

BUYER AND SELLER ADVISORY REGARDING SELLER-CARRIED TRANSACTIONS

1. What Is A Seller-Carried Transaction? This is a real estate transaction in which some or all of the purchase price is secured by the property, and the Seller: (a) carries back a note and deed of trust or contract of sale to secure Buyer's repayment obligation; or (b) enters into a lease-option or rent-to-own arrangement with the Buyer, where the purchase price and terms have already been negotiated.

2. Do State And Federal Laws Apply To Seller-Carried Transactions? Yes. Under certain circumstances, offering or negotiating the terms of a Seller-Carried Transaction must be performed by a Mortgage Loan Originator ("MLO"). A MLO is an individual who, for compensation or gain takes an application for and/or negotiates the terms of a residential mortgage loan for a one-to-four family dwelling. MLOs must be licensed in Oregon and also be registered on the National Mortgage Licensing System, a database of all MLO licensees.

3. Can My Real Estate Licensee Assist Me With A Seller-Carried Transaction? Your licensee is fully qualified under Oregon real estate licensing law (ORS 696.010(14)) to advise, discuss, and assist you in the non-financial aspects of your Seller-Carried Transaction. While he or she may engage in "professional real estate activity" as defined by ORS 696.010(14), they may not engage in *offering or negotiating* the financial terms of your Seller-Carried Transaction - for that they must hold an MLO license. This is not to say that your licensee cannot provide financial information and resources to aid you in your Seller-Carried Transaction (e.g., providing current interest rate tables/information, amortization schedules, etc.). Acting as *your agent*, a licensee may transmit in verbal, written or electronic form, the express financial terms that you, as *their principal*, have instructed. Your real estate licensee is qualified to assist you in completing the OREF statewide Sale Agreement, the Seller-Carried Addendum and related forms, and arranging and scheduling service providers, such as professional inspectors, escrow, title insurance, and to assist you throughout the closing process.

4. Are There Any Exemptions That Would Permit Me To Negotiate The Terms Of My Own Seller-Carried Transaction Without A MLO License? Yes. Under the federal law, you must meet ALL of the following three (3) requirements:

- (I) (a) During the preceding calendar year, you did not enter into more than four (4) Seller-Carried Transactions involving the sale of one-to-four family dwellings intended to be occupied by a buyer for residential purposes;
- (b) During the preceding 12 months, you did not enter into more than one Seller-Carried Transaction that involved terms making it a "high cost loan" (defined at Section 5, below); and
- (c) During the preceding 12 months, you did not enter into a Seller-Carried Transaction using the services of a MLO.

If you qualify under Section 4.(I), above, and the transaction falls in one of the categories in Section 4. (II) below, you may qualify to negotiate your own Seller-Carried Transaction without using a MLO:

- (II) (a) It is a dwelling that is, or was at one time, your primary residence; or
- (b) It is a dwelling for which you have authorized a third party to offer or negotiate the terms of this transaction with you, or on your behalf, because you and the authorized third party are related as either spouse, child, sibling, parent, grandparent, grandchild, or a relative in a similar relationship that is created by law, marriage or adoption; or
- (c) It is a dwelling that you own as a rental, a second home, or a vacation home; and (i) This Seller-Carried Transaction is not more than the third (3rd) such transaction you have engaged in during the prior twelve (12) months; and (ii) The Property did not at any time serve as your primary residence; and (iii) This Seller-Carried Transaction is not more than the eighth (8th) such transaction for which you are now carrying the financing as a current receivable.

Buyer Initials ____/____ Date ____

Seller Initials ____/____ Date ____

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Caveat: Deciding whether to use a MLO, and whether you are exempted, is a decision you should only make with expert third-party advice. Your real estate licensee is not qualified to advise you on these matters.

5. What Is A "High-Cost Mortgage"? If your Seller-Carried Transaction contains certain features, it may be subject to more stringent regulations. This is especially true if it is "**High-Cost Mortgage.**" (See definition here: <http://www.consumerfinance.gov/regulations/high-cost-mortgage-and-homeownership-counseling-amendments-to-regulation-z-and-homeownership-counseling-amendments-to-regulation-x/>.) Whether a transaction involves a High-Cost Mortgage is determined by several factors, although the primary one is whether the annual percentage rate ("APR") for a first mortgage exceeds the Average Prime Offer Rate ("APOR") by more than 6.50%. The Average Prime Offer Rate is an annual percentage rate that is derived from average interest rates, points, and other loan pricing terms currently offered to low-risk borrowers. The APOR is published weekly by the Federal Reserve. It can be found online at: <https://www.ffiec.gov/ratespread/aportables.htm>. For example, as of March 9, 2015, the APOR was 3.91%. The online link to a government calculator is here: <https://www.ffiec.gov/ratespread/newcalc.aspx>. By inserting the APR, the term in years, and the effective date of the loan, the table will calculate the interest rate "spread" between: (a) the APR in your transaction, and (b) the current federal APOR. If the spread exceeds 6.50% for a 30-year, fixed term loan, for example, it would be deemed to be a High Cost Mortgage. ***A High Cost-Mortgage requires that buyers receive housing counseling and that sellers must be licensed as a MLO. If you believe that your Seller-Carried Transaction may be a High-Cost Mortgage, you should: (a) Not use the OREF Seller-Carried Addendum (Form #033) and, (b) Consult a MLO for assistance with your transaction. Your real estate licensee is not qualified to advise you on these matters.***

ACKNOWLEDGMENT

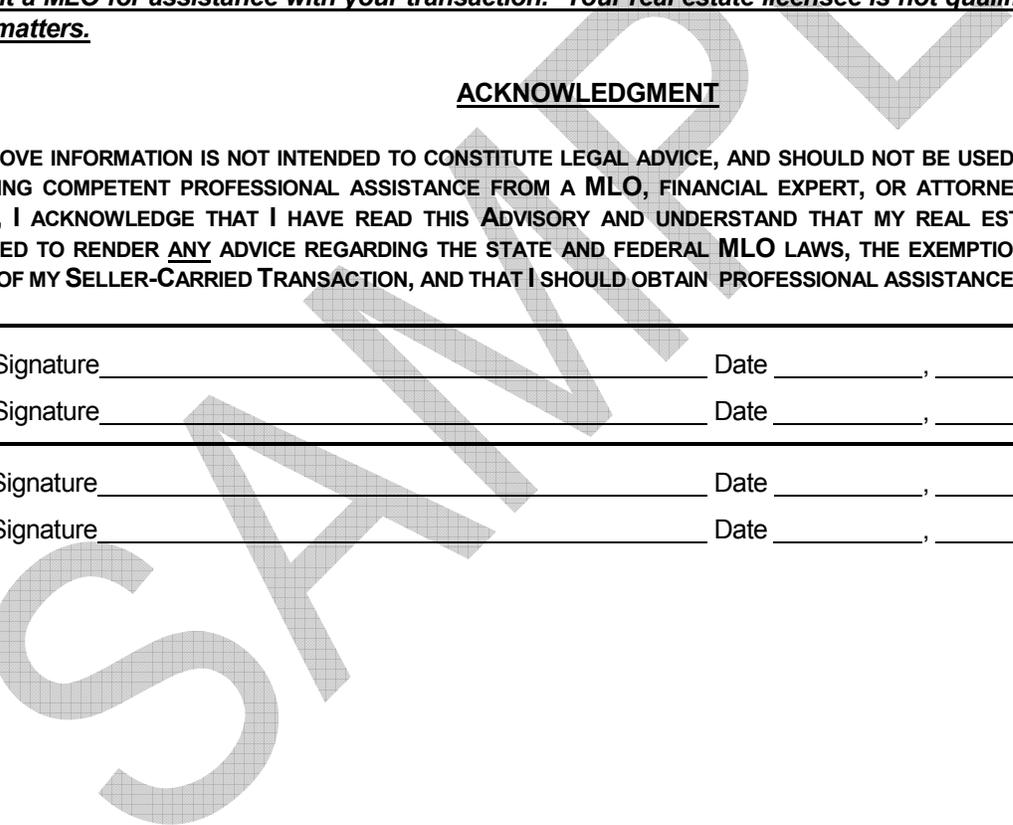
THE ABOVE INFORMATION IS NOT INTENDED TO CONSTITUTE LEGAL ADVICE, AND SHOULD NOT BE USED AS A SUBSTITUTE FOR OBTAINING COMPETENT PROFESSIONAL ASSISTANCE FROM A MLO, FINANCIAL EXPERT, OR ATTORNEY. BY MY SIGNATURE BELOW, I ACKNOWLEDGE THAT I HAVE READ THIS ADVISORY AND UNDERSTAND THAT MY REAL ESTATE LICENSEE IS NOT QUALIFIED TO RENDER ANY ADVICE REGARDING THE STATE AND FEDERAL MLO LAWS, THE EXEMPTIONS, OR THE FINANCING TERMS OF MY SELLER-CARRIED TRANSACTION, AND THAT I SHOULD OBTAIN PROFESSIONAL ASSISTANCE IF I HAVE QUESTIONS.

Buyer Signature _____ Date _____, _____ a.m. ___ p.m. ←

Buyer Signature _____ Date _____, _____ a.m. ___ p.m. ←

Seller Signature _____ Date _____, _____ a.m. ___ p.m. ←

Seller Signature _____ Date _____, _____ a.m. ___ p.m. ←



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