

### BACK-UP OFFER ADDENDUM

1 This Back-Up Offer Addendum (this "Back- up Addendum") is intended to create legally binding rights and duties between Back-up Buyer and Seller.  
2 If a Party does not understand this Back-up Addendum, that Party should obtain competent legal advice before signing.

3	Back-up Buyer(s) _____
4	Seller(s) _____
5	Property Address or Tax ID # _____
6	_____ (the "Property")

7 The Parties agree that this Back-up Addendum is part of the Sale Agreement. Capitalized terms not defined in this Back-up Addendum have the  
8 meanings given to them in the Sale Agreement. This Back-up Addendum controls over any conflicting provisions in the Sale Agreement.

9 Seller has already agreed to sell the Property to another buyer ("First Position Buyer"). The First Position Buyer is in "First Position," meaning that  
10 the Seller is not obligated to sell the Property to any person except the First Position Buyer. When this Back-up Addendum is Signed and Delivered,  
11 Back-up Buyer will be in "Second Position," meaning that the Back-up Buyer will be in First Position if the sale of the Property to the First Position  
12 Buyer does not close.

13 Back-up Buyer and Seller agree to the following terms.

14 **1. SECOND POSITION:** Back-up Buyer is in Second Position to purchase the Property (the "Second Position Transaction") and will have no right to  
15 purchase the Property unless the sale to the First Position Buyer (the "First Position Transaction") fails.

16 **2. CHANGES TO TERMS OF FIRST POSITION TRANSACTION:** Seller may freely change the terms and conditions of the First Position Transaction  
17 without regard to the existence of this Second Position Transaction.

18 **3. TERMINATION OF FIRST POSITION TRANSACTION:** If the First Position Transaction terminates:

19 (a) Seller will, within two (2) Calendar Days, Notify Back-up Buyer that Back-up Buyer is in First Position using the position notice below (the  
20 "Position Notice");

21 (b) The Effective Date of the Sale Agreement will be: *(select one)*

- 22 (i)  the first (1<sup>st</sup>) Business Day following the Calendar Day that Seller Delivers the Position Notice; or
- 23 (ii)  a date agreed upon by the Parties; however, if the parties are unable to agree on the Effective Date within \_\_\_\_ Calendar Days  
24 (two [2] if not filled in) from Seller's Delivery of the Position Notice, this Second Position Transaction will automatically terminate.

25 (c) The Closing deadline will be: *(select one)*

- 26 (i)  \_\_\_\_ Calendar Days (forty-five [45] if not filled in) after the date Seller Delivers the Position Notice; or
- 27 (ii)  *(insert date)* \_\_\_\_\_.

28 **4. TERMINATION OF SECOND POSITION TRANSACTION:** Back-up Buyer has the unilateral right to terminate this Second Position Transaction at  
29 any time before the Back-up Buyer receives the Position Notice. This Second Position Transaction will immediately terminate, and any earnest money  
30 will be promptly refunded to Back-up Buyer if: (a) the First Position Transaction closes, in which event Seller will promptly Deliver the termination  
31 Notice below to Back-up Buyer; or (b) Back-up Buyer terminates this Second Position Transaction before Back-up Buyer receives the Position Notice.

32 **5. OTHER PROPERTIES:** Back-up Buyer represents to Seller that Back-up Buyer is not currently a party to a contract to purchase a different property.

33 **6. ADDITIONAL PROVISIONS:** *(describe)* \_\_\_\_\_  
34 \_\_\_\_\_  
35 \_\_\_\_\_

36 Back-up Buyer \_\_\_\_\_ Print \_\_\_\_\_ Date \_\_\_\_\_  a.m.  p.m. ←

37 Back-up Buyer \_\_\_\_\_ Print \_\_\_\_\_ Date \_\_\_\_\_  a.m.  p.m. ←

38 Seller \_\_\_\_\_ Print \_\_\_\_\_ Date \_\_\_\_\_  a.m.  p.m. ←

39 Seller \_\_\_\_\_ Print \_\_\_\_\_ Date \_\_\_\_\_  a.m.  p.m. ←

40 Buyer's Agent \_\_\_\_\_ Seller's Agent \_\_\_\_\_

### NOTICES FOR BACK-UP OFFER ADDENDUM

#### SELLER'S NOTICE TO BACK-UP BUYER REGARDING BACK-UP OFFER

41 Because of events occurring in the First Position Transaction, Seller is now required to give Back-up Buyer one of the following Notices as described  
42 in the Back-up Addendum. Seller Notifies Back-up Buyer that: (*select one*)

43 (a)  **Position Notice.** The First Position Transaction has terminated, and Back-up Buyer is in First Position.

44 (b)  **Termination Notice.** The Second Position Transaction has terminated because the First Position Transaction has closed.

45 Seller \_\_\_\_\_ Print \_\_\_\_\_ Date \_\_\_\_\_  a.m.  p.m. ←

46 Seller \_\_\_\_\_ Print \_\_\_\_\_ Date \_\_\_\_\_  a.m.  p.m. ←

#### BACK-UP BUYER'S NOTICE TO SELLER REGARDING TERMINATION OF BACK-UP OFFER

47 Seller has not Delivered a Position Notice to Back-up Buyer. Back-up Buyer elects to terminate the Second Position Transaction.

48 Back-up Buyer \_\_\_\_\_ Print \_\_\_\_\_ Date \_\_\_\_\_  a.m.  p.m. ←

49 Back-up Buyer \_\_\_\_\_ Print \_\_\_\_\_ Date \_\_\_\_\_  a.m.  p.m. ←

50 Buyer's Agent \_\_\_\_\_ Seller's Agent \_\_\_\_\_