

Addendum to Contract

Disclosure of Obligations under the Foreign Investment in Real Property Tax Act “FIRPTA”

Seller is a “foreign person” for purposes of § 1445 of the Internal Revenue Code of 1986 as amended (the “Code”), and as such, Buyer is responsible for withholding a tax equal to fifteen percent (15%) of the gross sales price, which tax is to be deposited with the IRS at Closing.

The parties hereby agree to the following:

- I. Under § 1445(b)(5) of the Code, Buyer is exempt from the withholding obligation when (i) the sales price for the real property does not exceed \$300,000.00 and (ii) Buyer plans to use the real property as a residence. If Buyer does plan to use the Property as a residence, then Buyer and Seller agree that no amount of the gross sales price will be withheld as tax and the parties will rely on § 1445(b)(5) of the Code as a proper exemption from withholding.

Or:

- II. If Buyer does not intend to use the Property as a residence, then Seller may submit an Application for Withholding Certificate, Form 8288-B, to request under § 1445(c) of the Code and Treasury Regulation §§ 1.1445-2(d)(7) and 1.1445-3 that no amount of tax be withheld due to the Property’s cost basis exceeding its gross sales price.

In such case:

- a. Seller shall file a Form 8288-B no later than the day of Closing to request a Withholding Certificate reflecting no amount of tax to be withheld;
- b. Buyer may withhold fifteen percent (15%) of the gross sales price at Closing;
- c. Buyer will place such funds in an escrow account which will be maintained by the legal counsel and/or closing agent for Buyer or Seller, at Buyer’s choice; and
- d. Within 20 days of receipt of a denial of the Withholding Certificate, if applicable, then the withheld funds in escrow will be deposited with the IRS to satisfy Buyer’s responsibility.