



### BUYER OPTIONAL CLAUSES ADDENDUM

This Addendum is part of the Purchase and Sale Agreement dated \_\_\_\_\_  
between \_\_\_\_\_ ("Buyer")  
and Ryan W Kurth Briana C Brady ("Seller")  
concerning 11520 3rd Ave NW Seattle WA 98177 (the "Property").

**A. Waiver of Contract Contingencies.** Buyer hereby waives the following contractual contingencies (*check all that apply*):

1. ☒ Inspection Contingency (e.g., NWMLS Form 35) and Feasibility Contingency (e.g., NWMLS Form 35F);
2. ☒ Information Verification Period Contingency (e.g., General Term (w) of NWMLS Forms 21, 25 or 28);
3. ☐ Financing Contingency (e.g., NWMLS Form 22A);
4. ☒ Homeowners Association Review Period Contingency (e.g., NWMLS Form 22D, Paragraph 8);
5. ☒ Title Contingency (e.g., NWMLS Form 22T);
6. ☐ \_\_\_\_\_.

**B. Waiver of Statutory Right.** Buyer hereby waives the following statutory right:

1. Seller Disclosure Statement (NWMLS Form 17) (see RCW 64.06.030):
  - ☒ Buyer has received Form 17 and waives the 3-day right of rescission associated with this disclosure.
  - ☒ Buyer waives the right to receive a completed Form 17.

**C. Additional Contract Terms.** The following provisions are included in this Agreement (*check all that apply*):

1. ☐ Financing without Contingency.

(a) Buyer may rely on financing to purchase the Property but shall have no contingency for financing. Seller shall cooperate in good faith, at no cost to Seller, with Buyer and Buyer's lender as appropriate including, without limitation, for appraisal or other inspections required by Buyer's lender.

(b) Buyer's lender may condition the appraised value of the Property on the completion and approval of work orders prior to Closing ("Appraisal Work Orders"). Buyer shall, within 3 days of receiving an Appraisal Work Order, give notice to Seller, which shall include a copy of the Appraisal Work Order. Buyer and Seller shall then negotiate in good faith for completion of the Appraisal Work Order. In the event Buyer is willing to pay for the cost to complete an Appraisal Work Order which consists of only minor repairs not requiring significant or destructive work but Seller refuses to cooperate and/or provide access to the Property, Seller shall be deemed to have materially breached this Agreement and Buyer may pursue any available legal remedy including, without limitation, the following: (1) terminate this Agreement and obtain a refund of all deposits made by Buyer including, without limitation, any nonrefundable deposit; and (2) specific performance of this Agreement to compel Seller to allow the Appraisal Work Order to be completed at Buyer's expense.

(c) If, through no fault of Buyer, Buyer's lender is required by law (e.g., 12 CFR 1026, the Truth in Lending Act Disclosure) to delay funding the loan, then the Closing Date shall be extended accordingly to accommodate such delay.

Initials: BUYER: \_\_\_\_\_ DATE: \_\_\_\_\_

SELLER: \_\_\_\_\_ DATE: \_\_\_\_\_

BUYER: \_\_\_\_\_ DATE: \_\_\_\_\_

SELLER: \_\_\_\_\_ DATE: \_\_\_\_\_



2. ☐ Waiver of Low Appraisal Contingencies (e.g., NWMLS Form 22A or 22AA). Buyer hereby waives any provision in this Agreement that allows Buyer to terminate this Agreement in the event of a low appraisal of the Property, and Buyer agrees that in the event of a low appraisal Buyer shall remain obligated to close.

3. ☐ Additional Down Payment in Event of Low Appraisal. If Buyer's lender's appraised value of the Property is less than the Purchase Price, Buyer shall pay up to \$\_\_\_\_\_ ("Buyer's Additional Funds") in additional funds towards Buyer's down payment to close this sale. If Buyer's Additional Funds do not resolve the low appraisal issue, then Buyer may issue a Notice of Low Appraisal (NWMLS Form 22AN) if such notice is authorized in this Agreement (e.g., NWMLS Form 22A or 22AA), in which case the "appraised value" of the Property as used in the Appraisal Less Than Sale Price procedure shall mean the sum of the appraised value and Buyer's Additional Funds. Buyer represents that Buyer has sufficient funds to close this sale in accordance with this Agreement.

4. ☐ Conversion of Earnest Money to Nonrefundable Deposit.

(a) \_\_\_\_\_ ("All" if not filled in) of the Earnest Money shall be released to Seller on the \_\_\_\_\_ day (10<sup>th</sup> day if not filled in) after \_\_\_\_\_ ("Mutual Acceptance" if not filled in). The Earnest Money must be deposited via ☐ Cashier's Check; ☐ Wire; ☐ Other \_\_\_\_\_ ("Wire" if not filled in). If the method chosen in the preceding sentence does not allow the Earnest Money to be released by the day required above, then the release date shall automatically be extended to the earliest day that the funds are available for release.

(b) Buyer and Seller agree that the holder of the Earnest Money is hereby instructed to release the portion of the Earnest Money identified herein to Seller without need of further authorization by Buyer. When due for release to Seller under this provision the portion of the Earnest Money identified herein shall automatically convert to a nonrefundable deposit applicable towards the Purchase Price and shall immediately be the property of Seller and shall no longer be Earnest Money. If this transaction fails to close for any reason other than the circumstances expressly identified hereafter, the nonrefundable deposit shall remain the property of Seller. The nonrefundable deposit shall be returned to Buyer under the following circumstances: (1) termination by Seller, (2) breach by Seller, or (3) title to the Property not being insurable as required by this Agreement. This provision does not require the holder of the Earnest Money to release any funds that have not become available from Buyer as liquid funds.

5. ☐ Increased Escalation Increment. Any price-escalation provision in this Agreement (e.g., NWMLS Form 35E) is modified as follows: if the competing offer used to escalate the Purchase Price of this offer is "all-cash" (meaning the purchaser possesses sufficient funds to close without any outside source of funds), then the incremental amount of escalation of this offer shall be increased to \$\_\_\_\_\_.

6. ☐ Narrowed Scope of "Competing Offer". Any price-escalation provision in this Agreement (e.g., NWMLS Form 35E) is modified as follows: Any competing offer used to escalate the Purchase Price of this offer must comply with the following (*check all that apply*):

- a. ☐ Does not include contingency for inspection or feasibility (e.g., NWMLS Form 35 or 35F);
- b. ☐ Does not include contingency for financing (e.g., NWMLS Form 22A);
- c. ☐ Is not contingent on closing of Buyer's property (e.g., NWMLS Form 22Q);
- d. ☐ Is an all-cash transaction, meaning the purchaser is not relying on any outside source of funds;
- e. ☐ \_\_\_\_\_.

Initials: BUYER: \_\_\_\_\_ DATE: \_\_\_\_\_

SELLER: \_\_\_\_\_ DATE: \_\_\_\_\_

BUYER: \_\_\_\_\_ DATE: \_\_\_\_\_

SELLER: \_\_\_\_\_ DATE: \_\_\_\_\_



7. ☐ **Evidence of Down Payment.** Buyer shall provide evidence that Buyer possesses non-contingent funds necessary to close (e.g., down payment, closing costs, and additional down payment (e.g., NWMLS Form 22AD or paragraph (C)(3) above)) within \_\_\_\_\_ days (5 days if not filled in) of mutual acceptance of this Agreement. "Evidence" means documents from a financial institution in the United States showing that Buyer has sufficient cash or cash equivalent in United States funds. If evidence is not provided as required, then at the election of Seller either (a) the Earnest Money shall convert to a nonrefundable deposit pursuant to the terms of paragraph (C)(4) above and be immediately released to Seller or (b) this Agreement shall terminate and the Earnest Money shall be returned to Buyer. In the event that Seller does not notify Buyer within \_\_\_\_\_ days (3 days if not filled in) of the deadline for Buyer to provide evidence of which option applies, then option (a) shall apply.

#### **BUYER ADVISORY**

In a typical real estate market, a buyer will usually include contingencies with their offer, such as financing, inspection, information verification, title, and appraisal. A buyer would also typically retain a statutory right of termination arising from disapproval of a seller disclosure statement or resale certificate. These contingencies and statutory rights of termination usually allow a buyer to cancel the contract and obtain a refund of the buyer's earnest money deposit. However, the competition for some properties is so great that buyers exclude or limit contingencies to entice sellers to accept their offer. Further, many buyers are now offering nonrefundable deposits instead of earnest money deposits.

These practices, although common in many marketplaces, are risky for a buyer. Chances are, if the transaction fails to close, a buyer will have no right to recover their deposit. Also, a buyer may encounter surprises after closing such as discovery of previously unknown defects that could have been discovered before purchase with more due diligence. Buyer is encouraged to weigh these risks against the desire to entice a seller to accept an offer. Buyer is also advised to consult an attorney to review this Agreement and the risks associated with nonrefundable deposits.

#### **SELLER ADVISORY**

Sellers typically believe that limiting contingencies are in their best interest. However, limiting contingencies can present risks for the seller depending on the transaction. For instance, giving the buyer an opportunity to do their own due diligence, through contingencies, can decrease the risk of mid-transaction disputes and post-closing disputes such as claims of concealed defects. Sellers should also be cautious about spending a nonrefundable deposit prior to closing. There are several scenarios in which a seller may have to return a nonrefundable deposit to the buyer. Also, though not the intent of the provision, there is a possibility that a seller would be required to return the portion of a nonrefundable deposit exceeding 5% of the purchase price to the buyer. Seller is advised to consult an attorney to review this Agreement.

Initials: BUYER: \_\_\_\_\_ DATE: \_\_\_\_\_

SELLER: \_\_\_\_\_ DATE: \_\_\_\_\_

BUYER: \_\_\_\_\_ DATE: \_\_\_\_\_

SELLER: \_\_\_\_\_ DATE: \_\_\_\_\_