

FINANCING ADDENDUM FOR CONVENTIONAL OR PRIVATELY INSURED MORTGAGE

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This Addendum is a continuation of the PRICE AND TERMS contained in Paragraph 5 of the Purchase Agreement dated _____ by and between _____, as Seller, and _____, as Buyer, for property located at or legally described as: _____

A. FINANCING CONTINGENCY.

Notice to Buyer and Seller. Buyer's mortgage financing is usually the most significant contingency in a Purchase Agreement. Of the three choices below, 1., and 2., are legally uncertain since Buyer is not required to present a "Borrower's Loan Commitment" (as defined by Minn. Stat. Section 47.20, Subd. 2(8) and delivered by lender to Buyer in the form and with the content required by Minn. Stat. Section 47.206).

Pursuant to Minn. Stat. Section 47.206, Subd. 3, the "loan approval" or "loan qualification letter" discussed in 2., below, is not enforceable against the lender by the Buyer (as "borrower" under that statute). Such written statements from a lender may be withdrawn or may have their terms altered by the lender prior to closing.

Choice 3., below, has more certainty, but it might also present Buyer with an unforeseen expense. Some lenders charge a fee for obtaining a loan commitment. Choice 3., below, might also present Buyer with a limited number of lenders: some lenders (typically mortgage brokers) will not offer loan commitments.

[Portions of the statutes cited in this Notice are reprinted at the end of this form.]

Buyer's performance of Buyer's obligations under this Purchase Agreement is contingent upon Buyer securing the financing referred to in paragraph B. below. [Choose one of the following three choices:]

☐ 1. **Contingency Open Until Date of Closing.** This contingency is effective until the Date of Closing as stated in the Purchase Agreement. If Buyer is unable to secure the financing on or before the Date of Closing, this Purchase Agreement is canceled and the earnest money shall be refunded to Buyer. "Securing financing" under this paragraph 1., means obtaining mortgage financing that is delivered at closing. Buyer may waive this financing contingency prior to the Date of Closing.

☐ 2. **Informal, Unenforceable "Loan Approval."** This contingency is effective until *[state date (allowing Buyer approximately 3 weeks or more to secure financing)]* _____ [the "Loan Approval Date"]. "Securing financing" under this paragraph 2., means obtaining a "loan approval letter," a "loan qualification letter," or some other form of nonbinding written statement from a lender indicating a willingness to make a loan. If, on or before the Loan Approval Date,

- Buyer has not delivered to Seller evidence that Buyer has secured the financing, or,
- Buyer has delivered such evidence to Seller and Seller has indicated in writing to Buyer that Buyer's evidence is not satisfactory to Seller,

then *[select either a., or b.]*

☐ a. this Purchase Agreement is canceled and the earnest money shall be refunded to Buyer.

☐ b. Seller may cancel this Purchase Agreement pursuant to Minn. Stat. Section 559.217, Subd. 3 (allowing Buyer a 15 day right to cure).

Buyer may waive this financing contingency on or before the Loan Approval Date.

☐ 3. **Formal, Enforceable Loan Commitment.** This contingency is effective until *[state date (allowing Buyer approximately 3 weeks or more to secure financing)]* _____ [the "Commitment Date"]. "Securing financing" under this paragraph 3., means obtaining a loan commitment or loan agreement as defined in Minnesota Statutes section 47.20. If, on or before the Commitment Date, Buyer has not delivered a copy of the loan commitment to Seller,

then *[select either a., or b.]*

☐ a. this Purchase Agreement is canceled and the earnest money shall be refunded to Buyer.

☐ b. Seller may cancel this Purchase Agreement pursuant to Minn. Stat. Section 559.217, Subd. 3 (allowing Buyer a 15 day right to cure).

Buyer may waive this financing contingency on or before the Commitment Date.

B. CONVENTIONAL OR INSURED CONVENTIONAL MORTGAGE TERMS.

Buyer will apply for and attempt to secure, at Buyer's expense, a ~~[strike out one]~~ **CONVENTIONAL / INSURED CONVENTIONAL** Mortgage ("Mortgage") in at least the amount stated in the Purchase Agreement, amortized monthly over a period of not more than _____ years with a fixed interest rate not to exceed _____ % per annum or an adjustable rate with an initial interest rate of no more than _____ % per annum ("Rate"), and a maximum interest rate of no more than _____ % per annum and with other terms not less favorable to Buyer than those set forth in this Addendum.

C. MORTGAGE APPLICATION.

The Mortgage application is to be made within five (5) business days after the acceptance of the Purchase Agreement. Buyer shall use best efforts to secure the financing and shall execute all documents required to secure the financing.

D. PRIVATE MORTGAGE INSURANCE PREMIUMS (IF INSURED CONVENTIONAL MORTGAGE).

Buyer shall pay _____ % and Seller shall pay _____ % of the first year's conventional mortgage insurance premium ("MIP") required by the lender. Buyer shall pay all subsequent years' MIP as required by the lender.

E. DISCOUNT POINTS.

Mortgage discount points ("Points") shall not exceed _____ % of the Mortgage amount. Such Points shall be paid as follows:

Buyer shall pay _____ Point(s).
Seller shall pay _____ Point(s).

If the Points charged by the lender are less than the amount agreed to above, then *[initial option 1, 2 or 3]*:

1. _____ Buyer/_____ Seller The Points shall be charged first to Seller and the balance to Buyer. If the Points to be paid by Seller are less than the amount agreed to above, then *[initial option a. or b.]*:
 - a. _____ Buyer/_____ Seller
Seller shall pay only the Points charged by lender, or
 - b. _____ Buyer/_____ Seller
Seller shall pay the full amount agreed to above and the balance shall be applied to Buyer's closing costs as directed by Buyer.
2. _____ Buyer/_____ Seller
The points shall be charged first to Buyer and the balance to Seller.
3. _____ Buyer/_____ Seller
The Points shall be paid proportionately by both Seller and Buyer as agreed above.

F. LOCKING/FLOATING OF RATE AND POINTS.

The Rate and Points shall be ~~[strike out one]~~ LOCKED / FLOATED on the date of mortgage application. If the Rate and Points are floated, it shall be the sole discretion of ~~[strike out one]~~ **SELLER / BUYER** to lock in the Rate and Points. If Seller has sole discretion to lock in the Rate and Points, Buyer shall sign lender's lock-in documents promptly upon notification from Seller.

G. LENDER WORK ORDERS.

Nothing in the Purchase Agreement shall be construed to obligate Seller to make any repairs required by the lender. However, Seller shall pay up to _____ to make repairs required by the lender. If the lender requires repairs exceeding this amount, then, unless either Seller or Buyer agrees in writing, within seven (7) days after the date lender's work order is delivered to Seller, to pay the cost of such excess repairs, this Purchase Agreement is canceled and the earnest money shall be refunded to Buyer.

SELLER:

BUYER:

Date

Date

Date

Date

CITED STATUTES [2007]:

Minn. Stat. Section 47.20, Subd. 2(8). "Borrower's loan commitment" means a binding commitment made by a lender to a borrower wherein the lender agrees to make a conventional or cooperative apartment loan pursuant to the provisions, including the interest rate, of the commitment, provided that the commitment rate of interest does not exceed the maximum lawful rate of interest effective as of the date the commitment is issued and the commitment when issued and agreed to shall constitute a legally binding obligation on the part of the mortgagee or lender to make a conventional or cooperative apartment loan within a specified time period in the future at a rate of interest not exceeding the maximum lawful rate of interest effective as of the date the commitment is issued by the lender to the borrower; provided that a lender who issues a borrower's loan commitment pursuant to the provisions of a forward commitment is authorized to issue the borrower's loan commitment at a rate of interest not to exceed the maximum lawful rate of interest effective as of the date the forward commitment is issued by the lender.

Subd. 4a(d). ***[text omitted] A borrower's interest rate commitment or a borrower's loan commitment is deemed to be issued on the date the commitment is hand delivered by the lender to, or mailed to the borrower. [text omitted]***

Minn. Stat. Section 47.206, Subd. 1(d). "Interest rate or discount point agreement" or "agreement" means a contract between a lender and a borrower under which the lender agrees, subject to the lender's underwriting and approval requirements, to make a loan at a specified interest rate or number of discount points, or both, and the borrower agrees to make a loan on those terms. The term also includes an offer by a lender that is accepted by a borrower under which the lender promises to guarantee or lock in an interest rate or number of discount points, or both, for a specific period of time.

Subd. 2. A lender offering borrowers the opportunity to enter into an agreement in advance of closing shall disclose, in writing, to the borrowers at the time the offer is made: (1) a definite expiration date or term of the agreement, which may not be less than the reasonably anticipated closing date or time required to process, approve, and close the loan; (2) the circumstances, if any, under which the borrower will be permitted to close at a lower rate of interest or points than expressed in the agreement; (3) the steps required to process, approve, and close the loan, including the actions required of the borrower and lender; (4) that the agreement is enforceable by the borrower; and (5) the consideration required for the agreement.

Subd. 3. A borrower or lender may not maintain an action on an agreement unless the agreement is in writing or is permitted by subdivision 4, expresses consideration, sets forth the relevant terms and conditions, and is signed by the borrower and the lender.