



# Listing Agreement Addendum: Short Sale

## 1. Short Sale Listing Agreement Addendum

This **Short Sale Listing Agreement Addendum** is made a part of the “Listing Agreement” dated \_\_\_\_\_ for purposes of disclosing to Seller certain matters pertinent to a Short Sale. Property located at:

Street Address	City	State	Zip
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And, this Short Sale Listing Agreement Addendum shall control in the event of any conflict with the Listing Agreement and, except as modified by this Short Sale Listing Addendum, all other terms and provisions of the Listing Agreement shall remain the same.

## 2. Purpose and Definitions

2.1. Purpose of this Short Sale Listing Agreement Addendum. Seller has debts secured by one or more liens on the Property. The Purchase Price may not be enough to cover payment for all the liens and costs of sale. If so, for the Closing to occur, the affected Lien Holders must agree to a Short Sale.

2.2. Lien; Lien Holder. A Lien is a recorded claim or lien against the Property, including, but not limited to, a mortgage, deed of trust, mechanic’s lien or tax lien. A title insurance commitment may be used to show the Liens against the Property. A Lien Holder is a creditor who has a Lien and agrees to release its Lien in a Short Sale.

2.3. Short Sale. A Short Sale is a transaction in which any Lien Holder releases its Lien against the Property and

- (a) accepts an amount less than the full amount Lien Holder claims is owed or
- (b) treats the debt secured by the Lien differently than as originally provided for in the evidence of debt -- such as promissory note

**NOTE: Before a Short Sale can occur, Buyer, Seller, and each Lien Holder (except those creditors that are to be paid in the full amount claimed) must consent to the terms of the sale. Sometimes, a Lien is released but the Lien Holder does not agree to release Seller from liability or reduce the unpaid portion of the debt, and the Seller and any guarantors will remain liable after Closing for that unpaid portion, despite the release of the Lien against the Property at Closing.**



2.4 Short Sale Acceptance. “Short Sale Acceptance” is when Seller receives one or more written statements, signed by each Lien Holder, that specify the terms and conditions of the Short Sale.

### 3. **Disclosures to Seller**

3.1 Seller is advised to contact the HUD Counseling and Referral Line at 1-800-569-4287 or online <http://www.hud.gov/foreclosure/>

3.2. Seller acknowledges that there are alternatives to a Short Sale that may be better for Seller. Seller acknowledges that a Short Sale transaction may result in continued liability of Seller or other persons liable for the debt that could be extinguished through foreclosure, bankruptcy or other loss mitigation options, including but not limited to a negotiated loan modification with Lien Holder. Seller acknowledges that it is the responsibility of Seller to investigate these alternative methods of resolution with Seller's legal, accounting or financial advisors and with Lien Holder and it is not the responsibility of any real estate broker to undertake any investigation of other options that may be available to Seller.

3.3. Seller acknowledges that any Short Sales may have serious adverse legal, tax and economic consequences for Seller and any guarantors. Seller is advised to seek legal and tax counsel to advise Seller of the legal effect and meaning of any *Short Sale Acceptance* from Lien Holder.

3.4. Seller acknowledges that a Lien Holder is not required to agree to a Short Sale. Even if a Lien Holder agrees to a Short Sale, a Lien Holder is not required to forgive repayment of the debt secured by the Lien or release Seller and any guarantors from liability unless Lien Holder's claim is paid in full. Seller acknowledges that Lien Holder may or may not agree to release Seller or any guarantors from liability to Lien Holder. If not released, Seller and any guarantors will remain liable to Lien Holder for any amount that remains unpaid after the Short Sale. Any release of liability by Lien Holder, to be binding, must be in writing, must be executed by Lien Holder, and must provide that Seller and any guarantor is released from liability.

3.5. Seller acknowledges that a Lien Holder may condition its agreement on Seller doing any or all of the following to obtain a Short Sale Acceptance:

- (a) make a cash payment,
- (b) sign a new promissory note,
- (c) continue to owe the Lien Holder the unpaid portion of the debt, and
- (d) agree to other requirements made by Lien Holder.



3.6. Seller understands that if a Lien Holder accepts less than full payment, Lien Holder is required to file all required 1099 Forms with the Internal Revenue Service with respect to this transaction. Seller is strongly advised to seek tax advice regarding the potential adverse tax consequences to Seller of a Short Sale.

3.7. Seller acknowledges that a Short Sale Acceptance by the Lien Holder will not necessarily repair or rehabilitate Seller's credit rating and Lien Holder has no obligation other than to fairly report this transaction to any credit rating agency.

3.8. Seller acknowledges that Seller retains the right to terminate the "Purchase Agreement" by written notice to Buyer on or before 3 days after the "Short Sale Acceptance" Deadline

- (a) as may be provided in any "Short Sale Contingency Addendum"
- (b) if Lien Holder does not approve the Contract, or
- (c) if the terms and conditions from Lien Holder to obtain a release of the Lien are not acceptable to Seller, in Seller's sole discretion,

3.9. Seller acknowledge that Buyer may terminate the "Purchase Agreement" by written notice to Seller on or before 3 days after the Short Sale Acceptance Deadline

- (a) as provided in this Addendum,
- (b) if Lien Holder does not approve the Contract, or
- (c) if the terms and conditions of any *Agreement to Amend/Extend Contract* are not acceptable to Buyer, in Buyer's sole discretion,

3.10. Seller acknowledges that Release of the Lien against the Property does not by itself release Seller or any *guarantors* from liability for the debt.

3.12. Seller acknowledges and agrees that any *Short Sale Acceptance* by Lien Holder will be made on the condition that none of the terms of the sale shall differ in any material respect from the terms submitted to the Lien Holder on which the *Short Sale Acceptance* was based. For purposes of any "Purchase Agreement," **any change** in the

- (a) date of Closing,
- (b) Purchase Price,
- (c) real estate brokerage compensation,
- (d) concessions,
- (e) net proceeds to be paid, or
- (f) other remuneration to be received by Seller in the proposed Short Sale

**shall be deemed a material change.** Any material change will require that the Short Sale Proposal be re-submitted to the Lien Holder for approval, which could result in delays for approval or even denial of the Short Sale.



4. **Short Sale Conditions.**

4.1. Notwithstanding anything to the contrary in this Addendum, the Purchase Agreement between Seller and Buyer, for the benefit of both Seller and Buyer, will be conditional upon all of the following occurring:

4.2. Seller has received from each Lien Holder a Short Sale Acceptance that is acceptable to Seller.

4.3. Agreement to Amend/Extend Contract signed by Buyer and Seller, so long as both parties agree, in their sole discretion, to the changes to the Contract required by the Short Sale Acceptance.

5. **Uncertainty of Completion of A Short Sale.**

5.1. There are no promises or representations regarding:

- (a) whether a Lien Holder will *agree* to a Short Sale,
- (b) the *terms* of any Short Sale Acceptance, or
- (c) *when* the Lien Holder will advise of its decision to agree to a Short Sale or provide the written terms and conditions of the Short Sale Acceptance.

5.2. Until Closing of the Short Sale, Short Sale Acceptance by the Lien Holder will not prevent, hinder, or delay the Lien Holder from initiating or proceeding with any enforcement action, including but not limited to a foreclosure. In the event Seller loses ownership of the Property through foreclosure, the Contract shall terminate.

5.3. A significant period of time may be required to determine if a Short Sale Acceptance will be granted. Therefore, any Buyer must inform Buyer’s lender of this fact for structuring Buyer’s loan, duration of “loan lock”, etc. Closing typically will take place shortly after receipt of Short Sale Acceptance.

5.4. After a Short Sale Acceptance is given, Lien Holder will normally not agree to any additional changes to the terms of the Purchase Agreement that differ from those indicated in the Short Sale Acceptance, to have repairs performed or to reduce the amount it is willing to accept due to the condition of the Property or results of an inspection. The Purchase Price should reflect the condition of the Property “as is” and Seller may wish to encourage a Buyer to conduct inspections of the Property *before* Seller submits a request for a Short Sale to Lien Holder.

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

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

Brokerage by: \_\_\_\_\_ Date: \_\_\_\_\_



## Authorization to Release Lending Information

\_\_\_\_\_ # Lien Holder:

Name \_\_\_\_\_

Contact Address \_\_\_\_\_

Account Number: \_\_\_\_\_

### Borrower's Property Address:

\_\_\_\_\_

\_\_\_\_\_

Borrower's Name (Printed): \_\_\_\_\_ #SSN \_\_\_\_\_

Borrower's Name (Printed): \_\_\_\_\_ #SSN \_\_\_\_\_

Dear \_\_\_\_\_:

This "Authorization to Release Lending Information" document is my written permission for you to release my account statement, loan payoff, and other information regarding the above referenced account and property to:

\_\_\_\_\_ (Authorized Party)

Authorized Party's Address \_\_\_\_\_

\_\_\_\_\_

Telephone \_\_\_\_\_ Fax \_\_\_\_\_ Email \_\_\_\_\_

Sincerely,

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

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

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

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



## Authorization to Release Lending Information

**First Lien Holder:**

\_\_\_\_\_

Account Number:

\_\_\_\_\_

**PROPERTY ADDRESS:**

\_\_\_\_\_

**BORROWER:**

\_\_\_\_\_

SS#:

\_\_\_\_\_

-

**BORROWER:**

\_\_\_\_\_

SS#:

\_\_\_\_\_

-

Dear Lender:

This "Authorization to Release Lending Information" is my written permission to you to release my

Account Statement, loan payoff, and other information regarding the referenced account and property

to \_\_\_\_\_ (Authorized Party)

and/or paralegals or assistants calling from the office.

Thank you.

Signed: \_\_\_\_\_

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

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

Signed: \_\_\_\_\_

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

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



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