

1 The printed portions of this form, except differentiated additions, have been approved by the
2 Colorado Real Estate Commission. (SSA38-1-08) (Mandatory 3-08)
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4
5 **THIS FORM HAS IMPORTANT LEGAL CONSEQUENCES AND THE PARTIES**
6 **SHOULD CONSULT LEGAL AND TAX OR OTHER COUNSEL BEFORE SIGNING.**
7

8 **SHORT SALE ADDENDUM**
9 **TO CONTRACT TO BUY AND SELL REAL ESTATE**

10
11 **Date:** _____
12

13 **1. ADDENDUM TO CONTRACT.**

14 **This Short Sale Addendum (Addendum) is made a part of the following contract that is**
15 **checked:**

16 **Listing Contract (Listing Contract) for the Property dated _____**
17 **, for purposes of disclosing to Seller certain matters of a Short Sale, or;**
18

19 **Contract to Buy and Sell Real Estate**
20 **between Seller and Buyer (Contract), dated _____, relating to the sale of the**
21 **real estate**
22

23
24 **known as _____ (Property).**
25 **Street Address City State Zip**
26

27 **This Addendum shall control in the event of any conflict with the Contract. Except as**
28 **modified, all other terms and provisions of the Contract shall remain the same.**
29

30 **2. PURPOSE AND DEFINITIONS.**

31
32 **2.1 Purpose of Addendum. Seller has debts secured by one or more liens on the**
33 **Property. The Purchase Price may not be enough to cover payment for all the liens and**
34 **costs of sale. If so, for the Closing to occur, the affected Lien Holders (§2.2 below) must**
35 **agree to a Short Sale, (§ 2.3 below).**
36

37 **2.2. Lien; Lien Holder. A Lien is a recorded claim or lien against the Property,**
38 **such as a mortgage, deed of trust, mechanics lien or tax lien (Lien). A title insurance**
39 **commitment may be used to show the Liens against the Property. A Lien Holder (Lien**
40 **Holder) is a creditor who has a Lien and who agrees to (a) release its Lien against the**
41 **Property and either (b) accept an amount less than the full amount Lien Holder claims is**
42 **owed or (c) treat the debt secured by the Lien differently than as originally provided for in**
43 **the evidence of debt (such as promissory note) (Lien Holder). (§3.3 below.)**
44

45 **2.3. Short Sale. A Short Sale is a transaction in which any Lien Holder releases**
46 **its lien against the Property and accepts an amount less than the full amount Lien Holder**
47 **claims is owed or treats the debt secured by the Lien differently than as originally provided**
48 **for in the evidence of debt (such as promissory note) (Short Sale). (See § 3.3 below.) Before**
49 **a Short Sale can occur, the Buyer, Seller and each Lien Holder (except those creditors that**

50 are to be paid in the full amount claimed) must consent to the terms of the sale. Sometimes,
51 the Liens are released but the Lien Holder does not agree to release Seller from liability or
52 reduce the unpaid portion of the debt, and the Seller and any guarantors will remain liable
53 after Closing for that unpaid portion, despite the release of the Lien against the Property at
54 Closing (§ 3.3 below).
55

56 **3. MANDATORY DISCLOSURES TO SELLER AND BUYER.**

57

58 **3.1 SELLER IS ADVISED TO CONTACT THE COLORADO**
59 **FORECLOSURE PREVENTION HOTLINE OPERATED IN**
60 **COOPERATION WITH THE COLORADO DIVISION OF HOUSING AT 1-**
61 **877-601-4673 OR THE HUD HOUSING COUNSELING AND REFERRAL**
62 **LINE AT 1-800-569-4287.**

63
64 **3.2. Seller acknowledges there are alternatives to a Short Sale that may be better**
65 **for Seller. Seller acknowledges that a Short Sale transaction may result in continued**
66 **liability of Seller or other persons liable for the debt that could be extinguished through**
67 **foreclosure, bankruptcy or other loss mitigation options, including but not limited to a**
68 **negotiated loan modification with Lien Holder. Seller acknowledges that it is the**
69 **responsibility of Seller to investigate these alternative methods of resolution with Seller's**
70 **legal, accounting or financial advisors and with Lien Holder and it is not the**
71 **responsibility of any real estate broker to undertake any investigation of other options**
72 **that may be available to Seller.**
73

74 **3.3. Short Sales may have serious adverse legal, tax and economic**
75 **consequences for sellers and any guarantors. Seller is advised to seek legal**
76 **and tax counsel to advise Seller of the legal effect and meaning of any Short**
77 **Sale Acceptance from Lien Holder.**
78

79 **3.4. Lien Holder is not required to agree to a Short Sale. Even if a Lien**
80 **Holder agrees to a Short Sale, a Lien Holder is not required to forgive repayment of the**
81 **debt secured by the Lien, or release Seller and any guarantors from liability unless Lien**
82 **Holder's claim is paid in full. Seller acknowledges that Lien Holder may or may not agree**
83 **to release Seller or any guarantors from liability to Lien Holder. If not released, Seller**
84 **and any guarantors will remain liable to Lien Holder for any amount that**
85 **remains unpaid after the Short Sale. Any release of liability by Lien Holder, to be**
86 **binding, must be in writing, executed by Lien Holder and provide that Seller and any**
87 **guarantor is released from liability.**
88

89 **3.5. Lien Holder, if it agrees to a Short Sale, may condition its agreement on**
90 **Seller doing any or all of the following to obtain a Short Sale Acceptance: (a) make a cash**
91 **payment, (b) sign a new promissory note, (c) continue to owe the Lien Holder the unpaid**
92 **portion of the debt, (d) agree to other requirements made by Lien Holder.**
93

94 **3.6. If the Lien Holder accepts less than full payment, Seller understands that**
95 **Seller may incur federal and state tax liability due to a Short Sale and understands that**
96 **Lien Holder is required to file all required 1099 Forms with the Internal Revenue Service**

97 with respect to this transaction. Seller is strongly advised to seek tax advice of the
98 potential adverse tax consequences of a Short Sale to Seller.
99

100 3.7. Seller acknowledges that a Short Sale Acceptance by the Lien Holder will not
101 necessarily repair or rehabilitate Seller's credit rating and Lien Holder has no obligation
102 other than to fairly report this transaction to any credit rating agency.
103

104 3.8. The Contract may be terminated by Seller, if Lien Holder does not approve
105 this Contract, or if the terms and conditions from Lien Holder, to obtain a release of the
106 Lien, are not acceptable to Seller, in Seller's sole discretion, on or before the Short Sale
107 Acceptance Deadline (§ 8.1 below).
108

109 3.9. The Contract, although accepted by Buyer, may be terminated by Buyer as
110 otherwise provided herein, or if Lien Holder does not approve this Contract or if the
111 terms and conditions of any Agreement to Amend/Extend the Contract are not acceptable
112 to Buyer, in Buyer's sole discretion.
113

114 3.10. Release of the lien against the Property does not by itself release Seller and
115 any guarantors from liability for the debt.
116

117 3.11. Buyer acknowledges that the Short Sale Conditions (§ 4 below)
118 may lead to termination of the Contract. The Short Sale process may result
119 in delays in the Closing. Buyer is advised to consult with legal counsel about
120 this Addendum and its legal effect.
121

122 3.12. Buyer and Seller both acknowledge and agree that any Short Sale
123 Acceptance by Lien Holder is made on the condition that none of the terms of the sale
124 shall differ in any material respect from the terms submitted to the Lien Holder on which
125 the Short Sale Acceptance was based. For purposes of the Contract, any change in the
126 date of Closing, Purchase Price, real estate brokerage commissions, concessions or net
127 proceeds to be paid to, or other remuneration to be received by Seller in connection with
128 the proposed Short Sale shall be deemed a material change. Any material change will
129 require that the Short Sale Proposal be re-submitted to the Lien Holder for approval,
130 which could result in delays for approval or even denial of the Short Sale.
131

132 3.13. This Addendum should be signed at time of contracting by both Buyer and
133 Seller, as most Lien Holders will not consider a Short Sale until a signed contract is
134 received for their review.
135

136
137 4. SHORT SALE CONDITIONS. Notwithstanding anything to the contrary in this
138 Addendum, the Contract between Seller and Buyer, for the benefit of both Seller and
139 Buyer, is conditional upon all of the following occurring:
140

141 4.1. A written statement signed by each Lien Holder of a payoff amount less than
142 the full amount Lien Holder claims is owed.
143

144 4.2. A written statement signed by each Lien Holder that it agrees to release its
145 lien against the Property upon payment of the agreed upon payoff amount.
146

147 **4.3. A written statement signed by each Lien Holder and acceptable to**
148 **Seller (Short Sale Acceptance) that specifies the terms and conditions of the Short**
149 **Sale.**

150
151 **4.4. Agreement to Amend/Extend Contract signed by Buyer and Seller, so long**
152 **as both parties agree, in their sole discretion, to the changes to the Contract required by**
153 **the Short Sale Acceptance.**
154

155 **5. SELLER DEADLINE FOR SUBMISSION TO LIEN HOLDER. Seller agrees to**
156 **submit to each Lien Holder a request for a Short Sale and all documents and information**
157 **requested by Lien Holder, including a copy of the Contract, any Counter Proposal, this**
158 **Addendum and amendments. The initial submission by Seller to each Lien Holder shall be**
159 **on or before Initial Submission Deadline (§ 5.1 below). Any additional information or**
160 **documentation requested of Seller by such Lien Holder shall be submitted within 5**
161 **calendar days of such request or Buyer may terminate the Contract pursuant to § 8.2**
162 **below.**

163
164 **5.1. Seller Submission Deadline. The following deadline shall be the calendar**
165 **days set forth below.**
166

Event	Deadline	From
Initial Submission		MEC (§ 2.4 of Contract)

167
168 **5.2. Seller Consents to Lien Holder's Release of Information. Seller consents**
169 **that Lien Holder and its representatives may supply and communicate any loan, financial**
170 **or other information of Seller, confidential or otherwise, with any of the following**
171 **involved in the transaction: Seller's attorney, Broker or Brokerage Firm and its**
172 **representatives working with Seller, transaction coordinator, title insurance company, its**
173 **representatives, Closing Company or its representatives; and the following as checked:**
174 **Broker or Brokerage Firm and its representatives working with Buyer Buyer**
175 **Buyers attorney.**
176

177 **6. DATES AND DEADLINES.**
178

179 **6.1. Revised Dates and Deadlines and Other Terms. Buyer and Seller**
180 **acknowledge that an Agreement to Amend/Extend Contract ("Amend/Extend") is**
181 **required to revise the Dates and Deadlines (§ 2.3 Contract) or other terms based on**
182 **changes required by the Short Sale Acceptance. If both Buyer and Seller, in their sole**
183 **discretion, do not agree to the terms of the Amend/Extend, as evidenced by their signatures**
184 **on the Amend/Extend and the offering party to such document receives notice of such**
185 **acceptance on or before 7 calendar days after the earlier of (a) the receipt by both Buyer**
186 **and Seller of the Short Sale Acceptance or (b) the Short Sale Acceptance Deadline (§ 8.1**
187 **below), then the Contract shall terminate.**
188

189 **7. UNCERTAINTY OF SHORT SALE. Buyer and Seller acknowledge:**
190

191 **7.1. There are no promises or representations regarding (a) whether Lien Holder**
192 **will agree to a Short Sale, (b) the terms of any Short Sale Acceptance, and (c) when the**
193 **Lien Holder will advise of its decision to agree to a Short Sale or provide the written terms**
194 **and conditions of the Short Sale Acceptance.**

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7.2. 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.

7.3. A significant period of time may be required to determine if a Short Sale Acceptance will be granted. Buyer should inform Buyer’s lender of this fact for structuring Buyer’s loan; i.e., duration of “loan lock”; and Closing is required to be held very shortly following the Short Sale Acceptance.

7.4. Lien Holder, once a Short Sale Acceptance is given, will normally not agree to any additional changes to the terms of the Contract that differ from 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. Buyer may want to conduct an Inspection of the Property prior to submission of Seller’s request for a Short Sale to Lien Holder. The Purchase Price should reflect the condition of the Property and results of such Inspection. Buyer recognizes the risk that Lien Holder may not agree to the offer submitted by Buyer.

8. DEADLINE FOR ACCEPTANCE OF SHORT SALE; TERMINATION. Buyer and Seller must receive written notice of the Short Sale Acceptance, on or before Short Sale Acceptance Deadline (§ 8.1 below), or either party may thereafter terminate this Contract by written notice to the other party.

8.1. Short Sale Acceptance Deadline.

Event	Deadline
Short Sale Acceptance Deadline	

8.2. Termination. If any party has a right to terminate the Contract, such termination shall be governed by § 24 of the Contract upon written notice to the other party as described in § 30 of the Contract.

Date: _____

Date: _____

Buyer

Buyer

Date: _____

Date: _____

Seller

Seller

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SELLER AUTHORIZATION

Date: _____

Seller: _____

Lien Holder: _____

Property: _____

Loan No. _____

Seller Consents to Lien Holder's Release of Information. Seller Consents to Lien Holder's Release of Information. Seller consents that Lien Holder and its representatives may supply and communicate any loan, financial or other information of Seller, confidential or otherwise, with any of the following involved in the transaction: Seller's attorney, Broker or Brokerage Firm and its representatives working with Seller, transaction coordinator, title insurance company, its representatives, Closing Company or its representatives; and the following as checked: Broker or Brokerage Firm and its representatives working with Buyer Buyer Buyers attorney.

Seller

Seller

Note: This Seller Authorization should be submitted to the Lender's Loss Mitigation Department. If the Property is in foreclosure this form should also be submitted to the Lender's law firm.