

# SNOWDEN PLACE

A PRIVATE, GATED RESIDENTIAL COMMUNITY

## PURCHASE AND SALE AGREEMENT

AGENCY DISCLOSURE:      SELLER(S) INITIALS \_\_\_\_\_      BUYER(S) INITIALS \_\_\_\_\_

The listing company \_\_\_\_\_ is: (Two blocks may be checked)

- An agent of the seller.
- An agent of the buyer.
- An agent of both the seller and the buyer and is acting as a limited consensual dual agent.
- Assisting the  Buyer(s)  Seller(s) as a transaction broker.

The selling company \_\_\_\_\_ is: (Two blocks may be checked)

- An agent of the seller.
- An agent of the buyer.
- An agent of both the seller and the buyer and is acting as a limited consensual dual agent.
- Assisting the  Buyer(s)  Seller(s) as a transaction broker.

BUYER(S) ADDRESS: \_\_\_\_\_

HOME PHONE: \_\_\_\_\_ WORK PHONE: \_\_\_\_\_ CELL PHONE: \_\_\_\_\_

SELLER: PAPILLON ENTERPRISES, LLC, 6420 WALL STREET, MOBILE, ALABAMA 36695

SNOWDEN PLACE SUBDIVISION, MOBILE, ALABAMA: PHASE # \_\_\_\_\_ Lot # \_\_\_\_\_ PLAN NAME \_\_\_\_\_

TOTAL PURCHASE PRICE: \$ \_\_\_\_\_ EARNEST MONEY DEPOSIT: \$5,000.00

1. **Purchase and Sale.** Seller shall sell to Buyer, and Buyer shall purchase from Seller, the lot in Snowden Place Subdivision (the "Lot") as described above together with the improvements identified above (the "Dwelling") constructed or to be constructed thereon pursuant to the home plan named above (the "Plans and Specifications") in accordance with the attached construction agreement ("Dwelling Construction Agreement"). (The Lot and Dwelling are, collectively, the "Property").

2. **Sales Price.** The total sales price for the Property is in the amount as set forth above (subject to price changes for the Dwelling as provided in the Dwelling Construction Agreement) (the "Purchase Price"). Within Ten (10) days after the execution of this Purchase and Sale Agreement, Buyer shall provide evidence satisfactory to Seller that Buyer has cash and/or a binding commitment for financing from a reputable lender to enable Buyer to pay the full Purchase Price plus Buyer's closing costs at the Closing. If Buyer shall fail to provide such satisfactory evidence to Seller within such time period, Seller shall have the right to terminate this Purchase and Sale Agreement, and the Deposit shall be returned to Buyer.

3. **Payment of Purchase Price.** The Purchase Price shall be paid as follows:

(a) **Earnest Money Deposit.** Buyer shall deposit the amount as set forth above (the "Earnest Money Deposit") with RELS Title, 1101 Hillcrest Road, Suite 100, Mobile, Alabama (the "Escrow Agent"), to be held until Closing in a federally insured, non-interest bearing account, and which shall be applied to the Purchase Price at the Closing.

(b) **Remainder.** The remaining amount of the Purchase Price, and any other amounts which are due as set forth in the Dwelling Construction Agreement, shall be paid at Closing.

4. **Closing.** The Closing shall be held at the office of the Escrow Agent on such a date as the parties may hereafter agree, but in no event later than Five (5) days after the issuance of a Certificate of Occupancy by the City of Mobile for the Property as set forth in the Dwelling Construction Agreement (the "Closing Date").

5. **Title.** At the Closing, Seller shall convey good, insurable and marketable title to Buyer by statutory warranty deed, subject only to the following:

(a) The Declaration of Rights, Covenants, Restrictions, Affirmative Obligations and Conditions Applicable to Snowden Place, a Residential Subdivision, a true copy of which has been provided to Buyer prior to the execution of this Agreement, by which each owner of a lot in the Subdivision becomes a member of the Snowden Place Property Owner's Association, Inc.

(b) Any utility service agreements or easements and mineral reservations of record;

(c) Ad valorem taxes for the year in which the Closing occurs.

At Seller's expense, Seller shall deliver an owner's policy of title insurance to Buyer at the Closing in the amount of the Purchase Price, insuring Buyer's title subject to the matters set forth above.

6. **Closing Costs: Prorations.** Seller shall pay for preparation of the deed, an owner's policy of title insurance, Seller's attorney's fees and satisfaction of Seller's mortgage. Buyer shall pay for recording the deed and documentary stamps thereon and all costs incurred by Buyer in financing the purchase, including a mortgagee's policy of title insurance and survey, if required. Real estate taxes and governmental assessments against the Property for the year of Closing shall be prorated as of the Closing based on actual tax assessment of the Property. In the event the Property has not been assessed as a separate lot as of the Closing Date, there shall be no tax proration.

7. **Possession.** Possession of the Property shall be delivered to Buyer at the Closing.

8. **Default.**

(a) **By Buyer.** Should Buyer fail to close this transaction, or fail to perform any of Buyer’s other obligations hereunder, time being of the essence of this Purchase and Sale Agreement, Seller may either (i) terminate this Purchase and Sale Agreement by notice to the Buyer and the Agent, whereupon Buyer’s deposit shall be paid to Seller as liquidated, agreed damages (and not as a penalty) for Buyer’s default, and the parties shall have no further rights or obligations hereunder, or (ii) seek specific performance of Buyer’s obligations under this Purchase and Sale Agreement

(b) **By Seller.** Should Seller fail to close this transaction, or fail to perform any of Seller’s other obligations hereunder, time being of the essence of this Purchase and Sale Agreement, Buyer may either (i) terminate this Purchase and Sale Agreement by notice to Seller and the Agent, whereupon Buyer’s deposit shall be returned to Buyer, and the parties shall have no further rights or obligations hereunder, or (ii) seek specific performance of Seller’s obligations under this Purchase and Sale Agreement.

(c) **Costs and Attorney’s Fees.** In the event of a dispute under this Purchase and Sale Agreement, the prevailing party shall be entitled to receive its costs of enforcement, including reasonable attorney’s fees, whether or not suit is brought.

9. **Inspection of Lot.** Buyer hereby acknowledges that, prior to execution of this Purchase and Sale Agreement, Buyer has made an on-the-lot-inspection of the Lot being purchased hereunder. This Lot is restricted in use only for a single family dwelling.

10. **Notices.** Any notice to be given under this Agreement shall be in writing and delivered by hand or by first class United States mail to the parties at their respective addresses shown on the first page of this Purchase and Sale Agreement (or to such other address as they may hereafter direct in writing).

11. **Miscellaneous.**

(a) **Effect.** This Purchase and Sale Agreement contains the entire understanding of the parties, superseding any prior agreements (whether oral or written), and may only be amended by a writing of equal dignity. The provisions of this Purchase and Sale Agreement (i) are severable, so that the invalidity of any part will not affect the full enforceability of the remainder, and (ii) shall bind and inure to the benefit of the parties hereto, their respective heirs, personal representatives, successors and permitted assigns. Neither party may record this Purchase and Sale Agreement or any notice hereof.

(b) **Number, Gender.** The term “Buyer” shall be construed to include the plural as well as the singular, if two or more persons are named as Buyer on the first page of this Purchase and Sale Agreement, in which case their obligations hereunder shall be joint and several. The use of one gender in this Purchase and Sale Agreement shall be deemed to refer to the others, and the singular shall include the plural (and vice versa) wherever the context so requires.

12. **Buyer’s and Seller’s Right to Terminate.** THIS PURCHASE AND SALE AGREEMENT MAY BE TERMINATED BY BUYER WITHIN THREE (3) BUSINESS DAYS FROM THE DATE OF EXECUTION HEREOF BY BUYER. In the event that Buyer elects to terminate this Purchase and Sale Agreement as provided in this paragraph, all funds or other property paid by Buyer shall be refunded without penalty or obligation within twenty (20) days of receipt of the notice of termination by Seller. In the event a dispute develops between Buyer and Seller prior to Closing which the parties are unable to resolve, this contract may, at the option of Seller, be terminated, in which event the earnest money deposit shall be refunded in full to Buyer.

13. **Assignment.** Buyer may not assign Buyer’s rights under this Purchase and Sale Agreement without the prior written consent of Seller. Buyer acknowledges that Seller has the right to assign its interest in this Purchase and Sale Agreement and in fact Seller intends to assign its interest in the Purchase and Sale Agreement to Hons Builders, Inc., an Alabama corporation. Buyer agrees that at the time of such assignment Buyer will enter into a contract with Hons Builders, Inc., concerning construction of the Home, the form of which contract is attached hereto as Exhibit “A” (the “Dwelling Construction Agreement”). Upon such assignment by Seller to Hons Builders, Inc., Seller shall be released from all further liability to Buyer under this Purchase and Sale Agreement, and Buyer agrees that Buyer will look solely to Hons Builders, Inc., for the performance of Seller’s obligations hereunder.

14. **Agency Disclosure and Commissions.** Seller shall pay a sales commission, and any other fees, if required, pursuant to separate agreement(s). Except for the foregoing obligation, Buyer and Seller represent and warrant to each other that no other person or entity is entitled to a sales commission, or any other fees in connection with this sale other than as identified above, and each party shall indemnify and hold the other harmless from any and all claims and charges arising in connection therewith.

15. **Economic Considerations.** Buyer acknowledges that Seller has not made any representations or given any assurances concerning any tax consequences of ownership or resale of the Property or whether, or to what extent, economic benefit might be derived by Byer due to ownership or resale of the Property.

16. **Legal Counsel.** Buyer acknowledges and agrees that Seller had advised Buyer to seek its own legal counsel regarding examination of title and the transactions contemplated by this Purchase and Sale Agreement.

IN WITNESS WHEREOF, this Purchase and Sale Agreement has been executed as of the date(s) below written.

BY: \_\_\_\_\_  
PRINT BUYER NAME \_\_\_\_\_ DATE \_\_\_\_\_

WITNESS: \_\_\_\_\_  
PRINT WITNESS NAME: \_\_\_\_\_

BY: \_\_\_\_\_  
PRINT BUYER NAME \_\_\_\_\_ DATE \_\_\_\_\_

WITNESS: \_\_\_\_\_  
PRINT WITNESS NAME: \_\_\_\_\_

SELLER: PAPILLON ENTERPRISES, LLC.

BY: \_\_\_\_\_  
JAMES L. BUSBY, Its Managing Member DATE \_\_\_\_\_

WITNESS: \_\_\_\_\_  
PRINT WITNESS NAME: \_\_\_\_\_