

## New Home Sales Agreement

Montgomery Heritage  
Homes, Inc.

1. In accordance with the terms of this Agreement, \_\_\_\_\_ (hereinafter called "Seller"), agrees to sell to purchase from Seller the following real property and improvements currently constructed or to be constructed thereon, situated in Prattville, Alabama, (hereinafter called the "Property"):

Lot \_\_\_\_\_, Block \_\_\_\_\_, according to the Plat of The Oaks of Buena Vista as recorded, also, known by the street address as \_\_\_\_\_ Prattville, Alabama.

Home Plan No. \_\_\_\_\_, and/or name \_\_\_\_\_

2. The PURCHASE PRICE of the subject property to be paid by Buyer to Seller is \$ \_\_\_\_\_, which shall be payable as follows: \$ \_\_\_\_\_ earnest money, which Buyer has this day deposited with Seller. Said earnest money may be held by Seller in interest bearing or non interest bearing accounts and may be held separately or commingled with other funds of Seller and Seller shall be entitled to receive any interest on said deposited funds, until the closing or until the funds are otherwise refunded or forfeited, as the case may be, in accordance with the provisions hereof. Buyer shall pay the balance of the purchase price to Seller in cash at closing.

3. FINANCING - Buyer agrees:

A. To apply for an FHA, VA, or Conv. loan \_\_\_\_\_ within three working days from the date hereof for a permanent loan in the amount of \$ \_\_\_\_\_. **Seller to pay closing costs up to \$ 2,500. Purchaser to pay prepaids and any closing cost, including origination fee, in excess of \$ 2,500.**

B. To provide Lender, within (7) days thereafter, all information required by Lender in connection with Buyer's Loan application. If Buyer complies with the requirements of subsections (A) and (B) above, and Buyer's loan has not been approved by the Lender within (30) days from the date of loan application, this agreement shall terminate at option of Seller or Seller may grant Buyer an extension of time to complete loan approval. If seller opts to terminate this Agreement either at the end of the original term set out above the end of any extension term granted to Buyer, Buyer shall receive a refund of all earnest money paid to Seller, upon the execution of a release of both parties from this Agreement. Should Buyer fail to comply with the terms of Subsections (A) and (B) above, or if Buyer does not use his, her, or their best efforts to obtain financing in accordance with said subparagraphs, then in that event seller may terminate this Agreement and retain the earnest money previously paid as liquidated damages at Seller's option or Seller may choose to pursue any other remedies available to seller at law or in equity including specific performance or seeking damages for breach of contract.

C. If this is a CASH SALE, with Buyer's purchase not contingent upon outside financing, then prior to the commencement of the constructions, Buyer agrees to provide evidence, satisfactory to Seller, that the balance of the purchase price will be available to Buyer for payment to Seller at closing.

4. IF A FINANCED SALE AND THE PURCHASE'S LOAN IS FHA - "It is expressly agreed that notwithstanding any other provisions of this contract, the purchaser shall not be obligated to complete the purchase of the property described herein or to incur any penalty by forfeiture of earnest money deposits or otherwise unless the mortgage has delivered to the purchaser a written statement insured by the Federal Housing Commissioner or a Direct Endorsement Lender setting forth the appraised value of the property (excluding closing costs) of not less than \$ \_\_\_\_\_ which statement the mortgagee hereby agrees to deliver to the purchaser promptly after such appraised value statement is made available to the mortgagee. The purchaser shall, however, have the privilege and option of proceeding with consummation of the contract without regard to the amount of the appraised valuation. The appraised valuation is arrived at to determine the maximum mortgage the Department of Housing and Urban Development will insure. HUD does not warrant the value or the condition of the property. The purchaser should satisfy himself/herself that the price and condition of the property are acceptable."

5. SELLER is under no obligation to make any CHANGES, ADDITIONS OR ALTERATIONS to Seller's plans and specifications for the residence constructed or to be constructed upon the subject property. Seller may elect to make changes, additions or alterations to the property, upon request of Buyer, but shall not in any event do so until the parties have executed a written change order, which shall become part of this contract, and until Lender has approved such changes, additions or alterations, and Seller has received payment for the additional labor and materials required. Any change after plans are complete and decorator sheets are signed will be \$50.00 plus cost of the change. **ALL COSTS FOR CHANGES AND EXTRAS WILL BE PAID ON THE DATE THE CHANGE ORDER IS SIGNED.** Buyer and Seller to approve final set of plans, prior to beginning construction and sign same.

6. ALLOWANCES - Seller may allow Buyer to select some or all of the interior DECORATING ITEMS to be incorporated into the improvements. Such items may include light fixtures, vinyl floor coverings, carpet, hardware and appliances (hereinafter called "decorating items"); for which Seller shall establish allowances. Buyer shall make such selections within seven (7) working days of the request of Seller's decorator. If the costs of decorating items chosen by Buyer exceeds the allowances established therefore by Seller, Buyer shall pay such excess costs, or such deposit as Seller may require, immediately upon making such selections. Buyer shall pay the balance of the amount of such excess expenditures at the closing of this transaction.

7. DEED ABSTRACT OF TITLE, RESTRICTIONS AND EASEMENTS - At closing Seller shall furnish Buyer an abstract of title disclosing a good and merchantable title and at CLOSING Seller shall convey the property to Buyer by Warranty Deed subject to all usual restrictions, easements, reservations or zoning ordinances to which the property may be subjected and/or which are common to the subdivision or addition in which are common to the subdivision or addition in which the property is situated, which shall not prevent the merchantability of the title.

8. TIME OF CLOSING - The sale and sale closing contemplated hereunder shall be consummated within ten (10) days after completion of construction and final inspection. Said sale and sale closing shall be as soon as possible after the start of construction subject to paragraphs 14, 15 and 16 hereof.

9. This agreement contains all of the REPRESENTATIONS, WARRANTIES, GUARANTEES AND PROMISES of Seller. No agent or representative of Seller is authorized to make any representation or promise on behalf of Seller other than those contained herein. With this purchase, and at the time of closing, Buyer will receive a written 2-10 HOME BUYER'S WARRANTY which will be in lieu of any other written warranties and in lieu of any implied warranties. A specimen of said 2-10 HOME BUYER'S WARRANTY is available for Buyer's review at Seller's office, at any time. Individual mechanical items and appliances may have a separate manufacturer's warranty and in such event Buyer will receive same and will be fully entitled to the benefits thereof. Seller makes no other warranties or guarantees, either express or implied. Furthermore, the express written 2-10 HOME BUYER'S WARRANTY of Seller shall be of no force and effect unless and until (i) Seller has received payment in full of the purchase price stated above or (ii) and Seller has executed a move-in agreement, whichin first occurs.

10. WAIVER OF WARRANTIES AND CLAIMS. THE BUYER AGREES THAT THE LIMITED WARRANTY AGREEMENT IS GIVEN IN LIEU OF ANY AND ALL OTHER WARRANTIES, EXPRESSED OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, ANY IMPLIED WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, HABITABILITY AND WORKMANSHIP, IS ALSO IN LIEU OF ANY CLAIMS FOR CONSEQUENTIAL DAMAGES, MENTAL ANGUISH OR DISTRESS, AND FOR DAMAGES BASED UPON NEGLIGENCE, FRAUD OR MISREPRESENTATION, AND THE BUYER HEREBY EXPRESSLY WAIVES AND DISCLAIMS ANY SUCH WARRANTIES AND CLAIMS WITH RESPECT TO BOTH THE DWELLING AND THE PROPERTY.

Buyer's Initials \_\_\_\_\_

11. DEFAULT - If buyer fails, in any respect, to comply herewith, other than as provided in paragraph 3 above, Seller may terminate this Agreement and retain the earnest money as liquidated damages, or, at the option of Seller, Seller may proceed for specific performance or in the alternative, Seller may sue by or for Seller's actual damage incurred due to Buyer's breach. If seller fails to comply herewith for any reason, Buyer may demand the earnest money thereby releasing Seller from this contract, as Buyer's sole and exclusive remedy. The parties agree that Seller shall have earned, for services performed at the request of Buyer, any amounts received by Seller from Buyer for cash extras, change items or allowance items when Seller initiates work with respect to such cash extras, change items or allowance items. Therefore, if buyer fails to close for any reason other than the default of Seller, then (whether or not Seller is required to return to Buyer the earnest money) Seller shall be entitled to retain as reasonable compensation for services performed, any amounts received by Seller for cash extras, change items or allowance items which have been initiated, installed or included to, on or in property. In the event that Seller defaults, the Seller shall return to Buyer the earnest money and any amounts received by Seller for cash extras, change items or allowance items.

12. PRORATIONS - taxes for the year of closing shall be prorated to the date of closing.

13. NOTICES - Any notice required to be delivered thereunder shall be deemed received when sent by United States postage prepaid, certified mail, return receipt requested and properly addressed to the respective party to be notified.

14. DAMAGE OR DESTRUCTION OF IMPROVEMENTS - should all or any portion of the improvements constructed on the property be damaged or destroyed prior to closing by fire, windstorm, hail, explosion or other casualty, Seller may at its sole option, elect to terminate this Agreement upon written notice to Buyer, in which event seller shall immediately refund all sums therefore paid by buyer, including sums paid for change items or allowances items. If seller options to complete the contract, then construction must be completed within 120 days after the event causing damage or destruction.

15. OTHER TERMS AND PROVISIONS

16. DELAY OF CONSTRUCTION - Seller shall use its best efforts to complete construction of the improvements prior to the closing date. However, if Seller is delayed at any time in the progress of construction because of unavailability of materials, inclement weather, strikes, changes in governmental regulations, acts of governmental agencies or their agents or employees, acts of God, any of the causes listed in paragraph 14. above, or Buyer's failure or refusal to make decorator selections, or other delays caused by fault of the buyer, then Seller may, in its sole option, extend the closing for a period equal to the time of such delays.

17. HOMEOWNERS ASSOCIATION ASSESSMENTS - HOA assessment shall be \$ \_\_\_\_\_ per year and is due and payable annually. It shall be prorated as of closing.

18. PLAT RESTRICTIONS - Buyer is being furnished with a copy of the plat restrictions and acknowledges receiving plat restrictions with this purchase agreement.

19. INSULATION

- A. Exterior walls of all living areas will be insulated with fiberglass batt to a thickness of 3 ½ inches, which according to the manufacturer will yield an R-Value of 11.
- B. Attic over living areas is insulated with blown and/or batt fiberglass to a thickness of 12 inches, which according to the manufacturer will yield an R-Value of 30.

20. REAL ESTATE CONSUMER'S AGENCY AND DISCLOSURE ACT (RECAD)

The listing company, Prudential Ballard is:  
\_\_\_\_\_ An Agent of the Seller.

\_\_\_\_\_ An Agent of the Seller and Buyer and is acting as a Limited Consensual Dual Agent.

Assisting the:

\_\_\_\_\_ Buyer as a Transaction broker

\_\_\_\_\_ Seller as a Transaction Broker

The Selling Company is \_\_\_\_\_ and is:

\_\_\_\_\_ An Agent of the seller

\_\_\_\_\_ An Agent of the Buyer

Assisting the

\_\_\_\_\_ Buyer as a Transaction Broker

\_\_\_\_\_ Seller as a Transaction Broker

Seller's initials \_\_\_\_\_ Purchaser's initials \_\_\_\_\_

19. EFFECTIVENESS AND EFFECTIVE DATE - This Agreement is of no force and effect and shall not be binding upon Seller until executed by Seller. The effective date of this Agreement shall be the date it is executed as indicated in the space provided below.

20. ENTIRE AGREEMENT - This Agreement constitutes the entire agreement of the parties and it may not be changed except by written agreement duly executed by the parties hereto and appropriately dated. All parties to this Agreement acknowledge that they have read all provisions in this Agreement and agree to be bound by same.

This Agreement made and entered into on this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_

\_\_\_\_\_  
Buyer (Full Name)

Seller

\_\_\_\_\_  
Buyer (Full Name)

By:

\_\_\_\_\_  
Buyer Address

(Sellers are licensed Real Estate Brokers with the State of Alabama Real Estate Commission.)

\_\_\_\_\_  
Sales Representative

DATE OF ACCEPTANCE BY ALL PARTIES \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_

Buyer's Phone Numbers: \_\_\_\_\_ Home \_\_\_\_\_ Cell \_\_\_\_\_