



PURCHASE MONEY MORTGAGE ADDENDUM
Hawaii Association of REALTORS® Standard Form
Revised For Release



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Purchase Money Mortgage Addendum is made a part of Purchase Contract:

Reference Date: _____

Property Reference or Address: _____

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

A Purchase Money Mortgage between Seller and Buyer constitutes a means of seller financing. Under Chapter 454F, HRS, a "mortgage loan originator" means an individual who for compensation or gain or in expectation of compensation or gain (a) takes a residential mortgage application or (b) offers or negotiates terms of a residential mortgage loan, and (c) includes an independent contractor who has a contractual arrangement to perform mortgage loan originating, underwriting, or loan processing services to a mortgage loan originator.

In considering seller financing with a Purchase Money Mortgage between Seller and Buyer, Seller would constitute a mortgage loan originator unless exempt under Section 454F-2(9), HRS, as amended, which permits such exemption to a seller of real property who offers or negotiates terms of a residential mortgage loan that is financed by the Seller and secured by the Seller's own real property.

BUYER AND SELLER AGREE TO THE FOLLOWING:

1. Type of Mortgage. Seller will convey title to Buyer and Buyer will give Seller a Note and Mortgage to secure payment of the Loan. By providing Seller a Note and Mortgage (i) Buyer will be providing and Seller will be acquiring a security interest in the Buyer's Property upon closing and (ii) Buyer may lose the Property in the event of a default under the Note and Mortgage as set forth in Section 4. B.

Check all that apply:

- [] First Mortgage
[] Second Mortgage. Second Mortgage may be subject to approval by Buyer's First Mortgagee. Buyer shall provide Seller all necessary written notification and written consents within _____ days after Acceptance Date.
[] Other _____

2. Terms of Mortgage:

A. Principal Amount. The Loan principal amount is _____ US Dollars (\$_____).

B. Interest Rate. Annual simple Interest rate will be _____ percent (_____%).

[] Other _____

C. Term of Loan. Loan must be paid in full no later than _____.

D. Monthly Payment Terms:

[] Monthly Principal and Interest \$ _____

[] Monthly interest only \$ _____

[] Other Payment Agreement _____

E. Prepayment Penalty: If Buyer pays off the Loan earlier than the end of the Term of Loan, Buyer [] will [] will not have to pay a prepayment penalty. The prepayment penalty is described as follows: _____

F. Late Payment and Fees: Any payment not received within _____ days after it is due will be a "Late Payment". For each Late Payment, Buyer shall promptly pay Seller a late fee of \$ _____ or _____ % of payment then due.

3. Financial Requirements of Buyer.

A. Seller requires the following information from Buyer within _____ days after Acceptance Date.

[] Current Credit Report [] Tax return(s) for the prior: _____ year(s)

[] Current financial statement [] Most recent bank statement

[] Other _____

B. If Buyer fails to provide Seller with the Credit Report and/or other information as indicated within the time specified, Seller may elect to terminate the Purchase Contract pursuant to Paragraph O-3.

C. Within _____ days after receipt and review of all financial information provided, Seller may elect to terminate the Purchase Contract pursuant to Paragraph O-2.

BUYER'S INITIALS & DATE

SELLER'S INITIALS & DATE



4. Additional Agreements Relating to Purchase Money Mortgage.

A. Buyer Shall Make Payments to:

- Seller directly and Seller shall provide Buyer with an annual accounting within 30 days of calendar year end; OR
- A collection agency (or other entity) _____

1. If there is a cost for the collection agency or other entity selected, then the cost will be:

- Shared equally between Buyer and Seller, OR
- Other (describe) _____

B. Default: Any Late Payment or other failure by Buyer to keep Buyer's promises made in the Note and Mortgage shall constitute a default. For each default, Seller may exercise customary remedies, including but not limited to foreclosure.

C. Transfer of Property:

- Option 1: If Buyer transfers the Property to someone else (a "transferee"), Seller may require immediate payment in full of the Note and Mortgage ("due on sale" clause).
- Option 2: Buyer may transfer the Property with the consent of Seller. Seller may not unreasonably withhold consent. However, Seller may condition the consent on the credit worthiness and payment capacity of the proposed transferee and may charge a consent fee of \$ _____. Seller may not change any terms of Note or Mortgage.
- Option 3: Buyer may transfer the Property without Seller's consent. There will be no "due on sale" clause in the Mortgage.

D. Further Mortgages or Encumbrances: Buyer may:

- Further mortgage the Property subject to the following conditions: _____
- Not further encumber the Property

E. Alterations and Improvements: Buyer may not make additions or major improvements to Property without Seller's written consent. Seller has the right to inspect plans and specifications and may condition Seller's consent on Buyer's obtaining required building permits, consents of Condominium Owner's and/or Homeowner's Association, lenders, or lessors, if any, plus evidence of Buyer's adequate financing and/or bonding to pay for the improvements.

F. Insurance: Prior to closing, Buyer shall obtain, and thereafter maintain for the duration of the Mortgage, insurance coverage as follows (check those that apply):

- Fire and extended peril coverage (with inflation guard) in an amount at least equal to the full replacement costs of the insurable improvements on Property;
- Comprehensive public liability insurance as customarily provided in Hawaii for homeowners insurance;
- Hurricane Property Insurance Policy;
- Flood insurance, if Property is within the Flood zone eligible for federally subsidized flood insurance.
- Other _____

NOTE: Insurance Policies shall name Seller, any lessor, and/or other mortgagee(s) as additional insureds.

If Property is a condominium or cooperative apartment, these insurance requirements may be met in part by the master insurance policy for the condominium or cooperative.

G. Personal Property:

- Items of personal property as provided for in the Purchase Contract and/or Seller's inventory are included, OR
- Items of personal property are not included.

H. Document Preparation: The Note and Mortgage will be drafted by an attorney selected by Buyer Seller Escrow
Attorney's name: _____

I. Release of Mortgage: When the loan is paid in full, Seller shall, at Seller's expense, promptly provide Buyer with a Release of Mortgage in recordable form.

J. Return of Documents: In the event the Purchase Contract is terminated, Seller agrees to promptly return to Buyer all printed documents requested in paragraph 3. A.

5. Seller Statutory Requirements pursuant to HRS Section 454F-2(9). Seller shall provide Buyer with the terms of the financing including:

- A. A current title search including any liens against the property;
- B. The interest rate;
- C. Monthly principal and interest payments;
- D. Any prepayment penalty;
- E. Any late payment charges;
- F. The payment schedule;
- G. The total amount of interest that the mortgagor will pay over the term of the loan expressed as a percentage of the loan amount;
- H. A calculation of projected aggregate monthly payments including principal and interest;
- I. Estimated closing costs if closing costs are included in loan costs and estimated cash to close if closing costs are not included in loan costs. For purposes of this paragraph, closing costs shall include recording fees, transfer taxes, prepaid costs such as homeowner's insurance premiums or property taxes, and appraisal costs charged to the mortgagor;
- J. The seller's contact information including name, address, phone number, electronic mail address, and alternate contact information to the extent available; and
- K. A statement that the seller will acquire a security interest in the buyer's dwelling and that the buyer may lose the dwelling in the event of a loan default.

6. Seller Representations as required by Section 454F-2(9):

- A. Seller is a person, estate, or trust that transacts three or fewer residential mortgage loans in one calendar year;
- B. Seller is not a loan originator for purposes of the loan originator qualification requirements in 12 Code of Federal Regulations, Section 1026.36(f) and (g);
- C. Seller has not constructed or acted as the construction contractor for the residence on the Property in the ordinary course of the Seller's business; and
- D. The interest rate for the Loan does not exceed the Hawaii State's usury limit; provided that the exemptions from usury specified in Section 478-8, Hawaii Revised Statutes, shall not apply to this Loan.

SELLER'S INITIALS & DATE

7. SELLER UNDERSTANDS THAT A PURCHASE MONEY MORTGAGE HAS SERIOUS LEGAL, CASH, CREDIT, AND TAX CONSEQUENCES INCLUDING BUT NOT LIMITED TO FIRPTA AND HARPTA WITHHOLDING REQUIREMENTS. SELLER HAS BEEN ADVISED TO OBTAIN ADVICE FROM A QUALIFIED ATTORNEY, CERTIFIED PUBLIC ACCOUNTANT AND OTHER EXPERTS PRIOR TO ENTERING INTO A PURCHASE MONEY MORTGAGE. SELLER AGREES THAT SELLER HAS NOT RELIED ON BROKERAGE FIRM FOR ANY SUCH INFORMATION NOR HAS BROKERAGE FIRM PROVIDED ANY SUCH ADVICE.

SELLER'S INITIALS & DATE

8. DISCLAIMER: BUYER ACKNOWLEDGES RECEIVING FINANCING FROM THE SELLER IN THIS TRANSACTION AND GRANTING THE SELLER A MORTGAGE. THIS CAN HAVE SERIOUS CONSEQUENCES SHOULD BUYER FAIL TO MAKE ANY PAYMENTS INCLUDING BUT NOT LIMITED TO FORECLOSURE AND THE LOSS OF BUYER'S PROPERTY. THEREFORE, IT IS IMPORTANT THAT BUYER UNDERSTANDS ALL FINANCING TERMS AND OBLIGATIONS AND OBTAINS PROFESSIONAL EXPERT ADVICE TO THE EXTENT NECESSARY TO ENSURE BUYER IS FULLY ADVISED IN THIS MATTER. BUYER AGREES THAT BUYER HAS NOT RELIED ON BROKERAGE FIRM FOR ANY SUCH INFORMATION NOR HAS BROKERAGE FIRM PROVIDED ANY SUCH ADVICE.

BUYER'S INITIALS & DATES

9. BUYER AND SELLER HEREBY WAIVE AND RELEASE BROKERAGE FIRM FROM ANY AND ALL CLAIMS THAT MAY ARISE UNDER OR IN CONNECTION WITH THE NOTE AND MORTGAGE, AND AGREE TO INDEMNIFY, DEFEND AND HOLD BROKERAGE FIRM AGAINST AND SUCH CLAIMS.

Buyer and Seller acknowledge that they have read, understand and agree to the terms and conditions of this PURCHASE MONEY MORTGAGE ADDENDUM.

Buyer _____ Date _____
Title _____

Seller _____ Date _____
Title _____

Buyer _____ Date _____
Title _____

Seller _____ Date _____
Title _____

Buyer _____ Date _____
Title _____

Seller _____ Date _____
Title _____

Address _____

Address _____

Phone Number _____

Phone Number _____

E-Mail Address _____

E-Mail Address _____

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. 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).