

# SELLER ATTACHMENT

Document updated:  
February 2014



*The pre-printed portion of this form has been drafted by the Arizona Association of REALTORS®. Any change in the pre-printed language of this form must be made in a prominent manner. No representations are made as to the legal validity, adequacy and/or effects of any provision, including tax consequences thereof. If you desire legal, tax or other professional advice, please consult your attorney, tax advisor or professional consultant.*



This attachment is intended to be given to the Seller  
prior to consummation of a Seller Financing Addendum  
for a consumer credit\* transaction.

THIS ATTACHMENT IS NOT PART OF THE SELLER FINANCING ADDENDUM'S TERMS.

\* Consumer Credit means credit offered or extended to a consumer primarily for personal, family, or household purposes.

## MESSAGE TO SELLER

You are entering into a complex transaction governed by many State and Federal laws. Real estate brokers are not qualified, nor licensed, to ensure that the terms of your Seller Financing Addendum comply with these laws. You are advised to carefully read the below disclosures and consult with qualified licensed professionals to ensure that the terms of your Seller Financing Addendum comply with all applicable State and Federal laws.

### LOAN ORIGATION DISCLOSURE



**Sellers originating a residential consumer loan must be registered and/or licensed as mortgage loan originators unless exempt under the Dodd-Frank Wall Street Reform and Consumer Protection Act.**

The Dodd-Frank Wall Street Reform and Consumer Protection Act (the "Dodd-Frank Act") mandates that a loan originator for a consumer credit transaction secured by an owner occupied dwelling must, when required by applicable State or Federal laws, be registered and/or licensed in accordance with those laws, including the Secure and Fair Enforcement for Mortgage Licensing Act (the "S.F.E. Act").

Although the definition of a "loan originator" under the Dodd-Frank Act is broad in scope, there exist two categories of seller financing excluded from the "loan originator" definition.

**Requirements of the first exemption include all of the following:** (1) the Seller originates consumer financing for only one property in any 12-month period; (2) the Seller is a natural person, estate, or trust; (3) the Seller has not constructed, or acted as a contractor for the construction of, a residence on the property as part of their ordinary course of business; (4) the financing does not result in negative amortization; and (5) the financing has a fixed rate or does not adjust for the first five years.

OR

**Requirements of the second exemption include all of the following:** (1) the Seller originates consumer financing for no more than three residential properties in any 12-month period; (2) the Seller is a natural person, or an organization, including a partnership, corporation, proprietorship, association, cooperative, trust, estate, or government unit; (3) the Seller has not constructed, or acted as a contractor for the construction of, a residence on the property as part of their ordinary course of business; (4) the loan is fully amortizing; (5) the financing has a fixed rate or does not adjust for the first five years; and (6) the Seller has determined that the borrower has the reasonable ability to repay the loan according to its terms per 12 CFR § 1026.43(c), which is available at [https://www.ecfr.gov/cgi-bin/text-idx?SID=1e230dbe76b1a3b54db4cc1cc6814a32&mc=true&node=se12.9.1026\\_143&rgn=div8](https://www.ecfr.gov/cgi-bin/text-idx?SID=1e230dbe76b1a3b54db4cc1cc6814a32&mc=true&node=se12.9.1026_143&rgn=div8).

**Before consummating this transaction, it is the sole and exclusive duty of you, the Seller, to verify whether you are a "loan originator" as defined by the Dodd-Frank Act thereby requiring you to be registered and/or licensed in accordance with applicable State or Federal laws.**

### HOEPA DISCLOSURE



**Sellers originating a high cost mortgage as defined by the Home Ownership and Equity Protection Act may need to be registered and/or licensed as mortgage loan originators.**

The Home Ownership and Equity Protection Act ("HOEPA") applies to most types of consumer credit transactions secured by a consumer's principal residence. Before concluding if you, the Seller, are exempt from the definition of a "loan originator," you must determine whether the transaction you are originating is subject to HOEPA coverage, and if so, whether the transaction is covered by the high-cost mortgage provisions of HOEPA.

**Sellers originating a high-cost mortgage may not be exempt from the definition of a "loan originator," meaning that you, the Seller, would need to be registered and/or licensed in accordance with applicable State or Federal laws before engaging in the business of residential mortgage loan origination.**

The complete 2013 HOEPA rule, including the Official Interpretations, is available at [https://files.consumerfinance.gov/f/201603\\_cfpb\\_hoeпа-compliance-guide.pdf](https://files.consumerfinance.gov/f/201603_cfpb_hoeпа-compliance-guide.pdf).

# SELLER FINANCING ADDENDUM

## CONSUMER CREDIT TRANSACTION SECURED BY A DWELLING\*

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### Seller Providing Financing for Only One Residential Owner Occupied Property in Any 12-Month Period

\*Dwelling means a residential structure that contains one to four units. The term includes an individual condominium unit, cooperative unit, manufactured home and mobile home, if it is used as a residence. (An Arizona real estate licensee is permitted to act in the sale of a used mobile home when the mobile home is installed on the real property and listed in a contract for transfer of an interest in real property executed by its owner. A.R.S. § 41-2178(B)(1).)



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1. Seller: \_\_\_\_\_
2. Buyer: \_\_\_\_\_
3. Premises Address: \_\_\_\_\_
4. Date: \_\_\_\_\_

5. The following additional terms and conditions are hereby included as a part of the Contract between Seller and Buyer for the above
6. referenced Premises.

#### SELLER VERIFICATION

8. • Seller is a natural person, trust, or estate.
9. • Seller is providing consumer financing for the sale of only one residential property in any 12-month period.
10. • Seller owns the property securing the financing.
11. • Seller has not constructed, or acted as a contractor for the construction of, a residence on the property
12. as part of their ordinary course of business.

#### SELLER'S INITIALS REQUIRED

SELLER SELLER

#### BUYER VERIFICATION

15. • Buyer is a natural person, including a trust created for tax or estate planning purposes.
16. • Buyer is purchasing a Dwelling primarily for personal, family, or household purposes with the expectation of
17. occupying it for more than 14 days during the coming year.

#### BUYER'S INITIALS REQUIRED

BUYER BUYER

19. The following amount shall be financed by Seller and paid by Buyer: \$ \_\_\_\_\_.
20. Lien Position: ☐ First ☐ Second ☐ \_\_\_\_\_
21. Type of Financing Instrument:
22. ☐ Buyer shall execute a promissory note and deed of trust in favor of Seller. The deed of trust shall be recorded against the
23. Premises at the Close of Escrow.
24. ☐ Other \_\_\_\_\_
25. Fixed Interest Rate: The unpaid balance shall bear interest at the rate of \_\_\_\_\_% per year, beginning at the Close of Escrow.



If the agreed upon financing has an adjustable rate, this Seller Financing Addendum shall not be utilized. If considering an adjustable interest rate, the parties are advised to immediately consult independent legal counsel and a licensed loan originator. Any adjustable interest rate shall be determined by the addition of a margin to an index rate and is subject to reasonable rate adjustment limitations. The index the adjustable rate is based on is a widely available index such as indices for U.S. Treasury securities or LIBOR.

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BUYER	BUYER
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**Seller Financing Addendum — Only One Residential Property >>**

31. **Term:** The financed amount is fully amortized over \_\_\_\_\_ years, not to exceed thirty (30) years.
32. The unpaid balance is due on or before \_\_\_\_\_.  
MO/DA/YR
33. **Payment Amount (Principal and Interest):** \$ \_\_\_\_\_.
34. The note ☐ will ☐ will not require payment to an impound account as follows: In addition to and at the time of the above-stated
35. payment amount, Buyer shall pay an amount equal to 1/12 the annual real estate tax, 1/12 the annual hazard insurance premium,
36. 1/12 annual assessment(s), ☐ Other \_\_\_\_\_.
37. **Payment Intervals:** The first payment is due \_\_\_\_\_, and subsequent payments are due on the same day thereafter as follows:  
MO/DA/YR
38. ☐ Monthly ☐ Quarterly ☐ Semi-annually ☐ Annually ☐ Other \_\_\_\_\_.
39. **Late Payments:** If late, Buyer shall pay late fees: ☐ Yes ☐ No. If Yes, any payment which is at least ☐ ten (10) days or
40. ☐ \_\_\_\_\_ days past due shall be subject to a late fee of \$ \_\_\_\_\_, not to exceed five percent (5%) of the
41. scheduled payment. Payment(s) shall first be applied to accrued interest and late fees.
42. If the unpaid balance is not paid in full by the date set forth on Line 32, the late fee per day will be \$ \_\_\_\_\_.
43. Any late payments received without applicable late fees shall be accepted and unpaid late fees shall not accrue interest.
44. **Account Servicing:** The parties shall use the services of a duly licensed entity or individual authorized to conduct account servicing.
45. Payments on this loan and all prior encumbrances shall be made concurrently through a single servicing account to be maintained
46. by the account servicing agent. The parties hereby instruct the servicing agent not to accept any payment without all other
47. concurrent payments.
48. Account Servicing fee(s) shall be paid by ☐ Buyer ☐ Seller ☐ \_\_\_\_\_
49. Account Setup fee(s) shall be paid by ☐ Buyer ☐ Seller ☐ \_\_\_\_\_
50. Account to be serviced by: \_\_\_\_\_
51. \_\_\_\_\_
52. \_\_\_\_\_
53. **Credit Evaluation:** This sale ☐ is ☒ is not contingent upon Seller's approval of Buyer's credit. If contingent upon Seller's approval
54. of Buyer's credit, Buyer shall provide to Seller a current credit report from a credit reporting agency and a completed Uniform Residential
55. Loan Application within three (3) days after acceptance of this Contract. Reasonable disapproval of Buyer's credit requires written notice
56. from Seller to Escrow Company within three (3) days after receipt by Seller of current credit report and completed loan application.
57. **Due On Sale:** The unpaid balance, including accrued interest, fees and penalties, is immediately due and payable in the event that
58. the Premises is sold, transferred, or conveyed in any manner, unless otherwise prohibited by law.
59. **Buyer's Liability:** On certain qualified residential property, the Seller understands that under Arizona law, the Buyer may have no
60. personal liability in case of a default and that the Seller's only recourse may be the Premises as the sole and exclusive source for
61. repayment of the debt. Should Buyer default, Seller may need to at Seller's own expense: (i) exercise their power of sale in order to
62. recover legal title to the Premises; and (ii) initiate a forcible entry and detainer action to recover physical possession of the Premises.
63. Seller is hereby advised of their inability to conduct a trustee's sale sooner than the ninety-first day after the date on which a notice
64. of trustee's sale is recorded. Seller may additionally incur expenses such as unpaid property taxes, delinquent home owners'
65. association fees and assessments, attorneys' fees and delinquent utility bills. Independent counsel should be consulted.
66. **SELLER'S INITIALS REQUIRED** \_\_\_\_\_ SELLER \_\_\_\_\_ SELLER
67. **Title Insurance:** Buyer shall furnish to Seller, at Buyer's expense, an American Land Title Association Standard Loan Insurance
68. Policy or Vendor Owner Insurance Policy on the Premises in the full amount financed by Seller.
69. **Tax Service:** In the absence of a tax impound account, Buyer shall provide and pay for a tax service contract over the life of this
70. loan which will provide a delinquency notice of any unpaid real estate tax to Seller, any successor in interest to Seller, and the
71. account servicing agent.
72. **Hazard Insurance:** Buyer shall provide, maintain, and deliver to Seller hazard insurance with loss payable to Seller in the
73. amount of: (i) all encumbrances against the Premises; or (ii) the replacement cost of the improvements built on the Premises,
74. whichever is less.

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SELLER	SELLER

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BUYER	BUYER

**Seller Financing Addendum — Only One Residential Property >>**

75. **Acknowledgement:** Buyer and Seller recognize, acknowledge and agree that Broker(s) are not qualified, nor licensed, to: (i)  
 76. determine the Buyer's credit-worthiness; and (ii) ensure that the terms of the parties' Seller Financing Addendum comply with  
 77. state and federal law. Buyer and Seller are instructed to consult with qualified licensed professionals, including but not limited to  
 78. a licensed Arizona attorney, to ensure that the terms of their Seller Financing Addendum comply with the Dodd-Frank Wall Street  
 79. Reform and Consumer Protection Act, Regulation Z of the Truth in Lending Act (12 CFR § 1026), the Real Estate Settlement  
 80. Procedures Act and other state and federal laws that may prove applicable. Because ensuring compliance with these laws is  
 81. beyond the scope of the Broker's expertise and licensing, Buyer and Seller expressly release and hold harmless Broker(s) from  
 82. liability for any violations that could have been avoided/discovered by consultation with qualified licensed professionals.

83. **BUYER'S INITIALS REQUIRED** \_\_\_\_\_ **BUYER** \_\_\_\_\_ **BUYER**

84. **SELLER'S INITIALS REQUIRED** \_\_\_\_\_ **SELLER** \_\_\_\_\_ **SELLER**

**ADDITIONAL TERMS AND CONDITIONS**

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107. The undersigned agree to these additional terms and conditions and acknowledge receipt of a copy hereof.

108. ^ BUYER'S SIGNATURE \_\_\_\_\_ MO/DA/YR ^ BUYER'S SIGNATURE \_\_\_\_\_ MO/DA/YR

109. ^ SELLER'S SIGNATURE \_\_\_\_\_ MO/DA/YR ^ SELLER'S SIGNATURE \_\_\_\_\_ MO/DA/YR

**For Broker Use Only:**

Brokerage File/Log No. \_\_\_\_\_ Manager's Initials \_\_\_\_\_ Broker's Initials \_\_\_\_\_ Date \_\_\_\_\_  
 MO/DA/YR