

AGREEMENT TO BUY AND SELL REAL ESTATE

695 Fishermans Bend, Mt. Pleasant, SC 29464

1. PARTIES: This legally binding Agreement entered into on _____, 200____ between, Buyer(s), _____, (hereinafter called “**BUYER**”), and Seller(s), **Ralph A. and Juanita Peters**, (hereinafter called “**SELLER**”). The property shall be deeded in the name(s) of _____.
The property is being sold, “For Sale By Owner”.

2. PROPERTY TO BE SOLD: Subject to terms and conditions herein, Seller agrees to sell and Buyer agrees to buy the following described property with improvements and fixtures thereon:

Lot 85 Block A Section --- Subdivision **Hidden Cove**

Address: **695 Fishermans Bend**, Tax Map # 537 13 00 091 City: Mt. Pleasant Zip: 29464-8143

County of Charleston, State of **South Carolina**.

3. PURCHASE PRICE shall be \$ _____ Dollars.

4. METHOD OF PAYMENT: Purchase price shall be paid as follows: [] Cash; or [] Subject to Financing. Financing to be obtained by [] Conventional [] Other terms: _____

5. EARNEST MONEY: This offer is accompanied by an earnest money deposit of \$ _____. Buyer and Seller authorize (Seller to identify at signing), as Escrow Agent/Closing Attorney, to deposit, hold and disburse earnest money according to the terms of this agreement. Earnest money paid by [] Cash, [] Check, or [] Other. Upon acceptance of this agreement by both parties, all earnest money received by owner shall be transferred to Escrow agent and deposited as required by South Carolina law. At the consummation of the sale, the earnest money deposit shall be credited to the Buyer.

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

6. LOAN PROCESSING AND APPLICATION: Buyer’s obligation under this agreement is contingent on Buyer obtaining said loan. Buyer shall apply for a maximum _____% loan (loan-to-value ratio) within _____ consecutive days from the execution of this Agreement and shall provide Seller with written satisfactory loan approval within _____ consecutive days that contains no credit, income, or asset conditions, unless otherwise set forth in this agreement. **Time is of the essence.** Should the Buyer fail to make loan application or receive approval within said period, and to diligently pursue the application, the Seller shall have the option to terminate this Agreement, with written notice. Buyer will take any action that is needed or requested by lender to process the loan application. Buyer further hereby gives permission to Lender to disclose pertinent information concerning the Buyer’s credit-worthiness or any other information needed for the loan processing to the Seller. If Buyer fails to comply with these above contingencies, Buyer shall be in default of this agreement subject to the terms of paragraph 17.

7. CLOSING COSTS: Unless otherwise agreed, closing costs, including all loan charges and prepaid recurring items, shall be paid as follows:

(a) **SELLER** shall provide or pay for preparation of deed, any recording charge based on value of property, and all costs necessary to deliver a marketable title, including recording of satisfactions and property taxes to the day of closing.

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(b) **BUYER** shall pay, unless otherwise agreed herein, the cost of the Buyer's credit report, property insurance, appraisal, survey, cost of obtaining loan, discount points, title examination, escrow deposits, and prepaid expenses. The Buyer shall also pay, if applicable, interim interest and mortgage insurance premium or VA funding fee. Buyer's hazard insurance policy shall provide coverage as required by lender. Other terms: _____

8. **OPTION TO TERMINATE AFTER DUE DILIGENCE:** (A) Seller grants to Buyer a 10 day right ("Termination Right") from the date of this agreement during which Buyer may do any or all of the following: Conduct at Buyer's sole expense whatever due diligence, inspections, examinations, surveys and testing, if any, Buyer deems appropriate to evaluate the suitability of Property for Buyer's intended use, including, but not limited to, zoning, governmental regulations, environmental concerns, and availability of utilities (hereinafter collectively referred to as "Buyer's Due Diligence").
- (B) Seller acknowledges and agrees that Buyer and/or his agents and employees may have free access during normal business hours to visit Property for the purpose of conducting Buyer's Due Diligence. Buyer hereby agrees to indemnify and hold Seller, harmless from and against any and all loss, injury, cost or expense associated with Buyer's inspection of and entry upon Property.
- (C) If Buyer decides to exercise Buyer's right to terminate this Agreement, Buyer must give notice of the same to Seller prior to the expiration of the Termination Right. If Buyer fails to give such notice timely, the Termination Right shall automatically expire and shall no longer be a part of this agreement, and Buyer shall be deemed to have accepted Property "as-is". The expiration of the Termination Right shall not, however, remove or terminate any other contingencies to which the Agreement may be subject, or limit any other rights which Buyer may have under this Agreement.

9. **SURVEY:** The Seller shall provide to the Buyer, a copy of the most recently prepared plat plan and shall clearly identify the location of all property boundary markers. If desired, the property may be surveyed by a licensed surveyor at the expense of the Buyer.

10. **CONVEYANCE SHALL BE MADE:** Conveyance shall be made subject to all easements as well as covenants of record and to all governmental statues, ordinances, rules and regulations. Seller agrees to convey by marketable title and deliver a proper general warranty deed, free of encumbrances, except as herein stated. Seller agrees to pay all statuary deed recording fees. The deed shall be delivered at the stipulated place of closing, and transaction closed on or before _____, 200____, no later than 9:00 p.m. **Time is of the essence.** Seller and Buyer authorize their respective attorneys and/or the settlement agent to furnish to Buyer and Seller, copies of the final HUD-1 settlement statement for the transaction for their review prior to closing.

11. **POSSESSION:** Possession of said property will be given to Buyer on the day of closing. Seller agrees to deliver property free of debris and in a swept clean condition. Possession by Buyer before closing or by Seller after closing shall be subject to the terms and conditions of a separate agreement to be executed prior to closing or occupancy.

12. CONDITION OF PROPERTY:

(A) **DISCLAIMER:** With the exception that the Seller shall provide a "Nationwide 'Full System' Home Warranty" for a period of 12 months from the date of closing, as outlined in Paragraph 21. Homeowner Warranty, the property is sold in an as-is condition and no other guarantee or warranty of any kind is expressed or implied. The Buyer acknowledges that the Seller gives no other guarantee or warranty of any kind, expressed or implied as to the physical condition of the property, or of the conditions or existence of improvements, services, appliances or systems serving the property or as to merchantability or to the fitness for a particular purpose as to the property or improvements thereon, and any expressed or implied, warranty is hereby disclaimed by the Seller.

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(B) **INSPECTION:** Buyer, at Buyer's expense, shall have the privilege and responsibility of inspecting: the structure; square footage; environmental concerns, including but not limited to hazardous waste, wetland study, and radon gas; appurtenant structures; heating and air conditioning; electrical and plumbing systems as well as built-in or appurtenant equipment and appliances. By 12 noon, within 10 days after both parties sign this Agreement, Buyer shall notify Seller in writing of any deficiencies revealed by inspection. If Buyer fails to notify Seller on or before day stipulated, Buyer shall be deemed to have waived the privilege of any inspections. On or before closing and subject to the limitations of paragraph D, Seller shall repair any deficiencies revealed by inspections, except that cosmetic deficiencies that do not materially effect integrity, operation or function of the property are excluded.

(C) **WOOD INFESTATION REPORT:** The Seller shall obtain and disclose a current Official Wood Infestation Report (CL-100) from a licensed pest control operator, on or before closing. Buyer acknowledges that such report specifically excludes hidden areas and areas not readily accessible. The inspection for fungi and fungi damage commonly called water damaged wood, rot or decay is limited to the ground level portion of the building. The Wood Infestation Report will cover residential dwelling and attached garage only. The Seller makes no warranties with regard to matter covered by such report or any other improvements unless specifically stated in this agreement. Should the wood infestation report reveal the presence of, or damage by termites or other wood destroying organisms, Seller shall remedy such deficiencies and shall furnish Buyer with a report of a qualified inspector(s) (builder, plumber, pest control operator, etc.) that property is free from infestation or damage herein mentioned or that infestation or damage has been treated and/or repaired as appropriate in a workmanlike manner on or before closing.

(D) **COSTS:** The costs of all repairs including but not limited to those required by contract, CL100, Buyer inspections, lender or underwriter to be paid by Seller shall not exceed \$5,000. If said repairs exceed the agreed amount, and if Seller refuses to pay any sum in excess, the Buyer may elect one of the following options: (1) Either void this agreement (in which case, Buyer's earnest monies shall be returned to Buyer, and neither party shall have any further rights hereunder), or (2) Accept the Seller's repairs up to the agreed amount if acceptable to lender and/or underwriting institution. In such case Buyer agrees to accept the property with any remaining deficiencies without recourse against Seller.

(E) **REPAIRS:** Seller and Buyer agree that all work performed in accordance with this contract shall be done in a workmanlike manner on or before date of closing.

(F) **MAINTENANCE:** Seller agrees to maintain the property, including lawn, shrubbery and grounds, until the day of closing or possession, whichever comes first. Unless otherwise agreed herein, Seller shall deliver the premises with no broken windowpanes, no torn or missing window screens, and with no mission or broken hardware, lighting or plumbing fixtures. After any inspection by Buyer and after repairs, if any, made as a result of such inspection, the Seller agrees to maintain the heating, air conditioning, plumbing and electrical systems as well as built-in or appurtenant equipment and appliances to be conveyed in operative condition normal wear and tear excepted, until the day of closing or possession, whichever occurs first. Buyer has the privilege and responsibility to verify that the property has been maintained.

13. **EXPIRATION OF OFFER:** The offer from Buyer shall be withdrawn at _____ o'clock __M on _____, 200__ unless countered or accepted by Seller in written form prior to such time.

Time is of the essence.

14. **SPECIAL STIPULATIONS:** The following stipulations apply and if conflicting with other printed matter, the following stipulations shall control: (See addendum if applicable) The property is intended for single family residence only. All covenants and restrictions of the Hidden Cove Property Owners Association apply to this property. The private dock to Hobcaw Creek is a permitted structure by the state of SC. Marsh does not convey.

15. **ADJUSTMENTS:** The Seller shall pay all applicable assessments chargeable to this property up until the time of closing. Taxes and other annual assessments, including homeowner's association dues,

[____] BUYER [____] BUYER [____] SELLER [____] SELLER HAVE READ THIS PAGE 3 OF 6

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shall be adjusted as of the date of closing. Tax proration pursuant to this Agreement are to be based on the tax information available on the date of closing and are to be prorated on that basis. **BUYER IS RESPONSIBLE FOR APPLYING FOR ANY APPLICABLE TAX EXEMPTIONS, i.e. HOMESTEAD EXEMPTION, AGE EXEMPTION, ETC.** Proration of annual expenses of the property shall be apportioned to the date of closing based on 365 days. Prorations at closing shall be final.

16. **RISK OF LOSS OR DAMAGE** to property by fire or other casualty until actual closing shall be the responsibility of the Seller. In such case, Seller shall have the option of restoring property to its present condition within 30 days after herein specified closing date, with date of closing and possession to be extended accordingly. If property is not restored within said period, either party shall have the right to terminate this contract by written notice to the other. In such case, both parties shall execute a written release of the other from this contract, and the Seller shall pay the Actual cost incurred to the Buyer.

17. **DEFAULT:** If Buyer or Seller fails to perform any covenant of this Agreement, the other may elect to seek any remedy provided by law, including but not limited to attorney fees and actual costs incurred (as defined in paragraph 18), or terminate this Agreement with a five day written notice. If terminated, both parties shall execute a written release of the other from this contract and both shall agree to hold the Escrow Agent harmless. If either Buyer or Seller refuses to execute release, Escrow Agent will hold the earnest money in trust until said releases are executed or until a court of competent jurisdiction dictates legal disposition.

18. **ACTUAL COST INCURRED** shall include all costs and expenses incurred or obligated for by Buyer or Seller in an effort to consummate this sale. Such costs shall include, but are not limited to, cost of credit report, appraisal, survey, inspections and reports, title examination, and Seller's cost of marketing the property as well as costs associated with vacating the property prior to closing.

19. **SURVEY, TITLE EXAMINATION, AND INSURANCE:** Although Seller represents that there are no defects in the title of the property known to him, Real Estate common practice recommends that Buyer take all reasonable precautions with regards to the purchase of this property, including having a survey of the subject property made, have examination as to the title to the property, obtain owner's title insurance, and obtain appropriate hazard and flood insurance coverage effective with the time of closing. All Seller's hazard and Flood insurance to be canceled and new policies furnished by Buyer at closing unless otherwise stipulated in this Agreement. Flood insurance, if required by Lender, at Buyer's Option, may be assigned to Buyer with permission of carrier, and premium prorated to date of closing.

20. APPRAISED VALUE: (check one)

This agreement is not contingent on the lot or parcel with building and improvements thereon appraising, according to the Lender's appraisal or other appraisal as agreed, for the selling price.

This agreement is contingent on the lot or parcel with building and improvements thereon, if any, appraising, according to the lender's appraisal or other appraisal as agreed, for the selling price or more; if the lot or parcel with building and improvements thereon appraises for less than the selling price, the seller may elect to sell for the appraised value. In such case, the Buyer agrees to proceed with the consummation of this sale at the reduced price. The Seller shall have the right to contest an initial appraised value less than the selling price and provide evidence to the appraiser for an increase in value of the property above the initial appraisal or to obtain a second appraisal at Seller's expense. However, if any revised or additional appraisal is still less than the selling price and the Seller does not agree to sell at the appraised value, the Buyer shall have the option of proceeding with the consummation of the Agreement without regard to the amount of the appraised valuation, or terminate the Agreement without penalty.

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21. **HOMEOWNER WARRANTY:** The Seller represents that there are no known undisclosed defects in the property with the exception of visible normal wear and tear. The seller shall provide to the Buyer at closing, a "Nationwide 'Full System' Home Warranty" covering all major systems of the home, for a period of 12 months from date of closing.

22. **MEDIATION CLAUSE:** Any dispute or claim arising out of or relating to this Agreement, the breach of this Agreement or the services provided in relation to this Agreement, shall be submitted to mediation in accordance with the Rules and Procedures of the Dispute Resolution System of the NATIONAL ASSOCIATION OF REALTORS. Disputes shall include representations made by Buyer, Seller or any other person or entity in connection with the sale, purchase, financing, condition or other aspect of the property to which this Agreement pertains, including without limitation, allegations of concealment, misrepresentation, negligence and/or fraud.

Any agreement signed by the parties pursuant to the mediation conference shall be binding. This mediation clause shall survive for a period of 120 days after the date of the closing.

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

23. **ENTIRE BINDING AGREEMENT:** This written instrument, including the additional terms and conditions set forth in the Sellers' Disclosure statement or on any documents intended by the parties to be included, expresses the entire agreement and all promises, covenants, and warranties between the Buyer and Seller. It can be changed only by a subsequently written instrument signed by both parties. The benefits and obligations shall inure to and bind the parties hereto and their heirs, assigns, successors, executors, or administrators. Whenever used, singular includes plural, and use of any gender shall include all.

24. **SURVIVAL:** If any provision herein contained which by its nature and effect is required to be observed, kept or performed after the closing, it shall survive the closing and remain binding upon and for the benefit of the parties hereto until fully observed, kept or performed.

25. **FACSIMILE AND OTHER ELECTRONIC MEANS:** The parties agree that the offer, any counteroffer and/or acceptance of any offer or counteroffer may be communicated by use of a fax or other secure electronic means, including but not limited to electronic mail and the internet, and the signatures, initials and handwritten or typewritten modifications to any of the foregoing shall be deemed to be valid and binding upon the parties as if the original signatures, initials and handwritten or typewritten modifications were present on the documents in the handwriting of each party.

26. **EXTENSION AGREEMENT:** If the transaction has not closed within the stipulated time limit because a contingency has not been satisfied through no fault of either party, then both parties agree to extend this agreement for a period not to exceed 30 consecutive days from the original closing date. Closing shall occur within this time extension, but in no event shall closing occur later than the above extension date without a subsequent agreement. **Time is of the essence.**

27. **MEGAN'S LAW:** The Buyer and Seller agree that the Buyer has the sole responsibility to obtain any desired information contained in the South Carolina Sex Offender Registry. Sex offender Registry information may be obtained from the local sheriff's department or other appropriate law enforcement officials or from the Internet.

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28. **NON-RELIANCE CLAUSE:** Both the Buyer and Seller hereby agree that they have not received or relied upon any statement by the other party that is not expressly stipulated herein. If not contained herein, or some other written agreement, such statements, representations, promises, or agreements shall be of no force or effect. This general non-reliance clause shall not prevent recovery in tort for fraud or negligent misrepresentation or intentional misrepresentation. This is a non-reliance clause and is neither a merger clause nor an extension of a merger clause. The parties execute this agreement freely and voluntarily without reliance upon any statements or representations by parties or agents except as set forth herein. Parties have fully read and understand this Agreement and the meaning of its provisions. Parties are legally competent to enter into this agreement and to fully accept responsibility. Parties have been advised to consult with counsel before entering into this agreement and have had the opportunity to do so.

29. **ENCUMBRANCES AND RESTRICTIONS:** Seller shall convey marketable title to Buyer, in fee simple, free from all liens. Buyer agrees to accept property subject to : (1) existing zoning and governmental restrictions; (2) Owner Association restrictive covenants and easements of record, provided they do not materially affect present use of said property.

30. **CONTINGENCIES:** These stipulations shall preempt printed matter herein: (attach and reference addendum if necessary) _____

THIS IS A LEGALLY BINDING AGREEMENT. BOTH BUYER AND SELLER SHALL SEEK FURTHER ASSISTANCE IF THE CONTENTS ARE NOT UNDERSTOOD. BOTH BUYER AND SELLER ACKNOWLEDGE RECEIPT OF A COPY OF THIS AGREEMENT.

IN WITNESS WHEREOF, this Agreement has been dully executed by the parties

BUYER: _____ **Date** _____ **Time** _____

WITNESS: _____ **Date** _____ **Time** _____

BUYER: _____ **Date** _____ **Time** _____

WITNESS: _____ **Date** _____ **Time** _____

SELLER: _____ **Date** _____ **Time** _____

WITNESS: _____ **Date** _____ **Time** _____

SELLER: _____ **Date** _____ **Time** _____

WITNESS: _____ **Date** _____ **Time** _____

I _____ **have received earnest money in the amount of \$** _____

ESCROW AGENT ACKNOWLEDGMENT _____ **Date** _____

Escrow Agent/ Closing Attorney Name: _____

Address: _____

telephone #: _____

email Address: _____