

**FHA FINANCING CONTINGENCY ADDENDUM**

This Addendum is made on \_\_\_\_\_, to a sales contract ("Contract") offered on \_\_\_\_\_, between \_\_\_\_\_ ("Buyer") and \_\_\_\_\_ ("Seller") for the purchase and sale of Property: \_\_\_\_\_.

**NOTICE: The parties should not include a separate appraisal contingency in Contract, since the federally mandated appraisal language for FHA loans is contained in the FHA Amendatory Clause below.**

- 1. **SPECIFIED FINANCING** "Specified Financing" means the terms set forth in Paragraph 2 of Contract and the following loan terms:
  - A. **First Trust.** Buyer will  **Obtain OR**  **Assume** a  **Fixed OR** an  **Adjustable** rate First Deed of Trust loan amortized over \_\_\_\_\_ years. The interest rate for this loan is at an (initial) interest rate not to exceed \_\_\_\_\_% per year.
  - B. **Second Trust.** Buyer will  **Obtain OR**  **Assume** a  **Fixed OR** an  **Adjustable** rate Second Deed of Trust loan amortized over \_\_\_\_\_ years. The interest rate for this loan is at an (initial) interest rate not to exceed \_\_\_\_\_% per year.

Buyer will pay upfront and monthly mortgage insurance premiums ("MIP") as required by FHA regulations. Subject to lender's approval, Buyer reserves the right to finance any upfront MIP, in which event such amount will be added to the loan amount.

Assumption fee, if any, and all charges related to the assumption will be paid by Buyer. If Buyer assumes Seller's loan(s), Buyer and Seller  will **OR**  will not obtain a release of Seller's liability to the U.S. Government for the repayment of the loan by Settlement. Balances of any assumed loans, secondary financing and cash down payments are approximate.

- 2. **ALTERNATIVE FINANCING. This financing contingency will not apply to any Alternative Financing.** "Alternative Financing" means any change to the financing terms in the Specified Financing, including but not limited to Down Payment amount, the amount financed, loan type (i.e., Conventional, FHA, VA, USDA or Other), term of any loan, interest rate, or loan program (i.e., assumption, fixed or adjustable rate).

Buyer may substitute Alternative Financing for the Specified Financing. Buyer may only exercise their right to Void Contract under this financing contingency by Delivering to Seller a written rejection from the lender(s) to which Buyer has applied for Specified Financing ("Lender Rejection Letter"), unless Buyer and Seller execute a new financing contingency addendum for Alternative Financing. Buyer's substitution of lender(s) to which written application has been made under Paragraph 2 of Contract will not: (a) constitute a change in the Specified Financing; or (b) constitute Buyer Default provided there is no additional expense to Seller and Settlement Date is not delayed.

- 3. **FHA REQUIRED NOTICE. Buyer acknowledges receipt of HUD form #92564-CN entitled: For Your Protection: Get a Home Inspection.**

**BUYER'S INITIALS:** \_\_\_\_\_/\_\_\_\_\_/\_\_\_\_\_/\_\_\_\_\_

#### 4. FINANCING CONTINGENCY (Select A **OR** B)

##### A. FINANCING CONTINGENCY WITH AUTOMATIC EXTENSION.

1. "Financing Deadline" on this contingency is 9:00 p.m. \_\_\_\_ Days after Date of Ratification.
2. If Buyer has not Delivered to Seller a Lender Rejection Letter for Specified Financing by Financing Deadline, this financing contingency will continue up to, and including, Settlement Date. However, upon expiration of Financing Deadline, Seller may at Seller's option Deliver Notice to Buyer that Buyer has three (3) days to Void Contract. If Buyer does not Void Contract within three (3) days following Delivery of Seller's Notice, this financing contingency is removed and Contract will remain in full force and effect without this financing contingency.
3. Buyer may Void Contract by Delivering to Seller a Lender Rejection Letter for Specified Financing any time prior to the satisfaction or removal of this contingency or expiration of Settlement Date.
4. Buyer may satisfy this contingency by Delivering to Seller a Notice removing financing contingency ("Notice Removing Financing Contingency") and/or a written loan commitment any time prior to the removal of this contingency or expiration of Settlement Date.

##### B. FINANCING CONTINGENCY WITH AUTOMATIC EXPIRATION.

1. "Financing Deadline" on this contingency is 9:00 p.m. \_\_\_\_ Days after Date of Ratification.
2. Buyer may Void Contract by Delivering to Seller a Lender Rejection Letter for Specified Financing by Financing Deadline, at which time this contingency will expire.
3. Buyer may satisfy this contingency by Delivering to Seller Notice Removing Financing Contingency and/or a written loan commitment any time prior to Financing Deadline.

#### 5. APPRAISAL PROVISIONS.

- A. FHA Amendatory Clause.** It is expressly agreed that notwithstanding any other provisions of Contract, Buyer shall not be obligated to complete the purchase of Property or to incur any penalty by forfeiture of deposit or otherwise unless Buyer has been given in accordance with HUD/FHA or VA requirements a written statement by the Federal Housing Commissioner, Department of Veterans Affairs, or a Direct Endorsement Lender setting forth the appraised value of Property of not less than \$\_\_\_\_\_. Buyer shall have the privilege and option to proceed with consummation of Contract without regard to the amount of the appraised value. The appraised value is arrived at to determine the maximum mortgage the Department of Housing and Urban Development ("HUD") will insure. HUD does not warrant the value or the condition of Property. Buyer should satisfy himself/herself that the price and condition of Property are acceptable.

NOTICE: The dollar amount to be inserted in the Amendatory Clause is the purchase price as stated in Contract. If Buyer and Seller agree to adjust the purchase price in response to an appraised value that is less than the purchase price, a new Amendatory Clause is not required.

- B. Appraisal Contingency Procedures.** Buyer may satisfy this Contingency, negotiate Sales Price or Void Contract by Delivering Notice to Seller as follows ("Appraisal Contingency Notice"):

1. Appraisal is equal to or greater than Sales Price. This contingency is satisfied and removed. The parties will proceed to Settlement at Sales Price; **OR**
2. Buyer elects to proceed with the consummation of Contract without regard to Appraisal and this contingency is removed. The parties will proceed to Settlement at Sales Price; **OR**

3. Appraisal is equal to or greater than Sales Price, but Buyer elects not to proceed with consummation of Contract because Property either (i) does not satisfy the lender(s) requirements, (ii) Appraisal does not allow for the Specified Financing and/or (iii) Property is inadequate collateral. Buyer may Void Contract under this subparagraph by Delivering to Seller Appraisal Contingency Notice accompanied by a written denial of the financing showing written evidence of the lender(s)'s decision concerning Property. Buyer's Appraisal Contingency Notice will include a copy of the written statement setting forth the appraised value of Property ("Written Statement"); **OR**

4. Appraisal is less than Sales Price and Buyer elects not to proceed with consummation of Contract. Buyer may Void Contract by Delivering to Seller Appraisal Contingency Notice including a copy of Written Statement; **OR**

5. Appraisal is less than Sales Price and Buyer elects to negotiate a mutually acceptable new Sales Price. Buyer's Appraisal Contingency Notice will include a copy of Written Statement and Buyer's proposed sales price, which will not be lower than the appraised value.

**Negotiation Period.** In the event of this sub-Paragraph 5(B)(5), the parties will have until 9:00 p.m. \_\_\_\_\_ days ("Negotiation Period") after Buyer's Delivery of Appraisal Contingency Notice to negotiate a mutually acceptable new Sales Price.

At any time during Negotiation Period, Buyer or Seller may make, modify, rescind, or alter as many offers and counter-offers as desired to reach mutually acceptable terms. Buyer and Seller may agree on terms by signing a written addendum describing the agreed upon new Sales Price within Negotiation Period. Otherwise, all offers and/or counteroffers terminate.

**Buyer's Election Period.** If, at the end of Negotiation Period, the parties are unable to reach an agreement, Buyer will have the option to Void Contract by Delivering Notice to Seller by 9:00 p.m. \_\_\_\_\_ days following the end of Negotiation Period, otherwise this appraisal contingency will be removed, and Contract will remain in full force and effect at the original Sales Price.

6. **WOOD-DESTROYING INSECT INSPECTION.** Fences and outbuildings will be included in the inspection and certification.

7. **LENDER REQUIRED REPAIRS.** If, as a condition of providing financing under Contract, the lender requires repairs to be made to Property, then Buyer will give Notice to Seller of the lender's required repairs. Within five Days after such Notice, Seller will give Notice to Buyer as to whether Seller will make the repairs. If Seller will not make the repairs, Buyer will give Notice to Seller within five Days after Seller's Notice as to whether Buyer will make the repairs. If neither Seller nor Buyer will make the repairs, then Contract will become void. This clause will not release Seller from any responsibilities set forth in the paragraphs titled UTILITIES; MAJOR SYSTEMS; PERSONAL PROPERTY AND FIXTURES; or WOOD-DESTROYING INSECT INSPECTION; or in the Private Well and/or Septic System Addendum or any terms specifically set forth in Contract and any addenda.

8. **CERTIFICATION.** Seller, Buyer and Broker(s) hereby certify that the terms of Contract to which this Addendum is attached are true to the best of their knowledge and belief. Any other agreement(s) entered into between the parties with respect to the purchase and sale of Property has been fully disclosed and is attached to Contract.

**SELLER:**

\_\_\_\_\_/\_\_\_\_\_  
Date      Signature

\_\_\_\_\_/\_\_\_\_\_  
Date      Signature

\_\_\_\_\_/\_\_\_\_\_  
Date      Signature

\_\_\_\_\_/\_\_\_\_\_  
Date      Signature

**BUYER:**

\_\_\_\_\_/\_\_\_\_\_  
Date      Signature

\_\_\_\_\_/\_\_\_\_\_  
Date      Signature

\_\_\_\_\_/\_\_\_\_\_  
Date      Signature

\_\_\_\_\_/\_\_\_\_\_  
Date      Signature

\*\*\*\*\*

**AGENT/BROKER:**

\_\_\_\_\_/\_\_\_\_\_  
Date      Signature

**AGENT/BROKER:**

\_\_\_\_\_/\_\_\_\_\_  
Date      Signature

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