



SHORT SALE ADDENDUM TO PURCHASE CONTRACT
Hawaii Association of REALTORS® Standard Form



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Short Sale Addendum is made a part of Purchase Contract:

Purchase Contract Reference Date: _____

Property Reference or Address: _____

Tax Map Key: Div. _____ /Zone _____ /Sec. _____ /Plat _____ /Parcel _____ /CPR _____ (if applicable).

Definitions:

The term "Short Sale" is used to describe a sale where: (1) the liens against a property combined with the associated costs will exceed the purchase price of the property and (2) the Seller will be asking the lien holder for a release of the lien on the subject property without a complete payoff.

The term "Distressed Property" is defined by Hawaii's Mortgage Rescue Fraud Prevention Act ("the Act") as follows:

Any residential real property that:

- (1) Is in foreclosure or at risk of foreclosure because payment of any loan that is secured by the residential real property is more than sixty days delinquent;
(2) Had a lien or encumbrance charged against it because of nonpayment of any taxes, lease assessments, association fees, or maintenance fees;
(3) Is at risk of having a lien or encumbrance charged against it because the payments of any taxes, lease assessments, association fees, or maintenance fees are more than ninety days delinquent;
(4) Secures a loan for which a notice of default has been given; or
(5) Secures a loan that has been accelerated.

The term "Distressed Property Consultant" is defined by the Act as follows:

Any person who performs or makes any solicitation, representation, or offer to perform any of the following relating to a Distressed Property:

- (1) Stop or postpone the foreclosure sale or loss of any Distressed Property due to the nonpayment of any loan that is secured by the Distressed Property;
(2) Stop or postpone the charging of any lien or encumbrance against any Distressed Property or eliminate any lien or encumbrance charged against any Distressed Property for the nonpayment of any taxes, lease assessments, association fees, or maintenance fees;
(3) Obtain any forbearance from any beneficiary or mortgagee, or relief with respect to a tax sale of the property;
(4) Assist the owner to exercise any cure of default arising under Hawaii law;
(5) Obtain any extension of the period within which the owner may reinstate the owner's rights with respect to the property;
(6) Obtain any waiver of an acceleration clause contained in any promissory note or contract secured by a mortgage on a Distressed Property or contained in the mortgage;
(7) Assist the owner in foreclosure, loan default, or post-tax sale redemption period to obtain a loan or advance of funds;
(8) Avoid or ameliorate the impairment of the owner's credit resulting from the recording or filing of a notice of default or the conduct of a foreclosure sale or tax sale; or
(9) Save the owner's residence from foreclosure or loss of home due to nonpayment of taxes.

The term "Distressed Property Conveyance" is defined by the Act as follows:

The transfer of any interest in a Distressed Property effected directly or indirectly by or through a Distressed Property Consultant.

The term "Distressed Property Conveyance Contract" is defined by the Act as follows:

Any agreement or obligation affecting a Distressed Property Conveyance.

The term "Distressed Property Purchaser" is defined by the Act as follows:

Any person who acquires any interest in a Distressed Property directly or indirectly through a Distressed Property Conveyance or Distressed Property Conveyance Contract.

1. Time Frames: Buyer and Seller agree that all time frames that are measured from the "Acceptance Date" in the Purchase Contract will begin

(Choose one):

[] Upon delivery of acceptance of the Purchase Contract.

[] Upon delivery of written approval of the short sale to Buyer by all lien holders.

Note: Paragraphs B-1, C-6, C-12, C-13, C-19, C-23, C-25a, b, c, d, C-44, C-51, C-59, C-61, C-64, and C-66 in the Purchase Contract may need to include a number of days from Acceptance Date rather than a specific date.



2. **Lien Holder Approval:** Sale is contingent on Seller's receipt of written approval of a short sale from all lien holders on Property by _____, and Seller's acceptance of the terms of such approval and of any modifications thereof. Should Seller not receive written approval within this time frame, or if Seller shall not accept the terms of such approval and any modifications thereof, Buyer or Seller may terminate this Purchase Contract and the termination provisions of Paragraph C-30 shall apply.
3. **No Assurances of Approval:** Seller and Buyer acknowledge that neither Seller nor Brokerage Firms have made any representations that lien holders will give approval of a short sale or, if approval is given, that lien holders will perform. Seller and Buyer are aware that lien holders are not within the Brokerage Firms' or Seller's control. Seller and Brokerage Firms shall not be held liable for any loss, damage or harm resulting from any action or inaction by the lien holders.
4. **Buyer's Rights:** Buyer may search for another property and terminate the Purchase Contract at any time prior to Buyer's receipt of written approval of the short sale by Seller's lien holders and the termination provisions of Paragraph C-29 shall apply.
5. **Document Delivery to Lien Holders:** Seller shall deliver the Purchase Contract with required supporting documentation to all lien holders whose approval is required for the short sale by _____ (date). Otherwise, Buyer may terminate this Purchase Contract and the termination provisions of Paragraph C-30 shall apply.
6. **Modifications:** In the event a lien holder requires any term of the Purchase Contract be changed as a condition of lien holder's approval of the short sale, Seller shall deliver the lien holder's modification in writing to Buyer within three (3) days of receiving such modification. If either Buyer or Seller does not accept modifications, Buyer or Seller may terminate the Purchase Contract and the termination provisions of Paragraph C-30 shall apply.
7. **Additional Offers:** Seller retains the right to continue marketing Property and to present all written offers to lien holders until written approval of short sale is received by Seller.
8. **Mortgage Rescue Fraud Prevention Act:** If, at any time during the pendency of the Purchase Contract, (i) Property becomes a Distressed Property, and (ii) Seller uses, directly or indirectly, the services of a Distressed Property Consultant, Seller shall notify Buyer immediately in writing. Seller and Buyer have been advised and understand that Hawaii's Mortgage Rescue Fraud Prevention Act requires that a Distressed Property Conveyance Contract be used in any Distressed Property Conveyance. Buyer and Seller have further been advised and understand that, pursuant to the Act, the Distressed Property Conveyance Contract must provide, among other things, certain specific notices, specific information concerning the Distressed Property Purchaser, and additional cancellation rights for Seller, none of which appear in the Purchase Contract. Therefore, Buyer and Seller understand and agree that, upon written notice from Seller being given of Property becoming a Distressed Property and the use of a Distressed Property Consultant, unless Buyer and Seller agree to amend the Purchase Contract to incorporate all of the provisions mandated by the Mortgage Rescue Fraud Prevention Act, the Purchase Contract shall terminate automatically, and Escrow shall return to Buyer all deposits previously made, less the amount of any escrow expenses or fees chargeable to Buyer. Buyer and Seller are advised to obtain advice from a licensed Hawaii attorney.
9. **Professional Advice:** Seller understands that a short sale can have serious legal, cash, tax and credit consequences, and may result in taxable income to Seller. Seller has been advised to obtain advice from a licensed Hawaii attorney, Certified Public Accountant and other experts prior to entering into a short sale agreement.
10. **Commission Obligations:** Buyer and Seller understand and agree that Brokerage Firms are not obligated to negotiate commissions for purposes of accommodating a short sale.

Buyer Date Seller Date

Buyer Date Seller Date

NOTE: THERE IS NO WARRANTY ON PLAIN LANGUAGE. An effort has been made to put this agreement into plain language. But there is no promise that it is in plain language. In legal terms, THERE IS NO WARRANTY, EXPRESSED OR IMPLIED, THAT THIS AGREEMENT COMPLIES WITH CHAPTER 487A OF THE HAWAII REVISED STATUTES, AS AMENDED. This means that the Hawaii Association of REALTORS® is not liable to any Buyer, Seller, or other person who uses this form for any damages or penalty because of any violation of Chapter 487A. People are cautioned to see their own attorneys about Chapter 487A (and other laws that may apply).