

## VA 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 this Contract, since the federally mandated appraisal language for VA loans is contained in the VA Notice of Value Paragraph below.**

**1. SPECIFIED FINANCING.** "Specified Financing" means the terms set forth in Paragraphs 2A and 2B of this 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 shall pay upfront and monthly mortgage insurance premiums as required by lender guidelines. Buyer shall pay the VA Funding Fee as required by VA regulations. Subject to lender's approval, Buyer reserves the right to finance the VA Funding Fee, in which event such amount shall 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): (i) 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, (ii) Buyer and Seller  will OR  will not obtain substitution of Seller's VA entitlement by Settlement. Balances of any assumed loans, secondary financing and cash down payments are approximate.

**2. ALTERNATIVE FINANCING.** This financing contingency shall 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. However, Buyer shall obtain Seller's written consent and shall execute a new financing addendum (if applicable) if Buyer wishes to retain the protection of a financing contingency. Should Buyer pursue Alternative Financing without Seller's written consent, Buyer shall waive the protection of this financing contingency.

Buyer's substitution of lender(s) to which written application has been made under Paragraph 2D of this Contract shall 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.

(Select Paragraph 3 OR 4)

**3. FINANCING CONTINGENCY WITH AUTOMATIC EXTENSION.**

- A. This Contract is contingent on Buyer Delivering to Seller by 9:00 p.m. \_\_\_\_Days after Date of Ratification (“Financing Deadline”) written conditional commitment(s) for Specified Financing.
- B. If Buyer has not Delivered the written conditional commitment(s) by Financing Deadline, this 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 the Contract. If Buyer does not void the Contract within three (3) days following Delivery of Seller’s Notice, this financing contingency is removed, and the Contract will remain in full force and effect without this financing contingency.
- C. Buyer may void this Contract by Delivering to Seller, prior to the satisfaction or removal of this contingency, a written rejection from the lender(s) to whom Buyer has applied for Specified Financing.
- D. Nothing herein shall prohibit the parties from mutually agreeing to terms acceptable to both parties in writing.

**4. FINANCING CONTINGENCY WITH AUTOMATIC EXPIRATION.**

- A. This Contract is contingent on Buyer Delivering to Seller by 9:00 p.m. \_\_\_\_Days after Date of Ratification (“Financing Deadline”) written conditional commitment(s) for Specified Financing.
- B. If the Buyer has not Delivered the written conditional commitment(s) by Financing Deadline, this financing contingency will expire.
- C. Buyer may void this Contract by delivering to Seller, prior to the satisfaction or expiration of this contingency, a written rejection from the lender(s) to whom Buyer has applied for Specified Financing.
- D. Nothing herein shall prohibit the parties from mutually agreeing to terms acceptable to both parties in writing.

**5. APPRAISAL PROVISIONS.**

- A. **VA Notice of Value.** It is expressly agreed that notwithstanding any other provisions of this Contract, Buyer shall not incur any penalty by forfeiture of earnest money or otherwise or be obligated to complete the purchase of Property, if this Contract purchase price or cost exceeds the reasonable value of Property established by the Department of Veterans Affairs. Buyer shall, however, have the privilege and option to proceed with consummation of this Contract without regard to the amount of reasonable value established by the Department of Veterans Affairs.
- B. **Appraisal Contingency Procedures.** Upon receipt of the written statement setting forth the appraised value of Property (“Written Statement”), Buyer shall Deliver Notice to Seller (“Appraisal Contingency Notice”) as follows:
  - (1) The Appraisal is equal to or greater than the Sales Price. This contingency is satisfied and removed. The parties shall proceed to Settlement at the Sales Price; **OR**
  - (2) Buyer elects to proceed with the consummation of this Contract without regard to the Appraisal and this contingency is removed. The parties shall proceed to Settlement at the Sales Price; **OR**

- (3) The Appraisal is equal to or greater than the Sales Price, but Buyer elects not to proceed with consummation of this Contract because Property either (i) does not satisfy the lender(s) requirements, (ii) the Appraisal does not allow for the Specified Financing and/or (iii) Property is inadequate collateral. Buyer may Void this 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 shall include a copy of Written Statement; **OR**
- (4) The Appraisal is less than the Sales Price and Buyer elects not to proceed with consummation of this Contract. Buyer may Void this Contract by Delivering to Seller Appraisal Contingency Notice including a copy of Written Statement; **OR**
- (5) The Appraisal is less than the Sales Price and Buyer elects to negotiate a mutually acceptable new Sales Price. Buyer's Appraisal Contingency Notice shall include a copy of Written Statement and Buyer's proposed sales price, which shall not be lower than the appraised value.

**Negotiation Period.** In the event of this sub-Paragraph 5(B)(5), the parties shall 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 shall have the option to void this Contract by Delivering Notice to Seller by 9:00 p.m. \_\_\_\_\_ days following the end of Negotiation Period, otherwise this appraisal contingency shall be removed, and this Contract will remain in full force and effect at the original Sales Price.

- 6. **WOOD-DESTROYING INSECT INSPECTION.** Fences and outbuildings shall be included in the inspection and certification, and Seller shall pay for any wood-destroying insect inspection required under this Contract or by lender.
- 7. **LENDER REQUIRED REPAIRS.** If, as a condition of providing financing under this 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 this 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 this Contract and any addenda.
- 8. **DEPOSIT.** If this Contract involves a newly constructed and previously unoccupied residential property, or is a contract for the construction of a property, in a project for which the Department of Veterans Affairs has issued a Notice of Value, the Deposit shall be handled in accordance with the provisions of Title 38, Section 3706 of the U.S. Code.

**SELLER:**

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

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

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

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

**BUYER:**

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

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

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

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

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