

### REAL ESTATE PURCHASE ADDENDUM

This Addendum is to be made part of, and incorporated into, the Real Estate Purchase Contract dated \_\_\_\_\_, 200\_\_ (the "Contract"), between \_\_\_\_\_ ("Seller") and \_\_\_\_\_ ("Purchaser") for the property and improvements located at the following address: \_\_\_\_\_ ("Property").

The Seller and the Purchaser agree as follows:

1. Verbal Acknowledgement: The essential terms of the purchase and sale of the Property have been verbally accepted by the Seller on or before \_\_\_\_\_, 200\_\_ (the "Verbal Acknowledgement Date") with a sales price of \$ \_\_\_\_\_. Notwithstanding such verbal acknowledgement, the Purchaser acknowledges and agrees that the Contract and this Addendum (together shall be referred to as the "Agreement") are subject to approval by the Seller's Management and must be signed by all parties in order to be binding. If applicable, upon execution, escrow will be opened by both parties immediately following the Seller's acceptance of this Agreement with an escrow agent acceptable to the Seller. The Purchaser's earnest money deposit of \$ \_\_\_\_\_ is to be placed in a trust account acceptable to the Seller within 24 hours of the Seller's acceptance. This Agreement signed by the Purchaser and reflecting the terms verbally accepted by the Seller must be received by the Seller within five (5) calendar days of the Verbal Acknowledgement Date. If the Seller does not receive the signed Agreement by such date, this Agreement shall be null and void. In addition, this Agreement shall be null and void if the signed Agreement is not received by the Seller before the Seller accepts a competing offer, or gives verbal notice of revocation either to the Purchaser, the Purchaser's agent or attorney, or the listing agent. As used in this paragraph, the term "received by the Seller" means actual receipt by the Seller of the Purchaser's written acceptance of these documents by the Seller's listing agent.

The Purchaser shall present proof, satisfactory to the Seller, of the Purchaser's prequalification for a mortgage loan in an amount and under terms sufficient for the Purchaser to perform its obligations under this Agreement. The prequalification shall include but is not limited to, a certification of prequalification or a mortgage loan commitment from a mortgage lender, a satisfactory credit report and/or proof of funds sufficient to meet the Purchaser's obligations under this Agreement. The Purchaser's submission of proof of prequalification is a condition precedent to the Seller's acceptance. The Seller may require the Purchaser to obtain, at no cost to the Purchaser, loan prequalification from a Seller approved third party lender. Notwithstanding any Seller required prequalification, the Purchaser acknowledges that Purchaser is free to obtain financing from any source.

2. Time of the Essence: Closing Date:

- (a) It is agreed that time is of the essence with respect to all dates specified in this Agreement and any addenda, riders or amendments thereto. This means that all deadlines are intended to be strict and absolute.
- (b) The closing shall take place on or before \_\_\_\_\_, 200\_\_, or within five (5) days of final loan approval by the lender, whichever is earlier, unless the closing date is extended in writing signed by the Seller and the Purchaser or extended by the Seller under the terms of this 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 the Seller, unless otherwise required by applicable law. If the closing does not occur by the date specified in this Section 2 of the Addendum, or in any extension, this Agreement is automatically terminated and the Seller shall retain any earnest money deposit as liquidated damages.
- (c) In the event the Seller agrees to the Purchaser's request for a written extension of this Agreement, the Purchaser agrees to pay to the Seller a per diem of \$ \_\_\_\_\_ through and including the closing date specified in the written extension. If the sale does not close by the date specified in the written extension agreement, the Seller may retain the earnest money deposit and the accrued per diem payment as liquidated damages.

3. Financing: This Agreement (check one): ( ) is, ( ) is not, contingent on the Purchaser obtaining financing for the purchase of the Property. If this Agreement is contingent on financing, the type of financing shall be the following (check one):

- \_\_\_ Fannie Mae Special REO Financing from a participating lender
- \_\_\_ Conventional
- \_\_\_ FHA
- \_\_\_ VA
- \_\_\_ Other (specify: \_\_\_\_\_)

(a) All Financing. (This paragraph applies to all financing, whether or not it is Fannie Mae Special REO or other financing.) If this Agreement is contingent on financing, the Purchaser shall apply for a loan in the amount of \$ \_\_\_\_\_ with a term of \_\_\_\_\_ years, at prevailing rates, terms and conditions. The Purchaser shall complete and submit to a mortgage lender an application for a mortgage loan containing the terms set forth in this paragraph within five (5) calendar days of the Verbal Acknowledgement Date, and shall use diligent efforts to obtain a mortgage loan commitment by \_\_\_\_\_, 200\_\_. If, despite the Purchaser's diligent efforts, the Purchaser cannot obtain a mortgage loan commitment by the specified date, then either the Purchaser or the Seller may terminate this Agreement by giving written notice to the other party. The Purchaser's notice must include a copy of the loan application, proof of the application date, and a copy of the denial letter from the prospective lender. In the event of a proper termination of this Agreement under this paragraph, the earnest money deposit shall be returned to the Purchaser and the parties shall have no further obligation to each other under this Agreement. The Purchaser agrees to cooperate and comply with all requests for documents and information from the Purchaser's chosen lender during the loan application.

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process. Failure of the Purchaser to comply with such requests from the lender that results in the denial of the mortgage loan will be a breach of this Agreement and the Seller shall be entitled to retain any earnest money deposited by the Purchaser.

- (b) The Purchaser is aware that the price and terms of this transaction were negotiated on the basis of the type of financing selected by the Purchaser. Any change as to the terms or a change in the Purchaser's lender after negotiations have been completed will require renegotiation of all terms of this Agreement.
- (c) The Purchaser shall ensure that the lender selected by the Purchaser to finance the sale shall fund the settlement agent as of the date of settlement. The Purchaser shall further ensure that the selected lender shall provide all lender prepared closing documentation to the settlement agent no later than 48 hours prior to settlement. Any delays in closing and funding as a result of the Purchaser's selected lender shall be the responsibility of the Purchaser.

4. Use of Property: The Purchaser (check one): (  ) **does**, (  ) **does not**, intend to use and occupy the Property as Purchaser's primary residence.

5. Inspections:

- (a) On or before 10 calendar days from the Verbal Acknowledgement Date, the Purchaser shall inspect the Property or obtain for its own use, benefit and reliance, inspections and/or reports on the condition of the Property, or be deemed to have waived such inspection and any objections to the condition of the Property and to have accepted the Property. The Purchaser 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 Purchaser's inspection and the Purchaser shall repair all damages arising from or caused by the inspections. The Purchaser 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 Purchaser shall provide reasonable notice to the Seller prior to any such inspection. If the Seller has winterized this Property and the Purchaser desires to have the Property inspected, listing agent will have the Property dewatered prior to inspection and rewatered after inspection. The Purchaser agrees to pay this expense in advance to the listing agent. The amount paid under this provision shall be nonrefundable.

Within five (5) calendar days of receipt of any inspection report prepared by or for the Purchaser, but not later than 10 days from the Verbal Acknowledgment Date, whichever first occurs, the Purchaser will provide written notice to the Seller of any items disapproved. The Purchaser's silence shall be deemed as acceptance of the condition of the Property. The Purchaser shall provide to the Seller, at no cost, upon request by the Seller, complete copies of all inspection reports upon which the Purchaser's disapproval of the condition of the property is based. In no event shall the Seller be obligated to make any repairs or replacements that may be indicated in the Purchaser's inspection reports. The Seller may, at its sole discretion, make such repairs to the Property under the terms described in Section 7 of this Addendum. If the Seller elects not to repair the Property, the Purchaser may cancel this Agreement and receive all earnest money deposited. If the Seller elects to make any such repairs to the Property, the Seller shall notify the Purchaser after completion of the repairs and the Purchaser shall have 5 days from the date of notice, to inspect the repairs and notify the Seller of any items disapproved. The Purchaser's silence shall be deemed as acceptance.

In situations that are applicable, a structural, electrical, mechanical or termite inspection report may have been prepared for the benefit of the Seller. Upon request, the Purchaser will be allowed to review the report to obtain the same information and knowledge the Seller has about the condition of the Property but the Purchaser acknowledges that the inspection reports were prepared for the sole use and benefit of the Seller. The Purchaser will not rely upon any such inspection reports obtained by the Seller in making a decision to purchase the Property.

- (b) If the Property is a condominium or planned unit development or co-operative, unless otherwise required by law, the Purchaser, at the Purchaser's own expense, is responsible for obtaining and reviewing the covenants, conditions and restrictions and bylaws of the condominium, or planned unit development or cooperative within (10) days of execution of this Agreement by both parties pursuant to paragraph 1 hereof. The Seller agrees to use reasonable efforts, as determined at the Seller's sole discretion, to assist the Purchaser in obtaining a copy of the covenants, conditions and restrictions and bylaws. The Purchaser will be deemed to have accepted the covenants, conditions and restrictions and by laws if the Purchaser does not notify the Seller in writing, within 15 days of execution of this Agreement, of the Purchaser's objection to the covenants, conditions and restrictions and/or bylaws.

6. **CONDITION OF PROPERTY: THE PURCHASER UNDERSTANDS THAT 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 LITTLE OR NO DIRECT KNOWLEDGE CONCERNING THE CONDITION OF THE PROPERTY. AS A MATERIAL PART OF THE CONSIDERATION TO BE RECEIVED BY THE SELLER UNDER THIS AGREEMENT AS NEGOTIATED AND AGREED TO BY THE PURCHASER AND THE SELLER, THE PURCHASER ACKNOWLEDGES AND AGREES TO ACCEPT THE PROPERTY IN "AS IS" CONDITION AT THE TIME OF CLOSING, INCLUDING, WITHOUT LIMITATION, ANY HIDDEN DEFECTS OR ENVIRONMENTAL CONDITIONS AFFECTING THE PROPERTY, WHETHER KNOWN OR UNKNOWN WHETHER SUCH DEFECTS OR CONDITIONS WERE DISCOVERABLE THROUGH INSPECTION OR NOT. THE PURCHASER 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:**

- (A) **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 QUANTITY OR QUALITY OF WATER, STABILITY OF THE SOIL, SUSCEPTIBILITY TO LANDSLIDE OR FLOODING, SUFFICIENCY OF DRAINAGE, WATER LEAKS, WATER DAMAGE, MOLD OR ANY OTHER MATTER AFFECTING THE STABILITY, INTEGRITY, OR CONDITION OF THE PROPERTY OR IMPROVEMENTS;**

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- (B) **THE CONFORMITY OF THE PROPERTY OR THE IMPROVEMENTS TO ANY 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 ANY REMODELING OF THE STRUCTURE; AND**
- (C) **THE HABITABILITY, MERCHANTABILITY, MARKETABILITY, PROFITABILITY OR FITNESS FOR A PARTICULAR PURPOSE OF THE PROPERTY OR IMPROVEMENTS INCLUDING REDHIBITORY VICES AND DEFECTS, APPARENT, NON APPARENT OR LATENT, WHICH NOW EXIST OR WHICH MAY HEREAFTER EXIST AND WHICH IF KNOWN TO THE PURCHASER, WOULD CAUSE THE PURCHASER TO REFUSE TO PURCHASE THE PROPERTY.**

Mold, mildew, spores and/or other microscopic organisms and/or allergens (collectively referred to in this Agreement as "Mold") are environmental conditions that are common in residential properties and may affect the Property. Mold, in some forms, has been reported to be toxic and to cause serious physical injuries, including but not limited to, allergic and/or respiratory reactions or other problems, particularly in persons with immune system problems, young children and/or elderly persons. Mold has also been reported to cause extensive damage to personal and real property. Mold may have been removed or covered in the course of any cleaning or repairing of the Property. The Purchaser acknowledges that, if Seller, or any of Seller's employees, contractors, or agents cleaned or repaired the Property or remediated Mold contamination, that Seller does not in any way warrant the cleaning, repairs or remediation. Purchaser accepts full responsibility for all hazards that may result from the presence of Mold in or around the Property. The Purchaser is satisfied with the condition of the Property notwithstanding the past or present existence of Mold in or around the Property and Purchaser has not, in any way, relied upon any representations of Seller, Seller's employees, officers, directors, contractors, or agents concerning the past or present existence of Mold in or around the property.

In the event the Property is affected by an environmental hazard, as determined by the Seller, either party may terminate this Agreement. In the event the Seller decides to sell the Property to the Purchaser and the Purchaser agrees to purchase the Property, the Purchaser agrees to execute a general release at closing, in a form acceptable to Seller, releasing the Seller from any liability related to the environmental hazard or conditions of the Property. In the event the Purchaser elects not to execute the disclosure and release, at the Sellers discretion, this Agreement is automatically terminated.

In the event the Seller has received official notice that the Property is in violation of building codes or similar laws or regulations, the Seller may terminate this Agreement or delay the date of closing or the Purchaser may terminate this Agreement. In the event this Agreement is terminated by either Purchaser or Seller pursuant to this Section 6 of this Addendum, any earnest money deposit will be returned to the Purchaser. 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 Purchaser nor the Seller terminate this Agreement, the Purchaser agrees (a) to accept the Property subject to the violations, (b) to be responsible for compliance with the applicable code and with orders issued in any code enforcement proceeding and (c) to resolve the deficiencies as soon as possible after the closing. The Purchaser agrees to execute any and all documents necessary or required for closing by any agency with jurisdiction over the Property. The Purchaser further agrees to indemnify the Seller from any and all claims or liability arising from the Purchaser's breach of this Section 6 of this Addendum.

The closing of this sale shall constitute acknowledgement by the Purchaser that Purchaser had the opportunity to retain an independent, qualified professional to inspect the Property and that the condition of the Property is acceptable to the Purchaser. The Purchaser agrees that the Seller shall have no liability for any claims or losses the Purchaser or the Purchaser's successors or assigns may incur as a result of construction or other defects which may now or hereafter exist with respect to the Property.

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 Purchaser have previously executed a waiver of the disclosure provisions of Alaska statutes.

- 7. 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 Purchaser, 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 Purchaser or its representatives makes repairs and/or treatments to the Property prior to closing the Purchaser 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 in a form acceptable to the Seller prior to the commencement of any such repairs or treatments.** The Purchaser acknowledges that all repairs and treatments are done for the benefit of the Seller and not for the benefit of the Purchaser and that the Purchaser 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 Purchaser acknowledges that closing on this transaction shall be deemed the Purchaser's reaffirmation that the Purchaser 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 quality of the repairs or treatments to the Property.** Any repairs or treatments 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 Purchaser any receipts for repairs, 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.**
- 8. Occupancy Status of Property: The Purchaser acknowledges that neither the Seller, nor its representatives, agents or assigns, has made any warranties or representations, implied or expressed, relating to the existence of any tenants or occupants at the Property unless otherwise noted in Section 38 of this Addendum. The Purchaser acknowledges that closing on this transaction shall be deemed the Purchaser's reaffirmation that neither the Seller, nor its representatives, agents or assigns, has made any warranties or representations, implied or expressed, relating to the existence of any tenants or occupants at the Property unless otherwise

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noted in Section 38 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 38 of this Addendum.

The Purchaser further acknowledges that, to the best of the Purchaser's knowledge, the Seller is not holding any security deposits from 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 and agrees that no sums representing such tenant security deposits shall be transferred to the Purchaser as part of this transaction. The Purchaser further agrees to assume 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 10 of this Addendum.

The Purchaser acknowledges that this Property may be subject to the provisions of local rent control ordinances and regulations. The Purchaser 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 Purchaser's sole responsibility.

9. 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 38 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 representation or warranty as to the condition of any personal property, title thereto, or whether any personal property is encumbered by any liens. The Purchaser assumes responsibility for any personal property remaining on the Property at the time of closing.

10. Closing Costs and Adjustments:

(a) The Purchaser and the 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 funding date shall be allocated to the Purchaser. 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 Purchaser and the Seller as of closing date with payments not yet due and owing to be assumed by the Purchaser without credit toward 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 closing, 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 Purchaser as current owner of the Property receives the payment, the Purchaser will immediately submit the refund to the Seller. If the Property is heated by or has storage tanks for fuel oil, liquefied petroleum gases or similar fuels, the Purchaser will buy the fuel in the tank at closing at the current price as calculated by the supplier.

**(b) Regardless of local custom, requirements or practice, the Purchaser shall pay any and all realty transfer taxes due as a result of the conveyance of the Property. The Purchaser shall pay all other 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 38 of this Addendum.**

(c) If Fannie Mae is the owner and the Seller hereunder, the Purchaser acknowledges that Fannie Mae is a congressionally chartered corporation and is exempt from realty transfer taxes pursuant to 12 U.S.C. 1723a(c)(2).

(d) The Seller shall pay the real estate commission per the listing agreement between the Seller and the Seller's listing broker; however, if the Purchaser is a real estate licensee, no commission shall be paid to the Purchaser or to any licensee representing the Purchaser. This includes any broker or brokerage firm with which the Purchaser is affiliated. Additionally, no commission will be paid to a licensee representing their spouse as the Purchaser.

11. Delivery of Funds: Regardless of local custom, requirements, or practice, upon delivery of the deed by the Seller to the Purchaser, the Purchaser shall deliver all funds due the Seller from the sale in the form of cash, bank check, certified check or wire transfer. An attorney's trust fund check shall not be sufficient to satisfy this provision unless the bank holding the account on which the trust fund check is drawn certifies the trust fund check.

12. 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 Purchaser understands that the Seller requires the Certificate of Occupancy to be obtained by the Purchaser at the Purchaser's sole cost and expense. The Purchaser shall make application for all Certificates of Occupancy within ten (10) days of the Verbal Acknowledgment Date. The Purchaser shall not have the right to delay the closing due to the Purchaser's failure or inability to obtain any required Certificate of Occupancy. Failure of the Purchaser to obtain and furnish the Certificate of Occupancy shall be a material breach of the Agreement. **Neither the Purchaser, 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 Purchaser or its representatives makes repairs and/or treatments to the Property prior to closing, the Purchaser 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 in a form acceptable to the Seller prior to the commencement of any such repairs or treatments.**

13. Delivery of Possession of Property: The Seller shall deliver possession of the Property to the Purchaser 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 8 of this Addendum. If

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the Purchaser alters the Property or causes the Property to be altered in any way and/or occupies the Property or allows any other person to occupy the Property prior to closing and funding without the prior written consent of the Seller, such event shall constitute a breach by the Purchaser under this Agreement and the Seller may terminate this Agreement and the Purchaser 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 Purchaser to the Property including, but not limited to, any claims for unjust enrichment.

14. 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 the grantor, but not otherwise (which deed may be known as a 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.
15. Defects in Title: If the Purchaser 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 this Agreement by giving written notice of the termination to the Purchaser. 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 set forth in this Agreement, including any written extensions, or if title insurance is available from a reputable title insurance company at regular rates containing affirmative coverage for the title objections, then this Agreement shall remain in full force and the Purchaser shall perform pursuant to the terms set in this 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 marketable and/or insurable but any attempt by the Seller to remove such title exceptions shall not impose an obligation upon the Seller to remove those exceptions. The Purchaser 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 Purchaser may terminate this Agreement and any earnest money deposit will be returned to the Purchaser as the Purchaser's sole remedy at law or equity.
16. Representations and Warranties:

The Purchaser represents and warrants to the Seller the following:

- (a) The Purchaser 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 condition of the Property or the contents thereof, except as expressly set forth in Section 38 of this Addendum;
- (c) The Purchaser has not relied on any representation or warranty from the Seller regarding the nature, quality or workmanship of any repairs made by the Seller; and
- (d) The Purchaser 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.

17. **WAIVERS**:

**AS A MATERIAL PART OF THE CONSIDERATION TO BE RECEIVED BY THE SELLER UNDER THIS AGREEMENT AS NEGOTIATED AND AGREED TO BY THE PURCHASER AND THE SELLER, THE PURCHASER WAIVES THE FOLLOWING:**

- (A) ALL RIGHTS TO FILE AND MAINTAIN AN ACTION AGAINST THE SELLER FOR SPECIFIC PERFORMANCE;**
- (B) RIGHT TO RECORD A LIS PENDENS AGAINST THE PROPERTY OR TO RECORD THIS AGREEMENT OR A MEMORANDUM THEREOF IN THE REAL PROPERTY RECORDS;**
- (C) 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 PURCHASER;**
- (D) 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;**
- (E) 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 THIS AGREEMENT;**
- (F) ANY REMEDY OF ANY KIND, INCLUDING BUT NOT LIMITED TO RESCISSION OF THIS AGREEMENT, OTHER THAN AS EXPRESSLY PROVIDED IN SECTION 19 OF THIS ADDENDUM, TO WHICH THE PURCHASER MIGHT OTHERWISE BE ENTITLED AT LAW OR EQUITY**

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- (G) TRIAL BY JURY, EXCEPT AS PROHIBITED BY LAW, IN ANY LITIGATION ARISING FROM OR CONNECTED WITH OR RELATED TO THIS AGREEMENT;**
- (H) ANY CLAIMS OR LOSSES THE PURCHASER 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;**
- (I) ANY CLAIMS OR LOSSES RELATED TO ENVIRONMENTAL CONDITIONS AFFECTING THE PROPERTY INCLUDING, BUT NOT LIMITED TO, MOLD, LEAD PAINT, FUEL OIL, ALLERGENS, OR OTHER TOXIC SUBSTANCES OF ANY KIND;**
- (J) ANY RIGHT TO AVOID THIS SALE OR REDUCE THE PRICE OR HOLD THE SELLER RESPONSIBLE FOR DAMAGES ON ACCOUNT OF THE CONDITION OF THE PROPERTY, LACK OF SUITABILITY AND FITNESS, OR REDHIBITORY VICES AND DEFECTS, APPARENT, NONAPPARENT OR LATENT, DISCOVERABLE OR NONDISCOVERABLE; AND**
- (K) 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.**

References to the "Seller" in this Section 17 of the Addendum shall include the Seller and the Seller's servicers, representatives, agents, brokers, employees, or assigns.

In the event that the Purchaser breaches any of the warranties described or contemplated under this Section 17 of this Addendum and a court finds that such action is without merit, the Purchaser shall pay all reasonable attorneys fee and cost incurred by the Seller in defending such action, and the Purchaser shall pay Five Thousand Dollars (\$5,000) as liquidated damages for breach of this Section 17 of the Addendum, which amount shall be in addition to any liquidated damages held or covered by the Seller pursuant to Section 19 of this Addendum.

18. 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 this 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 to convey good and marketable title to the Property insurable by a reputable title insurance company at regular rates;
- (c) The Seller has requested that the servicing lender, or any 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, exercises rights under a right of first refusal to purchase the Property;
- (f) the Purchaser 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 Purchaser has not disclosed this fact to the Seller prior to the Seller's acceptance of this Agreement. Such failure to disclose shall constitute default under this 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 Purchaser or any related transactions are in any way associated with illegal activity of any kind.

In the event the Seller elects to terminate this Agreement as a result of (a), (b), (c), (d), (e) or (g) above, the Seller shall return the Purchaser's earnest money deposit and the parties shall have no further obligation under this Agreement except as to any provision that survives termination pursuant to Section 24 of this Addendum.

19. Remedies for Default:

- (a) In the event of the Purchaser's default, material breach or material misrepresentation of any fact under the terms of this Agreement, the Seller, at its option, may retain the earnest money deposit and any other funds then paid by the Purchaser as liquidated damages and/or invoke any other remedy expressly set out in this Agreement and the Seller is automatically released from the obligation to sell the Property to the Purchaser and neither the Seller nor its representatives, agents, attorneys, successors, or assigns shall be liable to the Purchaser 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 the Seller's default or material breach under the terms of this Agreement or if the Seller terminates this Agreement as provided under the provisions of this Agreement, the Purchaser shall be entitled to the return of the earnest money deposit as Purchaser's sole and exclusive remedy at law and/or equity. Any reference to a return of the Purchaser's earnest money deposit contained in the Agreement shall mean a return of the earnest money deposit less any escrow cancellation fees applicable to the Purchaser under this Agreement and less fees and costs payable for services and products provided during escrow at the Purchaser's request. The Purchaser waives any claims that the Property is unique

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SELLER (Initials) \_\_\_\_\_

and the Purchaser acknowledges that a return of its earnest money deposit can adequately and fairly compensate the Purchaser. Upon return of the earnest money deposit to the Purchaser, this Agreement shall be terminated, and the Purchaser and the Seller shall have no further liability, no further obligation, and no further responsibility each to the other and the Purchaser and the Seller shall be released from any further obligation each to the other in connection with this Agreement.

- (c) The Purchaser agrees that the Seller shall not be liable to the Purchaser 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 Purchaser 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 this Agreement or a breach of this 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 19 of this Addendum and this Agreement is terminated, the parties shall have no further obligation under this Agreement except as to any provision that survives the termination of this Agreement pursuant to Section 24 of this Addendum
20. Indemnification: The Purchaser 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's 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 Purchaser or its agents, employees, contractors, successors or assigns;
  - (b) the imposition of any fine or penalty imposed by any governmental entity resulting from the Purchaser'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 taxes, homeowner association dues or assessment or any other items prorated at closing under Section 10 of this Addendum, including any penalty or interest and other charges, arising from the proration of such amounts for which the Purchaser received a credit at closing under Section 10 of this Addendum and
  - (d) the Purchaser's or the Purchaser's tenants, agents or representatives use and/or occupancy of the Property prior to closing and/or issuance of required certificates of occupancy.
21. Risk of Loss: The Purchaser assumes all risk of loss related to damage to the Property. In the event of fire, destruction or other casualty loss to the Property after the Seller's acceptance of this Agreement and prior to closing and funding, the Seller may, at its sole discretion, repair or restore the Property, or the Seller may terminate this 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 to repair or restore the Property, the Purchaser'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 this Agreement and receive a refund of any earnest money deposit.
22. 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 this Agreement and the earnest money deposit shall be returned to the Purchaser and neither party shall have any further rights or liabilities hereunder except as provided in Section 24 of this Addendum.
23. Keys: The Purchaser understands that if the Seller is not in possession of keys, including but not limited to, mailbox keys, recreation area keys, gate cards, or automatic garage remote controls, then the cost of obtaining the same will be the responsibility of the Purchaser. The Purchaser also understands that if the Property includes an alarm system, the Seller cannot provide the access code and/or key and that the Purchaser is responsible for any costs associated with the alarm and/or changing the access code or obtaining keys. If the Property is presently on a Master Key System, the Seller will re-key the exterior doors to the Property prior to closing and funding at the Purchaser's expense. The Purchaser authorizes and instructs escrow holder to charge the account of the Purchaser at closing for the rekey.
24. Survival: Delivery of the deed to the Property to the Purchaser by the Seller shall be deemed to be full performance and discharge of all of the Seller's obligations under this Agreement. Notwithstanding anything to the contrary in this Agreement, the provisions of Sections 6, 7, 8, 10, 12, 13, 16, 17, 19, 20, 21, 22, and 24 of this Addendum, as well as any other provision which contemplates performance or observance subsequent to any termination or expiration of this Agreement, shall survive the closing, funding and the delivery of the deed and/or termination of this Agreement by any party and continue in full force and effect.
25. Further Assurances: The Purchaser agrees to execute and deliver to the Seller at closing, or otherwise as requested by the Seller, documents including Fannie Mae's NPDC Form 4 (Waiver and Release Regarding Property Condition at Closing), NPDC Form 5 (Tax Proration Agreement) or documents that are substantially the same, and to take such other action as reasonably may be necessary to further the purpose of this Agreement. Copies of referenced documents are available from the Seller's listing agent upon request by the Purchaser.
26. Severability: The invalidity, illegality or enforceability of any provision of this Agreement shall not affect the validity or enforceability of any other provision of this Agreement, all of which shall remain in full force and effect.
27. Assignment of Agreement: The Purchaser shall not assign this Agreement without the express written consent of the Seller. The

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IN WITNESS WHEREOF, the Purchaser and the Seller have entered into this Agreement as of the date first set forth above.

**PURCHASER(S):**

**SELLER:**

**Signature:** \_\_\_\_\_

[ ] **FANNIE MAE:**

Date: \_\_\_\_\_

[ ] **FANNIE MAE as Agent and Attorney in Fact**

Print Name: \_\_\_\_\_

for \_\_\_\_\_

Address: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Social Security #: \_\_\_\_\_

By: \_\_\_\_\_

Telephone: \_\_\_\_\_

Date: \_\_\_\_\_

Fax: \_\_\_\_\_

**Signature:** \_\_\_\_\_

Date: \_\_\_\_\_

Print Name: \_\_\_\_\_

Address: \_\_\_\_\_

\_\_\_\_\_

Social Security #: \_\_\_\_\_

Telephone: \_\_\_\_\_

Fax: \_\_\_\_\_

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**PURCHASER'S AGENT:**

**SELLER'S AGENT:**

Brokerage Firm: \_\_\_\_\_

Brokerage Firm: \_\_\_\_\_

Purchaser's Agent Name: \_\_\_\_\_

Seller's Agent Name: \_\_\_\_\_

Address: \_\_\_\_\_

Address: \_\_\_\_\_

\_\_\_\_\_

Telephone : \_\_\_\_\_

Telephone : \_\_\_\_\_

Fax: \_\_\_\_\_

Fax: \_\_\_\_\_

**PURCHASER'S ATTORNEY:**

**SELLER'S ATTORNEY:**

Name: \_\_\_\_\_

Name: \_\_\_\_\_

Address: \_\_\_\_\_

Address: \_\_\_\_\_

\_\_\_\_\_

Telephone: \_\_\_\_\_

Telephone: \_\_\_\_\_

Fax: \_\_\_\_\_

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SELLER (Initials) \_\_\_\_\_