

This Document is a SAMPLE of the Seller Addendum that will be provided to the buyer upon the final approval from the seller

ADDENDUM TO REAL ESTATE PURCHASE CONTRACT

REO #:
Property Address:

(the "Property")

This Addendum to Real Estate Purchase Contract ("Addendum") is made and entered into as of this day of ("Effective Date"), and is hereby made part of and incorporated into that certain Real Estate Purchase Contract dated (the "Contract") between ("Seller") and

and ("Buyer") pertaining to the Property. The Buyer acknowledges and agrees that the Contract and this Addendum shall together be referred to as the "Agreement".

This Addendum supplements and amends the Contract and supersedes any other provisions evidencing the agreements of the parties hereto, including, without limitation, the Contract, and shall survive the close of escrow. In the event there is any conflict between the terms and conditions contained in this Addendum and the terms and conditions contained in the Contract, the terms and conditions of this Addendum take precedence and shall prevail.

Seller and Buyer agree as follows:

- 1. Acknowledgement: The terms of the purchase and sale of the Property have been acknowledged and conditionally accepted by the Seller as of day of (hereinafter the "Acknowledgement Date").
2. Purchase Price: The purchase price shall be \$
3. Earnest Money Deposit: The Buyer's earnest money deposit of \$ in the form of certified funds along with the Agreement, signed by Buyer, must be received by the Seller or the Seller's listing agent within 72 hours of the Acknowledgement Date (the "Deposit Deadline").
4. Down Payment: The down payment to be a minimum of \$, % of the purchase price
5. Financing: The Agreement (check one) is is not contingent upon the Buyer obtaining financing for the purchase of the Property. If the Agreement is contingent upon financing, the type of financing shall be the following (check one):
Cash
Conventional
FHA
VA
Other (Specify): Don't have description of other
(a) The Buyer shall apply for a loan in the amount of \$ with a term of 40 years or less, at prevailing rates, terms and conditions.
(b) If the Agreement is contingent upon financing, the Buyer shall present proof, satisfactory to Seller, of the Buyer's full credit prequalification for a mortgage loan in an amount and under terms

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sufficient for the Buyer to perform its obligations under the Agreement. The prequalification shall include, without limitation, a certification of prequalification (or a mortgage loan commitment) from a direct mortgage lender and a satisfactory credit report. The Buyer's submission of proof of prequalification, satisfactory to Seller, is a condition precedent to the Seller's acceptance of the Agreement and failure of the Buyer to provide such proof before the Deposit Deadline shall render the Agreement null and void.

- (c) If the Agreement is not contingent on financing, Buyer shall provide Seller proof of liquid funds on deposit in the United States sufficient to close this transaction. Such proof shall be provided before the Deposit Deadline and will be subject to Seller's approval. The Property shall remain on the market until such proof of funds is accepted by Seller.
- (d) The Buyer is aware that the Purchase Price and terms of this transaction were negotiated on the basis of the type of financing selected by Buyer. Any change as to the loan type, terms or a change in the Buyer's lender after negotiations have been completed, without the written consent of the Seller, shall constitute a breach of the Agreement and render the Agreement null and void, and the Seller shall be entitled to retain the earnest money deposit.

6. **Seller Concessions/Repairs:**

- (a) The Seller agrees to pay up to \$ _____ towards Buyer's closing costs, which are defined as prepaid, non-recurring and non-allowable costs.
- (b) The Seller agrees to pay up to \$ _____ towards repairs on the Property. Any repair amount in excess of the stated amount shall be the sole responsibility of the Buyer.
- (c) Seller agrees to pay up to \$ _____ for the Termite Inspection and \$ _____ towards Section 1 charges listed on the termite/pest report. Any amount in excess of the stated amount shall be the sole responsibility of the Buyer.
- (d) Seller agrees to pay \$ _____ toward Home Warranty chosen by buyer

7. **Closing:**

- (a) The closing shall take place on or before _____ or within five (5) calendar days of final loan approval by the Buyer's lender, whichever is earlier (hereinafter referred to as the "**Closing Date**"), unless extended in writing signed by the Seller and the Buyer or extended by the Seller under the terms of the Agreement. The closing shall be held in the offices of the Seller's attorney or agent, or at a place so designated and approved by Seller, unless otherwise required by applicable law. If the closing does not occur by the Closing Date, the Agreement is automatically terminated and the Seller shall retain the earnest money deposit as liquidated damages.
- (b) In the event Buyer requests an extension of the Closing Date or of the deadline for the fulfillment of any contingency, and the Seller agrees to the extension, the Buyer agrees to pay to the Seller a per diem penalty of 100.00 per calendar day towards Seller's carrying costs, through and including the Closing Date specified in the written extension agreement. The per diem amount must be deposited with the closing agent at the time any request for extension is made. If the sale does not close by the Closing Date specified in the written extension agreement, the Seller may retain the earnest money deposit and the accrued per diem payment as liquidated damages.

8. **Additional Terms:**

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9. **Occupancy:** The Buyer (check one) **do** **does not** intent to use and occupy the property as Buyer's primary residence.

10. **Inspections:**

The Buyer hereby waives their right to inspections and agrees to accept the Property in its current As Is, Where Is condition, With All Faults

On or before ten (10) calendar days from the Acknowledgement Date,

- (a) The Buyer shall have both inspected the Property (or obtained for its own use, benefit and reliance, third party inspections and/or reports on the condition of the Property) and provided written notice to the Seller of any exceptions or objections observed by Buyer to the condition of the Property (hereinafter "**Exception Notice**"). Unless otherwise noted in Section 8 of this Addendum, the Buyer's failure to provide such Exception Notice to Seller within such ten (10)

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calendar day period shall be deemed a waiver by the Buyer of Buyer's right to inspect the Property, a waiver by the Buyer of any objections to the condition of the Property and acceptance by the Buyer of the condition of the Property AS IS, WHERE IS, WITH ALL FAULTS. The Buyer shall keep the Property free and clear of liens and indemnify and hold the Seller harmless from all liability claims, demands, damages, and costs related to the Buyer's inspection and the Buyer shall repair all damages arising from or caused by the inspections. The Buyer shall not directly or indirectly cause any inspections to be made by any government building or zoning inspectors or government employees without the prior written consent of the Seller, unless required by law, in which case, the Buyer shall provide reasonable notice to the Seller prior to any such inspection.

- (b) After submission of Buyer's Exception Notice to Seller, and upon Seller's request, the Buyer shall provide to the Seller complete copies of all inspection reports upon which the Buyer's Exception Notice is based. In no event shall the Seller be obligated to make any repairs or replacements that may be indicated in the Buyer's Exception Notice. The Seller may, at its sole discretion, make such repairs to the Property under the terms described in Section 11 of this Addendum. If the Seller elects not to repair the Property, the Buyer may cancel the Agreement and receive a refund of the earnest money deposit. If the Seller elects to make any such repairs to the Property, the Seller shall notify the Buyer after completion of the repairs and the Buyer shall have five (5) calendar days from the date of notice of completion to inspect the repairs and notify the Seller of any items disapproved. The Buyer's failure to notify Seller of any items disapproved shall be deemed acceptance of the repairs.
- (c) If the Property is a condominium or planned unit development or co-operative, unless otherwise required by law, the Buyer, at the Buyer's own expense, is responsible for obtaining and reviewing the covenants, conditions and restrictions and bylaws of the condominium or planned unit development or co-operative within five (5) calendar days after the Effective Date. The Seller agrees to use reasonable efforts, as determined at the Seller's sole discretion, to assist the Buyer in obtaining a copy of the covenants, conditions and restrictions and bylaws. The Buyer will be deemed to **have accepted the covenants, conditions and restrictions and bylaws if the Buyer does not notify the Seller in writing, within ten (10) calendar days of the Effective Date, of the Buyer's objection to the covenants, conditions and restrictions and/or bylaws.**

11. **Condition of Property: The Buyer understands and acknowledges that the Seller or an affiliated entity of the Seller acquired the Property by foreclosure, deed-in-lieu of foreclosure, forfeiture, tax sale, right of eminent domain or similar process and consequently, the Seller has no direct knowledge concerning the condition of the Property. As a material part of the consideration to be received by the Seller under the Agreement as negotiated and agreed to by the Buyer and the Seller, the Buyer acknowledges and agrees to accept the Property in "As Is, Where Is" condition, With All Faults at the time of closing, including, without limitation, any hidden defects or environmental conditions (including the presence of mold, which is more specifically addressed in Section 12 below) affecting the Property, whether known or unknown, whether such defects or conditions were discoverable through inspection or not.**

- (a) The Buyer acknowledges that the Seller, its agents and representatives have not made, and the Seller specifically negates and disclaims, any representations, warranties, promises, covenants, agreements, or guarantees, implied or express, oral or written, in respect to:
 - (i) The physical condition or any other aspect of the Property including the structural integrity or the quality or character of materials used in construction of any improvements, availability and quality or quantity of water, stability of the soil, susceptibility to landslide or flooding, sufficiency of drainage or any other matter affecting the stability, safety or integrity of the Property or improvements;
 - (ii) The conformity of the Property or the improvements to any environmental, zoning, land use or building code requirements or compliance with any laws, rules, ordinances or regulations of any federal, state or local governmental authority, or the granting of any required permits or approvals, if any, of any governmental bodies which had jurisdiction over the construction of the original structure, any improvements and/or remodeling of the structure; and
 - (iii) The habitability, marketability, profitability or fitness for a particular purpose of the Property or improvements, including defects, apparent or latent, which now exist or which may hereafter exist and which, if known to Buyer, would cause Buyer to refuse to purchase the Property.
- (b) In the event the Property is affected by an environmental hazard, as determined by the Seller, either party may terminate the Agreement. In the event the Seller decides to sell the Property to the Buyer and the Buyer agrees to purchase the Property, the Buyer agrees to execute an indemnity and hold harmless agreement at Closing, in a form acceptable to Seller. In the event the Buyer elects not to execute the disclosure and release, at the Seller's discretion, the Agreement is automatically terminated upon notice given to Buyer.

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- (c) In the event that Seller has received official notice that the Property is in violation of building codes or similar laws or regulations, the Seller may terminate the Agreement or delay the Closing Date or the Buyer may terminate the Agreement. In the event the Agreement is terminated by either Buyer or Seller pursuant to this Paragraph 11, any earnest money deposit will be returned to the Buyer. If there is an enforcement proceeding arising from allegations of such violations before an enforcement board, special master, court or similar enforcement body, and neither the Buyer nor the Seller terminate the Agreement, the Buyer agrees (a) to accept the Property subject to the violations, and (b) to be responsible for compliance with the applicable code and with orders issued in any code enforcement proceeding. Buyer agrees to execute any and all documents necessary or required for closing by an agency with jurisdiction over the Property. Buyer further agrees to indemnify the Seller from any and all claims or liability arising from the Buyer's breach of this paragraph 11 of this Addendum.
- (d) The Closing of this sale shall constitute acknowledgement by the Buyer that the condition of the Property is acceptable to the Buyer at that time. The Buyer agrees that Seller shall have no liability for any claims or losses the Buyer or the Buyer's successors or assigns may incur as a result of construction or other defects that may now or hereafter exist with respect to the Property.
- (e) The Seller is exempt from filing a disclosure statement as the Property was acquired through foreclosure, deed-in-lieu of foreclosure, forfeiture, tax sale, eminent domain, or similar process. For Alaska transactions, the Seller and the Buyer have previously executed a waiver of the disclosure provisions of Alaska statutes.

12. **Mold, Mildew or other Fungal Substances:**

- (a) Buyer acknowledges that Seller has no knowledge if the Property has been impacted by mold, mildew or other fungal substances. Buyer acknowledges and agrees that Seller has strongly encouraged Buyer to have the Property inspected and abated or remediated by a qualified mold remediation specialist to reduce the concentrations of mold or similar substances that might be present on or in the Property, prior to human or animal occupancy. Buyer hereby warrants and agrees that Buyer has had the opportunity to thoroughly inspect the Property, for the existence of mold, mildew or other fungal substances and has elected to purchase the Property, despite any mold contamination, relying solely upon Buyer's own inspection, examination and evaluation of the Property, and not on any information provided or to be provided by the Seller.
- (b) Buyer further acknowledges that Seller has strongly encouraged Buyer to consult with a physician regarding the potential adverse effects of mold exposure on human and animal health, particularly with respect to humans or animals whose health may be more likely to be adversely affected by mold due to their age, physical condition, allergies, medical condition, history or susceptibility.
- (c) Buyer hereby releases, quitclaims and forever discharges Seller, its officers, directors, employees, shareholders, servicers, representatives, agents, attorneys, tenants, brokers, successors or assigns who may be liable by or through them, from and against any and all present and future claims, losses or demands of any kind or character relating to the condition of the Property, including, but not limited to all present or future tort or other claims involving property damage or injuries to human health directly or indirectly attributed to or arising out of any mold or similar fungal substances impacting the Property. This release shall survive Closing.
- (d) Buyer agrees to defend, indemnify and hold harmless the Seller, its officers, directors, employees, shareholders, servicers, representatives, agents, attorneys, tenants, brokers, successors or assigns from and against any and all lawsuits, damages, claims, suits, proceedings, liabilities, costs and expenses (including without limitation, attorney's fees) which may be imposed on, sustained, incurred or suffered, or asserted, directly or indirectly, as a result or relating to or arising out of the breach of any representation or warranty or covenant or agreement of Buyer contained herein.

13. **Repairs:** All treatments for wood infesting organisms and other repairs will be completed by a vendor approved by the Seller, and will be subject to the Seller's satisfaction only. If the Seller has agreed to pay for treatment of wood infesting organisms, the Seller shall treat only active infestation. **Neither the Buyer, nor its representatives, shall enter upon the Property to make any repairs and/or treatments prior to Closing without the prior written consent of the Seller. To the extent that the Buyer, or its representatives, makes repairs and/or treatments to the Property prior to Closing, the Buyer hereby agrees to release and indemnify the Seller from and against any and all claims related in any way to the repairs and/or treatments and further agrees to execute a release and indemnification and provide proof of liability insurance naming Seller as a loss payee, both in a form acceptable to the Seller, prior to entry on the Property and commencement of any such repairs or treatments.** The Buyer acknowledges that all repairs and treatments are done for the benefit of the Seller and not for the benefit of the Buyer and that the Buyer has inspected or has been given the opportunity to inspect repairs and treatments. Any repairs or treatments made, or caused to be made, by the Seller shall be completed prior to the Closing. Under no circumstances shall the Seller be required to make any repairs or treatments after the Closing Date. **The Buyer acknowledges that Closing on this transaction shall be deemed the Buyer's reaffirmation that the Buyer is satisfied with the condition of the Property and with all repairs and treatments to the Property and waives all claims related to such condition and to the**

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quality of the repairs or treatments to the Property. Any repairs or treatments that Seller agrees to perform shall be performed for functional purposes only and exact restoration of appearance or cosmetic items following any repairs or treatments shall not be required. The Seller shall not be obligated to obtain or provide to the Buyer any receipts, or treatments, written statements indicating dates or types of repairs and/or treatments or copies of such receipts or statements nor any other documentation regarding any repairs and treatments to the Property. **THE SELLER DOES NOT WARRANT OR GUARANTEE ANY WORK, REPAIRS OR TREATMENTS TO THE PROPERTY.**

14. Occupancy Status of the Property:

- (a) The Buyer acknowledges that neither the Seller, nor its representatives, agents or assigns, has made any warranties or representations, express or implied, relating to the existence of any tenants or occupants at the Property, unless otherwise noted in Section 8 of this Addendum. The Seller, its representatives, agents or assigns, shall not be responsible for evicting or relocating any tenants, occupants, or personal property at the Property prior to or subsequent to Closing, unless otherwise noted in Section 8 of this Addendum. The Buyer further acknowledges and agrees that (i) the Seller is not holding any security deposits from the former or current tenants and has no information as to such security deposits as may have been paid by the former or current tenants to anyone, (ii) no sums representing such tenant security deposits shall be transferred by the Seller to the Buyer as part of this transaction, and (iii) the Buyer hereby assumes all responsibility and liability for the refund of such security deposits to the tenants pursuant to the provisions of applicable laws and regulations. All rents due and payable and collected from tenants for the month in which closing occurs will be prorated according to the provisions of Section 16 of this Addendum.
- (b) The Buyer acknowledges that this Property may be subject to the provisions of local rent control ordinances and regulations. The Buyer agrees that upon the Closing all eviction proceedings and other duties and responsibilities of a property owner and landlord, including but not limited to, those proceedings required for compliance with such local rent control ordinances and regulations, will be the Buyer's sole responsibility.
- (c) If the Property is located in Alabama, Buyer understands that the Property may be subject to redemption by the prior owner upon payment of certain sums and Buyer may be dispossessed of the Property. Buyer is advised to consult with an attorney to fully understand the import and impact of the foregoing. Buyer agrees he shall have no recourse against Seller in the event the right of redemption is exercised.

15. Personal Property: Items of personal property, including but not limited to, window coverings, appliances, manufactured homes, mobile homes, vehicles, spas, antennas, satellite dishes and garage door openers, now or hereafter located on the Property, are not included in this sale or the Purchase Price unless the personal property is specifically described and referenced in Section 8 of this Addendum. Any personal property at or on the Property may be subject to claims by third parties and, therefore, may be removed from the Property prior to or after the Closing Date. The Seller makes no representations or warranty as to the condition of any personal property, title thereto, or whether any personal property is encumbered by any liens. The Buyer assumes responsibility for any personal property remaining on the Property at the time of Closing.

16. Closing Costs and Adjustments:

- (a) The Buyer and Seller agree to prorate the following expenses as of closing and funding: municipal water and sewer charges, utility charges, real estate taxes and assessments, common area charges, condominium or planned unit development or similar community assessments, co-operative fees, maintenance fees, and rents, if any. In determining prorations, the Closing Date shall be allocated to the Buyer. Payment of special assessment district bonds and assessments, and payment of homeowner's association or special assessments shall be paid current and prorated between the Buyer and the Seller as of the Closing Date with payments not yet due and owing to be assumed by the Buyer without credit toward the Purchase Price. The Property taxes shall be prorated based on an estimate or actual taxes from the previous year on the Property. All prorations shall be based upon a 30-day month and all such prorations shall be final. The Seller shall not be responsible for any amounts due, paid or to be paid after the day prior to the Closing Date, including but not limited to, any taxes, penalties or interest assessed or due as a result of retroactive, postponed or additional taxes resulting from any change in use of, or construction on, or improvement to the Property, or an adjustment in the appraised value of the Property. In the event the Seller has paid any taxes, special assessments or other fees and there is a refund of any such taxes, assessments or fees after closing, and the Buyer as current owner of the Property receives the payment, the Buyer will immediately submit the refund to the Seller.
- (b) **Regardless of local custom or practice, the Buyer shall pay all costs and fees incurred in the transfer of the Property, including cost of any survey, title policy, escrow or closing fees and lender required fees, except as expressly assumed by the Seller in Section 6.**

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- (c) The Seller shall pay the real estate commission per the listing agreement between the Seller and the Seller's listing broker. Buyer represents that Buyer is not a real estate licensee, nor is the real estate licensee representing Buyer related to, or affiliated with Buyer, unless such relationship or affiliation has been disclosed to Seller.
17. **Certificate of Occupancy:** If the Property is located in a jurisdiction that requires a certificate of occupancy, smoke detector certification, septic certification or any similar certification or permit ("**Certificate of Occupancy**") or any form of improvement or repair to the Property to obtain such Certificate of Occupancy necessary for the Property to be occupied, the Buyer understands that the Seller requires the Certificate of Occupancy to be obtained by the Buyer at the Buyer's sole cost and expense. The Buyer shall make application for all Certificates of Occupancy within ten (10) calendar days of the Acknowledgement Date. The Buyer shall not have the right to delay the Closing due to the Buyer's failure or inability to obtain any required Certificate of Occupancy. Failure of the Buyer to obtain and furnish the Certificate of Occupancy shall be a material breach of the Agreement.
18. **Delivery of possession of Property:** The Seller shall deliver possession of the Property to the Buyer at closing and funding of sale. The delivery of possession shall be subject to the rights of any tenants or parties in possession per Section 14 of this Addendum. If the Buyer alters the Property or causes the Property to be altered in any way and/or occupied the Property prior to the closing and funding without the prior written consent of the Seller, such event shall constitute a breach by the Buyer under the Agreement and the Seller may terminate the Agreement and the Buyer shall be liable to the Seller for damages caused by any such alteration or occupation of the Property prior to closing and funding and waives any and all claims for damages or compensations for improvements made by the Buyer to the Property including but not limited to, any claims for unjust enrichment.
19. **Deed:** The deed to be delivered at Closing shall be a deed that covenants that grantor grants only that title which grantor may have and that grantor will only defend title against persons claiming by, through, or under grantor, but not otherwise (which deed may be known as a Grant Deed, Special Warranty, Limited Warranty, Quit Claim or Bargain and Sale Deed). Any reference to the term "Deed" or "Special Warranty Deed" herein shall be construed to refer to such form of deed.
20. **Defects in Title:** If the Buyer raises an objection to the Seller's title to the Property, which, if valid, would make title to the Property uninsurable, the Seller shall have the right unilaterally to terminate the Agreement by giving written notice of the termination to the Buyer. However, if the Seller is able to correct the problem through reasonable efforts, as the Seller determines at its sole and absolute discretion, prior to the Closing Date, including any written extensions thereof, or if title insurance is available from a reputable title insurance company at regular rates containing affirmative coverage for the title objections, then the Agreement shall remain in full force and the Buyer shall perform pursuant to the terms set forth in the Agreement. The Seller is not obligated to remove any exception or to bring any action or proceeding or bear any expense in order to convey title to the Property or to make the title insurable, and any attempt by the Seller to remove such title exceptions shall not impose an obligation upon the Seller to remove those exceptions. The Buyer acknowledges that the Seller's title to the Property may be subject to court approval of foreclosure or to mortgagor's right of redemption. In the event the Seller is not able to (a) make the title insurable or correct any problem, or (b) obtain title insurance from a reputable title insurance company, all as provided herein, the Buyer may terminate the Agreement and any earnest money deposit will be returned to the Buyer as the Buyer's sole remedy at law or equity.
21. **Representations and Warranties:** The Buyer represents and warrants to the Seller the following:
- (a) The Buyer is purchasing the Property solely in reliance on its own investigation and inspection of the Property and not on any information, representation or warranty provided or to be provided by the Seller, its servicers, representatives, brokers, employees, agents or assigns.
 - (b) Neither the Seller, nor its servicers, employees, representatives, brokers, agents or assigns, has made any representations or warranties, implied or expressed, relating to the marketability, insurability or condition of the Property or the contents thereof, except as expressly set forth in Section 8 of this Addendum.
 - (c) The Buyer has not relied on any representation or warranty from the Seller regarding the marketability, insurability or condition of the Property or the contents thereof, or the nature, quality, or workmanship of any repairs made by the Seller; and
 - (d) The Buyer will not occupy, or cause or permit others to occupy, the Property prior to closing and funding and, unless and until any necessary Certificate of Occupancy has been obtained from the appropriate governmental entity, will not occupy or cause or permit others to occupy the Property after Closing.
22. **Waivers:**
- (a) As a material part of the consideration to be received by the Seller under the Agreement as negotiated and agreed to by the Buyer and the Seller, the Buyer waives the following:
 - (i) All rights to file and maintain an action against the Seller for specific performance;
 - (ii) Right to record a Lis Pendens against the Property or to record the Agreement or a memorandum thereof in the real property records;

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- (iii) Right to invoke any other equitable remedy that may be available that, if invoked, would prevent the Seller from conveying the Property to a third party buyer;
 - (iv) Any and all claims arising from the adjustments or prorations or errors in calculating the adjustments or prorations that are or may be discovered after Closing;
 - (v) Any claims for failure of consideration and/or mistake of fact as such claims relate to the purchase of the Property or entering into or execution of or closing under the Agreement;
 - (vi) Any remedy of any kind, including, but not limited to, rescission of the Agreement, other than as expressly provided in Section 24 of this Addendum, to which the Buyer might otherwise be entitled at law or equity whether base on mutual mistake of fact or law or otherwise;
 - (vii) Trial by jury, except where such waiver is prohibited by law, in any litigation arising from or connected with or related to the Agreement;
 - (viii) Any claims or losses the Buyer may incur as a result of construction on, repair to, or treatment of the Property, or other defects, which may now or hereafter exist with respect to the Property;
 - (ix) Any right to avoid this sale or reduce the Purchase Price or hold the Seller responsible for damages on account of the marketability, insurability or condition of the Property, lack of suitability or fitness of the Property for a particular purpose, or defects, apparent or latent, in the Property
 - (x) Any claim arising from encroachments, easements, shortages in area or any other matter which would be disclosed or revealed by a survey or inspection of the Property or search of public records.
- (b) In the event that the Buyer breaches or disregards, or attempts to disavow, any of the representations, warranties or waivers described or contemplated under Section 22 or Section 23 of this Addendum, the Buyer shall pay all reasonable attorney fees and costs incurred by the Seller in (i) seeking reaffirmation or enforcement of any such representation, warranty or waiver, or (ii) defending any action initiated by the Buyer for the purpose of or relating to any such breach, disregard or disavowal, and the Buyer shall pay Five Thousand Dollars (\$5,000.00) as liquidated damages for such attempted or actual breach, disregard or disavowal, which amount shall be in addition to any liquidated damages held or covered by the Seller pursuant to Section 25 of this Addendum.

23. **Conditions to the Seller's Performance:** The Seller shall have the right, at the Seller's sole discretion, to extend the Closing Date or to terminate the Agreement if:

- (a) Full payment of any mortgage insurance claim related to the loan previously secured by the Property is not confirmed prior to the Closing Date or the mortgage insurance company exercises its right to acquire title to the Property;
- (b) The Seller determines that it is unable or it is economically not feasible to convey title to the Property insurable by a reputable title insurance company at regular rates;
- (c) A third party having an interest in the Property has requested that the servicing lender, or other party, repurchase the loan previously secured by the Property;
- (d) Full payment of any property, fire or hazard insurance claim is not confirmed prior to the Closing or date set forth herein for Closing;
- (e) Any third party, whether tenant, homeowner's association, or otherwise, exercised rights under a right of first refusal to purchase the Property;
- (f) The Buyer is the former mortgagor of the Property whose interest was foreclosed, or is related to or affiliated in any way with the former mortgagor, and the Buyer has not disclosed this fact to the Seller prior to the Seller's acceptance of the Agreement. Such failure to disclose shall constitute default under the Agreement, entitling the Seller to exercise any of its rights and remedies, including, without limitation, retaining the earnest money deposit; or
- (g) The Seller, at the Seller's sole discretion, determines that the sale of the Property to the Buyer, or any related transactions, is in any way associated with illegal activity of any kind.

In the event that Seller elects to terminate the Agreement as a result of (a), (b), (c), (d), (e), or (g) above, the Seller shall return the Buyer's earnest money deposit and the parties shall have no further obligation under the Agreement, except as to any provision pursuant to Section 30 of this Addendum.

24. **Remedies for Default:**

- (a) In the event of Buyer's default, material breach or material misrepresentation of any fact under the terms of the Agreement, the Seller, at its option, may retain the earnest money deposit and any other funds then paid by the Buyer as liquidated damages and/or invoke any other remedy available at law or expressly set out in the Agreement, and the Seller is automatically released from the obligation to sell the Property to the Buyer and neither the Seller nor its representatives, agents, attorneys, successors, or assigns shall be liable to the Buyer for any damages of any kind as a result of the Seller's failure to sell and convey the Property.
- (b) In the event of Seller's default or material breach under the terms of the Agreement or if the Seller terminates the Agreement as provided under the provisions of the Agreement, the Buyer shall be entitled to the return of the earnest money deposit as Buyer's sole and exclusive remedy at law and/or equity. Any reference to a return of the Buyer's earnest money deposit contained in the

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Agreement shall mean a return of the earnest money deposit, less any escrow cancellation fees applicable to the Buyer under the Agreement and less fees and costs payable for services and products provided during escrow at the Buyer's request. The Buyer waives any claims that the Property is unique and the Buyer acknowledges and agrees that return of its earnest money deposit adequately and fairly compensates the Buyer. Upon return of the earnest money deposit to the Buyer under this Section 23 (b), the Agreement shall be terminated, and the Buyer and Seller shall have no further liability, no further obligation, and no further responsibility each to the other and the Buyer and the Seller shall be released from any further obligation each to the other in connection with the Agreement.

- (c) The Buyer agrees that the Seller shall not be liable to the Buyer for any special, consequential, or punitive damages whatsoever, whether in contract, tort (including negligence and strict liability), or any other legal or equitable principle, including, but not limited to, any cost or expense incurred by the Buyer in selling or surrendering a lease on a prior residence, obtaining other living accommodations, moving, storage or relocation expenses, or any other such expense or cost arising from, or related to, the Agreement or a breach of the Agreement.
 - (d) Any consent by any party to, or waiver of, a breach by the other, whether express or implied, shall not constitute consent to, waiver of, or excuse for, any different or subsequent breach.
 - (e) In the event either party elects to exercise its remedies as described in this Section 24 and the Agreement is terminated, the parties shall have no further obligation under the Agreement, except as to any provision that survives the termination of the Agreement pursuant to Section 29 of this Addendum.
25. **Indemnification:** The Buyer agrees to indemnify and fully protect, defend, and hold the Seller, its officers, directors, employees, shareholders, servicers, representatives, agents, attorneys, tenants, brokers, successors or assigns, harmless from and against any and all claims, costs, liens, loss, damages, attorney fees, and expenses of every kind and nature that may be sustained by, or made against the Seller, its officers, directors, employees, shareholders, servicers, representatives, agents, attorneys, tenants, brokers, successors or assigns, resulting from or arising out of:
- (a) Inspections or repairs made by the Buyer or its agents, employees, contractors, successors or assigns;
 - (b) The imposition of any fine or penalty imposed by any governmental entity resulting from the Buyer's failure to timely obtain any Certificate of Occupancy or to comply with equivalent laws and regulations;
 - (c) Claims for amounts due and owed by the Seller for real property taxes, homeowner's association dues or assessments, or any other items prorated at closing under Section 16 of this Addendum, including any penalty or interest and other charges, arising from the proration of such amounts for which the Buyer received a credit at closing under Section 15 of this Addendum;
 - (d) The Buyer or the Buyer's tenant, agents or representatives use and/or occupancy of the Property prior to closing and/or issuance of required Certificates of Occupancy; or
 - (e) The breach by Buyer of any of the terms and conditions of the Agreement.
26. **Risk of Loss:** In the event of fire, destruction, or other casualty loss to the Property after the Seller's acceptance of the Agreement and prior to closing and funding, the Seller may, at its sole discretion, repair or restore the Property, or the Seller may terminate the Agreement. If the Seller elects to repair or restore the Property, then the Seller may, at its sole discretion, limit the amount to be expended. If the Seller elects not to repair or restore the Property, the Buyer's sole and exclusive remedy shall be either to acquire the Property in its then condition at the Purchase Price with no reduction thereof by reason of such loss, or terminate the Agreement and receive a refund of any earnest money deposit.
27. **Eminent Domain:** In the event that the Seller's interest in the Property, or any part thereof, shall have been taken by eminent domain, or shall be in the process of being taken on or before the Closing Date, either party may terminate the Agreement and the earnest money deposit shall be returned to the Buyer and neither party shall have any further rights or liabilities hereunder, except as provided in Section 30 of this Addendum.
28. **Keys:** Buyer is aware that the Property may be on a master key system. Buyer is encouraged to re-key the Property after closing. Buyer agrees to hold Seller harmless regarding any theft or damage of personal property.
29. **Survival:** Delivery of the Deed to the Property to the Buyer by the Seller shall be deemed to be full performance and discharge of all the Seller's obligations under the Agreement. Notwithstanding anything to the contrary in the Agreement, the provisions of Sections 11, 13, 14, 16, 18, 19, 22, 23, 25, 26, 27, 28 and 30 of this Addendum, as well as any other provision which contemplates performance or observance subsequent to any termination or expiration of the Agreement, shall survive the closing, funding and the delivery of the Deed and/or termination of the Agreement by any party and continue in full force and effect.
30. **Title and Closing:** Except where prohibited by law, the providers of title and escrow/closing services shall be designated by Seller. Seller shall pay for a Standard ALTA Homeowners policy of title insurance, if such policy is available for the Property.

BUYER (Initials) _____

SELLER (Initials) _____

31. **Severability:** The invalidity, illegality or enforceability of any provision of the Agreement shall not affect the validity or enforceability of any other provision of the Agreement, all of which shall remain in full force and effect.
32. **Assignment of Agreement:** The Buyer may not assign the Agreement without the express written consent of Seller, which consent may be withheld in Seller's sole discretion. The Seller may assign the Agreement at its sole discretion without prior notice to, or consent of, the Buyer.
33. **Modification:** No provision, term or clause of the Agreement shall be revised, modified, amended or waived, except by an instrument in writing signed by the Buyer and Seller.
34. **Rights of Others:** The Agreement does not create any rights, claims or benefits inuring to any person or entity, other than Seller's successors and/or assigns, that is not a party to the Agreement, nor does it create or establish any third party beneficiary to the Agreement.
35. **Counterparts:** The Agreement may not be executed in any number of counterparts and each such counterpart shall be deemed to be an original, but all of which, when taken together, shall constitute one agreement.
36. **Headings:** The titles to the sections and headings of various paragraphs of the Agreement are placed for convenience of reference only and, in case of conflict, the text of the Agreement, rather than such titles or headings, shall control.
37. **Gender:** Unless the context otherwise requires, singular nouns and pronouns, when used herein, shall be deemed to include the plural of such nouns or pronouns, and pronouns of one gender shall be deemed to include the equivalent pronoun of the other gender.
38. **Force Majeure:** Except as provided in Section 27 to this Addendum, no party shall be responsible for delays or failure of performance resulting from acts of God, riots, acts of war, epidemics, power failures, earthquakes or other disasters, providing such delay or failure of performance could not have been prevented by reasonable precautions and cannot reasonably be circumvented by such party through use of alternate sources, workaround plans, or other means.
39. **Attorney Review:** The Buyer acknowledges that Buyer has had the opportunity to consult with its legal counsel regarding the Agreement and that, accordingly, the terms of the Agreement are not to be construed against any party because that party drafted the Agreement or constructed in favor of any Party because that Party failed to understand the legal effect of the provisions of the Agreement.
40. **Notices:** Any notices or other documents required to be given or delivered under the Agreement shall be deemed to have been delivered when actually received in the case of hand or overnight delivery, or five (5) calendar days after mailing by first class mail, postage paid, or by fax with confirmation of transmission to the numbers below. All notices to the Seller will be deemed sent or delivered to the Seller when sent or delivered to Seller's listing broker or agent or Seller's attorney, at the address or fax number shown below.
41. **Dispute Resolution:** At the request of either party, any dispute arising under this Agreement shall be submitted to mediation before resort to arbitration or court action. Mediation fees shall be divided equally and each party shall bear his or its own attorney's fees and costs. Neither party may require binding arbitration prior to commencement of court action, although the parties may mutually agree to such arbitration.
42. **Entire Agreement:** The Agreement, including the disclosure of information on lead based paint and/or lead based paint hazards or the Seller Disclosure and Release Addendum or other disclosure forms or notices required by law, constitutes the entire agreement between the Buyer and the Seller concerning the subject matter hereof and supercedes all previous communications, understandings, representations, warranties, covenants or agreements, either written or oral and there are no oral or other written agreements between the Buyer and the Seller. No oral promises, representations (expressed or implied), warranties or agreements made by the Seller and/or brokers or any person acting on behalf of the Seller shall be deemed valid or binding upon the Seller, unless expressly included in the Agreement. All negotiations are merged into the Agreement. The Seller is not obligated by any other written or oral statements or statements of financial terms made by the Seller, the Seller's representatives, or any real estate licensee.
43. **Corporate Approval:** The Agreement is subject to  and or Investor approval. Approval is deemed by Seller's signature on the Agreement.
44. **Seller contribution to close:** The sale is contingent upon closing without the need for Seller to deposit funds to close. If funds are required, Seller may terminate this Agreement without liability or obligation to Buyer.
45. **Time is of the Essence:** It is agreed that time is of the essence with respect to all dates specified in the Agreement and any addenda, riders or amendments hereto. This means that all deadlines are intended to be strict and absolute.

BUYER (Initials) _____

SELLER (Initials) _____

In all other respects, the Contract remains in full force and effect and unchanged.

IN WITNESS WHEREOF, the Buyer and Seller have entered into this Addendum as of the Effective Date.

BUYER(S):

Signature: _____

Date: _____

Print Name: _____

Signature: _____

Date: _____

Print Name: _____

BUYER'S AGENT

Name:

Address:

Telephone:

Fax:

BUYER'S CLOSING AGENT

Name:

Address:

Telephone:

Fax:

SELLER:

As Agent in Fact for:

By: _____

Title: _____

Date: _____

SELLER'S AGENT

Name:

Address:

Telephone:

Fax:

SELLER'S CLOSING AGENT

Name:

Address:.

Telephone:

Fax:

BUYER (Initials) _____

SELLER (Initials) _____