

SHORT SALE SUMMARY FOR SELLERS

1 The following Summary is intended to briefly address some of the practical and legal issues which may arise in a Short Sale transaction. This
 2 Summary is not intended to be a complete explanation of Short Sales, does not constitute legal advice, and should not be relied upon in lieu of
 3 securing competent legal, tax, and consumer credit advice.

4 **1. DEFINITION:** The term "Short Sale" is used to refer to those real estate transactions in which the agreed-upon purchase price is insufficient to
 5 pay off all of the secured debt on the property (such as mortgages, trust deeds, state/federal income taxes, liens, property taxes or other local
 6 assessments) including the costs of closing, such as escrow and recording fees, title insurance premiums, real estate commissions, etc. If the
 7 Seller is in bankruptcy, a trustee for the Seller's creditors will take control of the sale. In most Short Sales, the Seller must secure an agreement
 8 from one or more third-party creditors to accept from the closing proceeds something less than the remaining amount of the debt due them. In other
 9 words, the debt is "shorted" or reduced. The one thing common to all Short Sales is the final decision on price and terms of the transaction, as well
 10 as the identity of the Buyer, will be in the control of third parties, usually creditors, whose consent to the transaction is required in order for the
 11 Seller to convey clear title to a Buyer.

12 **2. CONSIDERATION OF OTHER ALTERNATIVES:** A Short Sale transaction is only one alternative, among many, that Sellers have when a
 13 home is facing foreclosure, or a sale is hindered because the existing indebtedness exceeds its market value. Before agreeing to a Short Sale,
 14 Sellers need to explore all other options. For example, there may be private parties, such as family members, who may be willing to provide interim
 15 financial assistance. The Seller's current lender may have a workout program that is available. There may be other lender programs a Seller could
 16 qualify for, such as Hope Now, a collective alliance of large banks, counselors, and other industry organizations formed for the purpose of
 17 preventing foreclosure and keeping homeowners in their homes. (<http://hopenow.us/>). There are also government-insured loan programs such as
 18 FHA Secure and Project Lifeline that may be available. (<http://neighborhoodassistance.com>). Additionally, there may be certain legal alternatives
 19 worth exploring, such as giving the home back to the existing lender through a deed in lieu of foreclosure or simply permitting the lender to file a
 20 foreclosure. Bankruptcy (Chapters 7 or 13) may be appropriate for the Seller. While a real estate Agent may be helpful in directing the Seller to one
 21 or more sources of information, they should not be relied upon for legal, lending, or credit advice. For such advice, Sellers should consult an expert,
 22 such as a lawyer, mortgage broker, lender, or credit or consumer counseling expert.

23 **3. TRANSACTION CONTINGENT ON THIRD-PARTY CREDITOR CONSENT:** Since a Short Sale requires approval from one or more creditors
 24 who are not parties to the pending real estate sale transaction, the Seller's agreement to sell must be made subject to (or "contingent upon") third-
 25 party consent. This generally means if the Seller is unable to secure the necessary consent (for example, because the creditor refuses to give
 26 consent or it cannot be obtained by the closing date), the transaction fails, and all earnest money is to be promptly refunded to the Buyer.

27 **4. TRANSACTIONAL CHANGES REQUIRED BY THIRD-PARTY CREDITORS:** In Short Sales, it is not unusual for a creditor whose consent is
 28 sought to insist other creditors who would be paid from the closing also share some of the cost. They may also insist the sale price be increased, or
 29 require the removal of provisions for the Seller to pay certain repairs, etc. Some creditors may require an appraisal or independent broker's price
 30 opinion ("BPO") of the property before making any decision. Thus, in Short Sale transactions, Seller and Buyer must be prepared for delays
 31 resulting from changes to the price, terms, and conditions agreed upon in the original transaction, responses from third-party creditors, as well as
 32 other events outside of the Seller's and Buyer's control.

33 **5. BUYER DUE DILIGENCE CONTINGENCIES:** In Short Sale transactions, the deadlines for completion of Buyer contingencies may need to be
 34 suspended pending third-party creditor consent. However, if consent is slow in coming and the Buyer wishes to proceed anyway, Buyers must
 35 understand that there is a risk they could expend their funds only to later learn the necessary creditor's consent to the Short Sale cannot be
 36 obtained. Normally, Buyers have no recourse for recovery of these expenditures.

37 **6. ADDITIONAL OFFERS:** Since most third-party creditors will want to secure the highest and best offer for the property, they may insist it
 38 remains on the market, notwithstanding a pending transaction. As a result, a creditor may withhold final consent until they have had an opportunity
 39 to compare one offer with other potential offers that may come in the future. In some Short Sales, a creditor may refuse to give consent to a
 40 pending transaction because they want the Seller to accept another offer, or potential offer, with a better price or terms. As a result, the entire Short
 41 Sale process may involve a significant risk of delay or failure.

42 **7. USE OF EXPERTS:** Short Sale transactions can be complicated and time-consuming. They raise important issues, including income tax
 43 implications, liability issues for unpaid mortgage indebtedness, credit rating issues, bankruptcy issues, legal issues, and a range of others. Your
 44 real estate Agent is not an expert in these areas. Sellers are strongly encouraged to secure additional competent professional advice before
 45 entering into a Short Sale transaction.

46 **ACKNOWLEDGMENT:** The undersigned acknowledge they have read and understand this Summary.

47 Seller _____ Date _____ a.m. _____ p.m. ←

48 Seller _____ Date _____ a.m. _____ p.m. ←

49 Sellers Agent _____ Sellers Agent's Firm _____

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