



REO # \_\_\_\_\_

EMC ADDENDUM TO CONTRACT OF SALE

SECTION I

This EMC Addendum to Contract of Sale ("Addendum") is to be made a part of the Contract of Sale (the "Contract") dated \_\_\_\_\_ between EMC \_\_\_\_\_ (the "Seller") and \_\_\_\_\_ (the "Buyer") for the property with a common address of \_\_\_\_\_ (the "Property").

IN THE EVENT ANY PROVISIONS OF THIS ADDENDUM CONFLICT IN WHOLE OR IN PART WITH THE TERMS OF THE CONTRACT OR ANY PRIOR ADDENDUM OR AMENDMENT THERETO (COLLECTIVELY, THE "CONTRACT"), THE PROVISIONS OF THIS ADDENDUM SHALL CONTROL.

1. Title to the property shall be conveyed by either Special Warranty Deed, Grant Deed or Quit Claim Deed, or equivalent documents accepted where the Property is located.

2. CORPORATE DISCLOSURES

Seller acquired the Property either as a result of a foreclosure action, result of a like or similar action, i.e. deed in lieu or as part of a purchase from a prior servicer and that the total price set forth in the contract may reflect deferred maintenance. Accordingly, Seller has not conducted their own inspections or has any personal knowledge of the condition of the Property other than as may be disclosed in the Inspection Report (as hereinafter defined), if any, that has been prepared for the Property. Buyer acknowledges that there has been no representation(s) by Seller, or any other person acting as Seller's representative and/or Buyer's representative regarding the condition of the Property, any of the appliances or structural components that may be contained therein, its fitness for general or specific use, or any other matter affecting the Property. If an inspection report has been obtained by or on behalf of Seller or Seller's representative (the "Inspection Report"), such Inspection Report may be provided to Buyer for Buyer's information only and shall not be deemed a part of the Contract of Sale. If the Inspection Report has been provided to Buyer, no representation or warranty is made as to the accuracy and completeness of such report.

Neither Seller nor any person acting as Seller's representative has occupied the Property and neither warrants or represents that the Property or any alterations or additions which may have been made to the Property conform to local building codes, zoning requirements or any other applicable laws, rules or regulations.

Buyer acknowledges that Buyer has the opportunity to inspect, examine and make a complete review of the Property prior to the close of escrow of the Contract. Buyer will rely solely on Buyer's inspection and review to evaluate the condition of the Property.

Buyer hereby acknowledges that Seller shall not be providing Buyer with a Real Estate Transfer Disclosure Statement and/or a Certificate of Occupancy with respect to the Property. Buyer hereby waives any requirement that Seller furnish Buyer with any such disclosure statement and/or a Certificate of Occupancy and hereby releases Seller from any and all liability resulting from the non-delivery of such disclosure statement and /or a Certificate of Occupancy.

Buyer acknowledges that it is Buyer's sole responsibility to obtain inspection reports by qualified professionals on the appliances, structural components, and alterations or additions to the Property and to determine the presence of any toxic or hazardous substances on the Property, including, but not limited to, mold, radon, asbestos and lead paint, that would make it uninhabitable or dangerous to the health of the occupants or otherwise not in compliance with law, or any other factors regarding the condition of the Property about which Buyer may be concerned.

BUYER UNDERSTANDS, ACKNOWLEDGES, AND AGREES THAT NEITHER SELLER NOR ANY PERSON ACTING AS SELLER'S REPRESENTATIVE IS MAKING ANY WARRANTIES OR REPRESENTATIONS, EITHER EXPRESS OR IMPLIED, AS TO THE CONDITION OF THE PROPERTY. THE PROPERTY IS BEING CONVEYED TO BUYERS IN ITS "AS IS, WHERE IS" CONDITION. IT IS THE RIGHT AND RESPONSIBILITY OF THE BUYER TO INSPECT THE PROPERTY AND BUYER MUST SATISFY HIMSELF/HERSELF AS TO THE CONDITION OF THE PROPERTY.

Mold, mildew spores and/or other microscopic organisms and/or allergens (collectively referred to in this Agreement as "Mold") are environmental conditions that are common in residential properties and may affect the Property. Mold, in some forms, has been reported to be toxic and to cause serious physical injuries, including but not limited to, allergic and/or respiratory reactions or other problems, particularly in persons with immune system problems, young children and/or elderly persons. Mold has also been reported to cause extensive damage to personal and real property. Mold may have been removed or covered in the course of any cleaning or repairing of the Property. The Buyer acknowledges that, if Seller, or any of Seller's employees, contractors, or agents cleaned

Buyer's Initials \_\_\_\_\_

Seller's Initials \_\_\_\_\_

or repaired the Property or remediated Mold contamination, that Seller does not in any way warrant the cleaning, repairs or remediation. Buyer accepts full responsibility for all hazards that may result from the presence of Mold in or around the Property. The Buyer is satisfied with the condition of the Property notwithstanding the past or present existence of Mold in or around the Property and Buyer has not in any way, relied upon any representations of Seller, Seller's employees, officers, directors, contractors, or agents concerning the past or present existence of Mold in or around the property.

3. In states where applicable, Buyer acknowledges that time is of the essence regarding the closing of this Contract. Should Buyer, through no fault of Seller, fail to close upon the Property on or before the closing date stated in the Contract for any reason whatsoever, the Seller can agree to extend the Contract. Buyer shall then pay to Seller \$ \_\_\_\_\_ per day for each day beyond said closing date for which the Buyer requests and Seller agrees. Any monies so paid must be paid no later than the original closing date and shall be paid to Seller as non-refundable earnest money. These monies shall be paid in addition to the purchase price and may not be credited in any way to the original amounts due to Seller.
4. This Section 4 shall be in effect and incorporated into the Contract only when initialed by both Buyer and Seller:

Buyer's Initials: ( \_\_\_\_\_ ) / ( \_\_\_\_\_ ) Seller's Initials: ( \_\_\_\_\_ ) / ( \_\_\_\_\_ )

If the Contract is "Subject to Financing", then Buyer may obtain financing from the lender of Buyer's choice. However, within seventy-two (72) hours of the execution of the Contract, Buyer agrees either to apply for financing with \_\_\_\_\_ (name, address and phone number of lender designated by Seller), or to provide evidence to Seller that a lender has pre-approved Buyer for financing. Buyer shall pay for and instruct the lender to which such mortgage application is made to order an appraisal immediately upon submission by Buyer of an application for a mortgage loan.

5. Seller's responsibility for any repairs required by Purchaser as a result of an inspection by Purchaser, lender or required as a condition set forth in the FHA/VA commitment shall not exceed \$ \_\_\_\_\_ (the "Repair Limit Amount", inclusive of termite repairs). If the cost for any such repairs exceeds the Repair Limit Amount then either (i) Purchaser shall be responsible at its sole cost and expense for any amounts exceeding the Repair Limit Amount and the Contract shall remain in full force and effect without any abatement in the purchase price or, (ii) Seller shall have the right to cancel the Contract and return all earnest monies paid by Purchaser, to Purchaser with no further obligation by Seller. Seller authorizes Purchaser, at Purchaser's sole cost and expense, to make a complete inspection of the Property within seven (7) days from the date of this Addendum. If Seller is required to make any repairs, replacements, or treatments to the Property pursuant to the provisions of this Contract of Sale, Seller shall only be obligated for those items that Purchaser has notified Seller of, in writing, within ten (10) days from the date of this Addendum, which do not exceed the Repair Limit Amount and to which Seller has agreed.
6. Buyer agrees to indemnify Seller and Seller's representatives and fully protect, defend and hold Seller and Seller's representatives harmless from and against any and all claims, liens, losses, damages, liabilities, costs, injuries, attorney's fees and expenses of every kind and nature that may be made against Seller or the Property for any liens on the Property, any damage to the Property or any injury to Buyer or other persons that may arise from repairs, replacements or treatments made by or for the benefit of Buyer prior to closing, and any failure of Buyer to comply with the provisions of paragraph 9 hereof.

7. TAXES:

- A. SELLER'S RIGHT TO CONTEST TAXES: Seller shall have the unrestricted right to contest the amount of or obligation to pay any ad valorem real or personal property taxes, real or personal property assessments, or assessments or dues of any condominium, planned unit development or similar community or other homeowners' association, (collectively, "Taxes") for any calendar year, fiscal year, or other accounting period for which Taxes are assessed or levied (a "Tax Period") that includes the date of the close of escrow on the Property (the "Closing Tax Period") or that precedes the date of the close of escrow on the Property (the "Closing"). Seller may contest Taxes by any judicial, administrative, or other process that Seller chooses. If requested by Seller, Buyer shall join in any proceeding to contest Taxes to the extent necessary to permit Seller to exercise its rights under this Agreement. Seller shall have no duty to contest Taxes, and may dismiss, settle, or otherwise resolve any matter relating to contested Taxes on whatever terms Seller chooses.
- B. ENTITLEMENT TO REFUND: Any refund of contested Taxes for the Closing Tax Period or any prior Tax Period shall be paid to Seller, and Buyer hereby irrevocably assigns to Seller any right, title, or interest it may have in any refund of contested Taxes for all such Tax Periods. If requested by Seller, Buyer shall execute whatever endorsements or other documents may be necessary to accomplish the refund of such contested Taxes to Seller. Notwithstanding anything to the contrary in this Section 7.B., however, Seller

Buyer's Initials \_\_\_\_\_

Seller's Initials \_\_\_\_\_

shall not be entitled to any refund of Taxes that are attributable solely to any change in land usage or ownership of the Property occurring at or after Closing, all of which shall be paid by Buyer.

- C. ADJUSTMENTS FOR CLOSING TAX PERIOD: If a contest of Taxes by Seller is concluded before Closing, the proration of the contested Taxes as provided in Section 7.B. above shall be accomplished by taking into account any change in valuation of the Property or the amount of contested Taxes for the Closing Tax Period. If a contest of Taxes by Seller is concluded after Closing, then notwithstanding the provisions of Section 7.B. above, an appropriate adjustment payment shall be made by Buyer or Seller to the other so that taking into account the adjustment payment, each will have paid (or been debited for) the revised amount of Taxes for the Closing Tax Period that results from Seller's contest in the proportion that the number of days in the Closing Tax Period before or after the close of escrow, as the case may be, bears to the total number of days in the Closing Tax Period. Notwithstanding anything to the contrary in this Section 7.C., however, no adjustment payment shall be made with respect to Taxes for the Closing Tax Period that are attributable solely to any change in land usage or ownership of the Property occurring at or after the close of escrow, all of which shall be paid by Buyer.
- D. CONTEST COSTS: Buyer shall pay a share of Seller's out-of-pocket costs (including legal fees and costs) of contesting Taxes for the Closing Tax Period in the proportion that the number of days in the Closing Tax Period after the close of escrow bears to the total number of days in the Closing Tax Period. If Seller's out-of-pocket costs of contesting Taxes for the Closing Tax Period exceed the amount of any reduction in contested Taxes for the Closing Tax Period, Buyer shall not be obligated to pay any share of the excess. If as part of the same proceeding Seller has also contested Taxes for Tax Periods before the Closing Tax Period, Seller's out-of-pocket costs shall be allocated to the Closing Tax Period in the proportion that the amount of the reduction in contested Taxes for the Closing Tax Period bears to the aggregate amount of all reductions in contested Taxes resulting from the proceeding. Except as otherwise provided in this Section 7.D., any contest of Taxes by Seller shall be at Seller's sole cost and expense.
- E. PAYMENT PROCEDURE: The amount of any adjustment payment pursuant to Section 7.C. and the amount of any cost-sharing payment pursuant to Section 7.D. shall be combined to determine a net settlement amount owed by Seller or Buyer to the other. If the net settlement amount is owed to Seller, that amount shall be due and payable not later than thirty (30) days after Seller notifies Buyer in writing of the amount due. If the net settlement amount is owed to Buyer, that amount shall be due and payable not later than thirty (30) days after Seller's receipt of any contested Taxes to be refunded to Seller or the conclusion of the contest of Taxes by Seller, whichever is later. Any notice or payment from Seller to Buyer shall include a statement reflecting in reasonable detail how the net settlement amount was calculated and shall include copies of bills, invoices, or other reasonable documentation of any out-of-pocket expenses of Seller for which Buyer is to pay a share.
8. The Buyer shall not assign its rights under any part of the Contract without Seller's prior written consent.
9. Buyer is responsible for the installation of new locks on the Property immediately after the closing, and Buyer shall hold Seller and Seller's representatives harmless from and indemnify Seller and Seller's representatives against any and all damages, claims, liens, losses, liabilities, costs, injuries, attorneys fees and expenses of every kind and nature that may be made against Seller as a result of Buyer's failure to install new locks on the Property.
10. The final acceptance of the Contract and the effectiveness thereof is subject to committee approval, which will be provided when Seller's signature is affixed hereon and a fully executed counterpart of the Contract has been delivered to Buyer.
11. If for any reason, Seller is unable to deliver insurable title to Buyer or is unable to cure any defects of title at the close of escrow and the close of escrow is not extended as set forth elsewhere, then Buyer's SOLE AND EXCLUSIVE REMEDY shall be to receive a return of Buyer's deposit and elect to terminate this Contract of Sale.
12. Personal Property. Seller is not hereby conveying any personal property other than as provided in the Contract of Sale and makes no representations or warranties regarding same. Any items of personal property remaining after the sale of the property are deemed to add no value to the transaction and are not a part of the actual transaction, and are given to Buyer in AS IS condition with no seller representation or warranty regarding condition or ownership. No bill of sale will be provided for such items.
13. Buyer and Seller agree that Seller shall select the title company for this transaction, unless state law or industry practices mandate otherwise.

Buyer's Initials \_\_\_\_\_

Seller's Initials \_\_\_\_\_

14. It is agreed by Buyer and Seller that if unforeseen judgments, liens or assessments result in negative sales proceeds to the Seller, the Seller reserves the right to cancel the Contract and return any deposit monies to the Buyer.

15.  **By initialing this clause Buyer acknowledges receipt of the EMC Mortgage Corporation Waiver and Release Regarding property Condition. This is a required document and must be fully executed at time of closing.**

16. OTHER PROVISIONS:

Buyer's Signature:

Seller's Signature:

\_\_\_\_\_

Date: \_\_\_\_\_

\_\_\_\_\_

Buyer's Signature:

\_\_\_\_\_

Date: \_\_\_\_\_

Date: \_\_\_\_\_

## SECTION II

If Applicable Language (Built Prior to 1978)

### DISCLOSURE AND ACKNOWLEDGEMENT OF LEAD-BASED PAINT BEFORE SALE

#### Part I: Lead Warning Statement

Every purchaser of any interest in residential real property on which a residential dwelling was built prior to 1978 is notified that such property may present exposure to lead from lead-based paint that may place young children at risk of developing lead poisoning. Lead poisoning in young children may produce permanent neurological damage, including learning disabilities, reduced intelligence quotient, behavioral problems, and impaired memory. Lead poisoning also presents a risk to pregnant women. The seller of any interest in residential real property is required to provide the buyer with any information on lead-based paint hazards from risk assessments or inspections in the seller's possession and notify the buyer of any known lead-based paint hazards. A risk assessment or inspection for possible lead-based paint hazards is recommended prior to purchase.

#### Part II: Seller's Certification

Seller certifies to have disclosed to Buyer and Buyer's agent all information known to the Seller regarding the presence of lead-based paint and lead-based paint hazards within this target housing (Seller to initial box and insert date).

\_\_\_\_\_ (a) On \_\_\_\_\_ Seller provided Buyer with lead-hazard reports based on lead-based paint inspections, assessments, or abatement conducted on the following dates:  
\_\_\_\_\_.

\_\_\_\_\_ (b) On \_\_\_\_\_ Seller provided Buyer with the following information on lead-based paint hazards in common areas:  
\_\_\_\_\_.

Buyer's Initials \_\_\_\_\_

Seller's Initials \_\_\_\_\_

\_\_\_\_\_ (c) On \_\_\_\_\_ Seller certified that no additional information is known about this target housing. (Note: By selecting (d), Seller doesn't avoid liability for lead-based paint / lead-based paint hazards known to Seller that are not noted under (a), (b), or (c).

\_\_\_\_\_ (d) On \_\_\_\_\_ Seller provided Buyer with the lead-hazard information pamphlet *Lead-Based Paint: Protect Your Family*.

Seller is aware that Federal laws require Seller to permit Buyer a 10 calendar day period to conduct a risk assessment or inspection for the presence of lead-based paint hazards before becoming obligated under a contract to purchase target housing (unless mutually agreed otherwise in writing). That opportunity will be provided within the 10 calendar day period immediately following final Seller's signature and acceptance of this Sales Agreement.

Part III: Agent's Certification

Seller's agent certifies to have informed the Seller of his/her obligation to disclose to Buyer and Buyer's agent all information known to Seller regarding the presence of lead-based paint and lead-based paint hazards within this target housing and that all information known to Seller's agent regarding the presence of lead-based paint and lead-based paint hazards within this target housing has been disclosed to Buyer. Seller's agent further certifies that Buyer received the lead hazard information pamphlet *Lead-Based Paint: Protect Your Family* and that Buyer has or will be given a 10 calendar day period (unless otherwise agreed in writing) to conduct a risk assessment or inspection for the presence of lead-based paint before becoming obligated under the Contract of Sale to purchase the target housing.

Seller's (Listing ) Agent

Buyer's (Selling) Agent

By: \_\_\_\_\_

By: \_\_\_\_\_

Date: \_\_\_\_\_

Date: \_\_\_\_\_

Part IV: Buyer's Acknowledgment

I acknowledge that I have read and understood the attached lead warning statement in Part I of this form and received all information noted in Part II of this form, including the lead hazard information pamphlet *Lead-Based Paint: Protect Your Family*. I further acknowledge that, pursuant to 42 U.S.C. 4852(d) and its implementing regulations, the attached Contract of Sale entitles me to 10 calendar days to conduct a risk assessment or inspection for the presence of lead-based paint hazards before becoming obligated under a contract to purchase this target housing, unless mutually agreed otherwise, in writing.

Buyer's Initials

Buyer's Initials

**SECTION III**

**COMMISSION STATEMENT**

Listing Agent \_\_\_\_\_ Tax ID # \_\_\_\_\_

Company Name \_\_\_\_\_ Phone # \_\_\_\_\_

Address \_\_\_\_\_

Commission \$ \_\_\_\_\_ Percentage \_\_\_\_\_%

Selling Agent \_\_\_\_\_ Tax ID # \_\_\_\_\_

Company Name \_\_\_\_\_ Phone # \_\_\_\_\_

Address \_\_\_\_\_

Commission \$ \_\_\_\_\_ Percentage \_\_\_\_\_%

Buyer's Initials \_\_\_\_\_

Seller's Initials \_\_\_\_\_