conditions, mining or other soil conditions; (p) structural integrity; (q) existence of or damage from wood destroying insects, fungus or vermin; (r) Property access, easements, covenants, restrictions, developments or proposed or future developments; (s) noise exposures; (t) wetlands, or the presence of threatened or endangered species or its habitat; (u) flood insurance requirements; (v) the investment or resale value of the Property; (w) zoning or other use regulations which may affect intended uses of the Property; (x) Megan's Law; (y) school districts or fire districts; and (z) any other matter affecting their willingness to sell or purchase the Property on the terms and price herein set forth (referred to as Matters). Both Seller and Purchaser acknowledge that if such Matters are of concern to them in the decision to sell or purchase the Property, they have sought and obtained independent advice relative thereto.

Neither the Listing Company or Selling Company, nor any of their officers, directors, employees, brokers, agents and sales associates (all herein referred to as Real Estate Licensees) shall be held responsible or liable for any obligations or agreements that Purchaser or Seller have to one another and shall not be held responsible for any representation or the passing of any information to or from the Purchaser or Seller. Further, the Purchaser and Seller release and discharge those parties from any claims, demands, damages, actions, causes of action or suit at law arising from the purchase and sale of the Property, or in any way related to any of the Matters referred to in paragraph 6.

Purchaser initials CD AD

Seller initials JP

7. **HOME WARRANTY:** Subject to any limitations, exclusions and deductibles applicable, Purchaser requires a one-year Home Warranty Policy: Yes No to be paid by: Purchaser Seller at a cost not to exceed: \$. This cost is in addition to, and not considered a part of, Total Settlement Charges.

SELLER INITIALS: JP

PURCHASER INITIALS: CD AD

FOR USE ONLY BY MEMBERS OF MARSHALL COUNTY BOARD OF REALTORS

8. **PRORATION:** All taxes, any association dues/fees, and any rents will be prorated as of the consummation of the sale. The tax proration will be based upon information obtained from the county Tax Assessor/Collector or Revenue Commissioner's office. Any changes in such assessment after closing will be adjusted accordingly between Seller and Purchaser.

9. **RISK OF LOSS:** Seller agrees to keep in force sufficient hazard insurance on the property to protect all interests until the sale is closed and the deed delivered. If the Property is destroyed or materially damaged between the date of this agreement and the closing, and Seller is unable or unwilling to restore it to its previous condition prior to closing, Purchaser will have the option of canceling this contract and receive back the Earnest Money, or accepting the Property in its then condition. If Purchaser elects to accept the property in its damaged condition, any insurance proceeds otherwise payable to Seller by reason of such damage will be applied to the balance of the Purchase Price or otherwise be payable to Purchaser.

10. **TIME & TERMINOLOGY:** Time is of the Essence relative to this Agreement. As either being in the state of an "Offer" or "Counter-Offer", the Offeree has 72 hours (72 hours if not otherwise specified) after notification to communicate Offeree's answer, after which time the "Offer / Counter-Offer" shall be, at the option of the Offeror "Void". Nothing in the preceding sentence shall prevent the Seller from accepting an offer from any third party at any time until an Offer or Counter-Offer from the parties hereto is accepted and becomes a Binding Agreement. All Counter-Offer shall be attached hereto, signed and dated in the form of an Addendum to and shall become a part of this Agreement, or alternatively, must be written hereon and include the date and initials of the party submitting. For the purposes of this contract: (a) the term "day" as used throughout this Agreement shall be deemed to be a business day ending at 11:59 p.m. local time at the location of the Property unless otherwise specified in this Agreement, and (b) Saturday, Sunday, New Years Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day and Christmas Day are not business days and shall not be counted. In the event a performance deadline occurs on a Saturday, Sunday or holiday enumerated above the performance deadline shall be extended to the next following business day. In calculating any time period under this Agreement, the commencement day shall be the day following the initial day (e.g. Binding Agreement Date).

11. **TRUST ACCOUNT:** Seller and Purchaser hereby direct the Listing Company (Holder) to hold the Earnest Money in trust pending fulfillment of this contract. It is understood that the Holder: (a) is not a party to this contract and does not assume any liability for performance or non-performance of any signatory, and (b) must require from all signatories a written release of liability of the Holder which authorizes the release of the Earnest Money. In the event a dispute arises between the parties to this contract as to which shall be entitled to said Earnest Money, the Holder may, in its sole discretion, interplead the Earnest Money into the proper court, and in so doing shall be entitled to deduct from the Earnest Money for court costs, attorney's fee, and other expenses relating to the interpleader. The prevailing party in any interpleader action shall be entitled to collect from the other party the court costs, attorney's fees and other expenses of the interpleader which shall be paid to the prevailing party. 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 Purchaser and Seller. Purchaser shall have two (2) business days after notice to deliver good funds to Holder. In the event Purchaser does not timely deliver good funds within that time, Purchaser will be in default and Seller may cancel the contract by notice to Purchaser. In any proceedings under this paragraph, the right to trial by jury is waived.

12. **DEFAULT:** Should either Seller or Purchaser fail to carry out the terms of this contract in accordance with all its provisions, an aggrieved party shall have the option to do one of the following:

- (a) File a proceeding in a Court of competent jurisdiction provided (i) the proceedings are non-jury and **THE RIGHT TO TRIAL BY JURY IS WAIVED**, (ii) the amount in controversy (excluding funds held as Earnest Money) does not exceed \$3,000.00 and (iii) no Real Estate Licensee is a party, except as a stake holder of Earnest Money; or,
- (b) Reaffirm the contract and proceed through binding arbitration under paragraph 13 for the recovery of damages and/or for specific performance. The damages in either instance may include any costs incurred by the non-breaching party, including reasonable attorney's fees.

13. **ALTERNATIVE DISPUTE RESOLUTION AGREEMENT BY BINDING ARBITRATION:** In connection with the purchase and sale of the Property, except for those disputes described in Paragraph 11, Purchaser and Seller mutually covenant, stipulate and agree in connection with the resolution of any dispute or controversy arising out of or relating to this agreement or concerning the Property, or the breach, termination, or validity thereof, as follows: (a) the transaction contemplated in this agreement directly involves interstate commerce; (b) the transaction has been and will continue to be regulated by the laws of the United States of America; and (c) the contract(s) entered into by the parties concerning this property evidence transactions involving and affecting interstate commerce. The undersigned agree: (a) all disputes not barred by applicable statutes of limitations or otherwise barred by

SELLER INITIALS:

JK

PURCHASER INITIALS:

ED

FOR USE ONLY BY MEMBERS OF MARSHALL COUNTY BOARD OF REALTORS

law, resulting from or arising out of this agreement; (b) that all disputes arising from circumstances included herein as Matters; and (c) all equitable claims and remedies, including specific performance and rescission, are to be arbitrated and that Purchaser and Seller agree to submit such disputes to BINDING ARBITRATION, pursuant to the provisions of 9 U.S.C. Section 1, et seq. and according to the Commercial Rules of the American Arbitration Association then existing in the County where the Property is located, and shall be decided by an arbitrator recognized by the Alabama Center for Dispute Resolution and pursuant to the rules of American Arbitration Association or, if agreed by both parties, some other recognized body and pursuant to the rules of American Arbitration Association. The prepaid arbitration filing fees and all other prepaid costs of the arbitration proceeding shall be paid by the party seeking to invoke arbitration, with the assignment of those costs to be divided between the parties as the arbitrator sees fit in setting the Arbitration Award. Damages may include reasonable attorney's fees. It is agreed that it is the intent of the parties that the Arbitrator's Award is to be final and binding, and judgment upon the award rendered by the arbitration may be entered in any court having jurisdiction thereof. This Alternative Dispute Resolution Agreement shall specifically exclude those disputes provided for in paragraph 11 and shall further specifically exclude those disputes as defined in paragraph 12(a); however, it is mutually agreed, covenanted, and stipulated that the right to a trial by jury is hereby waived. EXCEPT AS SPECIFICALLY PROVIDED HEREIN, THIS ARBITRATION SHALL BE IN LIEU OF ANY CIVIL LITIGATION IN ANY COURT, AND IN LIEU OF ANY TRIAL BY JURY.

14. **ELECTRONIC SIGNATURES:** Faxed or other electronically transmitted documents with signatures shall serve as originals and be binding on all parties.

15. **ENTIRE AGREEMENT:** This contract constitutes the entire agreement between Seller and Purchaser regarding the Property and supersedes all prior discussions, negotiations and agreements between Seller and Purchaser whether oral or written. Neither Seller, Purchaser, nor any Real Estate Licensee shall be bound by any understanding, agreement, promise, or representation concerning the property, expressed or implied, not specified herein. All terms, conditions, and warranties not performed at the time of delivery of deed shall survive such delivery.

16. **ADDITIONAL PROVISIONS:**

Contract is contingent on buyers satisfaction of home inspection
Contract is contingent on seller replacing HVAC unit with a new gas unit adequate for the square footage of the house.
Contract is contingent on the sale of buyers house at 145 Steadfast Lane #1 35956, which is under contract and scheduled to close Oct. 31, 2018.

17. **AGENCY DISCLOSURE:**

The Listing Company is: Remax Guntersville

(Two blocks may be checked)
 An agent of the Seller An agent of the Buyer
 An agent of both Seller and Buyer, and is acting as a limited consensual dual agent
 Assisting the Buyer as a transaction broker
 Assisting the Seller as a transaction broker

SELLER INITIALS:
SE

PURCHASER INITIALS
MS

FOR USE ONLY BY MEMBERS OF MARSHALL COUNTY BOARD OF REALTORS

The Selling Company is: Remax Guntersville

(Two blocks may be checked)

- An agent of the Seller An agent of the Buyer
- An agent of both Seller and Buyer, and is acting as a limited consensual dual agent
- Assisting the Buyer as a transaction broker
- Assisting the Seller as a transaction broker

Receipt of the Real Estate Brokerage Services Disclosure form is acknowledged.

Purchaser Initials CD PD Seller Initials SG

Purchaser hereby makes this offer.

Charles Douglas
PURCHASER

Brenda Douglas
PURCHASER

Clyde Korman
Witness

Clyde Korman
Witness

Date: 10/20 2018 at 12:00 o'clock am/pm

Seller hereby

- A. Initials SG COUNTERS -- accepts this offer subject to the attached Counter Offer.
- B. Initials _____ REJECTS this offer and makes no counter offer.
- C. Signs below and hereby ACCEPTS this offer.

Do not sign below unless offer is being accepted

James Harris
SELLER

SELLER

Witness

Witness

Date: _____ 20 _____ at _____ o'clock am/pm

Binding Agreement Date. This instrument shall become a "Binding Agreement" on the date ("Binding Agreement Date") the last offeror or Real Estate Licensee of offeror receives notice of offeree's acceptance. It includes pages of Addenda, Notice of acceptance of the final offer was provided.

_____ at _____ by _____
Binding Agreement Date Time Name

SELLER INITIALS:

PURCHASER INITIALS
CD PD

FOR USE ONLY BY MEMBERS OF MARSHALL COUNTY BOARD OF REALTORS

Listing Company (Broker) Remax Guntersville ID# 84100
 Salesperson (Broker or Agent) Signature _____ ID# _____
 Print Name Chuck Crawford Phone _____

Selling Company (Broker) Remax Guntersville ID# 84100
 Salesperson (Broker or Agent) Signature Clifford Kennamer ID# 603742
 Print Name Clifford KENNAMER Phone 256-576-8103

SELLER INITIALS:

PURCHASER INITIALS
AK

FOR USE ONLY BY MEMBERS OF MARSHALL COUNTY BOARD OF REALTORS