

**NATIVE AMERICAN HOUSING  
SECURITY INSTRUMENT RIDER  
FOR ALLOTMENTS**

THIS NATIVE AMERICAN HOUSING SECURITY INSTRUMENT RIDER FOR ALLOTMENTS (the "Rider") is made this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, and is incorporated into, and shall be deemed to amend and supplement, the Mortgage, Deed of Trust or Security Deed (the "Security Instrument") of the same date given by the undersigned (the "Borrower") to secure Borrower's Note and Addendum to Fixed Rate Note (Native American Housing) to \_\_\_\_\_ (the "Lender") of the same date (together, the "Note") and covering the Property described in the Security Instrument and located at \_\_\_\_\_ (the "Property"). The Property is within the jurisdiction [Property Address] of the \_\_\_\_\_ Tribe (the "Tribe").

The Note and Security Instrument were executed by Borrower pursuant to the terms of a Tri-Party Agreement dated \_\_\_\_\_, \_\_\_\_\_ (the "Tri-Party Agreement") among Fannie Mae, the Lender and the Tribe, as approved by the Secretary of the Interior or a duly authorized representative thereof (the "Secretary").

**ADDITIONAL COVENANTS.** Notwithstanding anything to the contrary contained in the Security Instrument, and in addition to the covenants and agreements made in the Security Instrument, Borrower and Lender further covenant and agree as follows:

1. **RIGHT OF FIRST REFUSAL**

Subsequent to Borrower's breach of any covenant or agreement in the Security Instrument or this Rider, and upon the expiration of any applicable cure period provided Borrower under Non-Uniform Covenant 22 of the Security Instrument, the Tribe, or pursuant to the laws of the Tribe, either (i) any allottee who may have otherwise had a fractionated interest in the Property immediately prior to the Borrower's acquisition of the Property or (ii) the Indian Housing Authority ("IHA") or other tribal organization authorized under Tribal law to provide housing services to the Tribe, shall have the right of first refusal to acquire Borrower's Property (subject to all valid liens and encumbrances) upon either payment in full of all sums secured by the Security Instrument or assumption of the loan evidenced by the Note and the Security Instrument and execution of an assumption agreement acceptable in all respects to Lender (including HUD or VA, as applicable). With respect to an assumption by the Tribe, IHA or other such tribal organization, any assumption agreement shall include, without limitation, a limited waiver of sovereign immunity, duly authorized by the Tribe, with respect to any action to collect any or all sums due or obligations owed by the Tribe, IHA or other such tribal organization to the Lender pursuant to the assumption, or to enforce any of the other rights and/or remedies of the Lender in connection with the assumption.

Any right of first refusal hereunder may be exercised at any time within fifteen (15) business days of the date of Lender's written notice to such person or entity entitled to the right of first refusal regarding Borrower's failure to cure the default in accordance with the terms of Lender's acceleration notice to Borrower pursuant to Non-Uniform Covenant 22 of the Security Instrument requiring Borrower to pay all sums secured by the Security Instrument, which notice shall be given before Lender invokes any other remedies provided under the Security Instrument, this Rider or by law.

This right of first refusal shall be exercised by notice in writing to Borrower and Lender from such person or entity entitled to such right of first refusal. In the event the Tribe, IHA or other tribal organization exercises the right of first refusal pursuant to an assumption of the loan, the Property shall be used solely for the purpose of providing a principal residence on the Property to an eligible transferee in accordance with the laws of the Tribe. Notwithstanding the right

of first refusal to acquire Borrower's Property, such right of first refusal shall be subject to any right Borrower may have under the Security Instrument or by law to reinstate after acceleration and to bring a court action to assert the non-existence of a default or any other defense to acceleration and sale or foreclosure.

## **2. ACCELERATION; REMEDIES**

In the event Lender acquires Borrower's Property by foreclosure of the Security Instrument or deed in lieu of foreclosure (for which foreclosure or deed in lieu of foreclosure shall not require approval of the Tribe or the Secretary; provided, however, with respect to HUD loans, the Lender shall obtain the Tribe's consent prior to obtaining title pursuant to any foreclosure or deed in lieu of foreclosure) then:

(a) Lender will notify the Tribe in writing of the availability of the Property and the improvements for sale, the sales price and any other terms of sale;

(b) If a purchaser is found within 30 days of such foreclosure or deed in lieu of foreclosure, upon completion of the sale upon terms satisfactory to Lender, the Property and the improvements will be assigned by Lender to the purchaser with the written consent and approval of the Secretary, which consent shall not be unreasonably withheld, in accordance with federal law. The Lender is hereby authorized to sell the Property and the improvements thereon to any Tribal member without the approval of the Tribe, or to any other eligible transferee in accordance with the laws of the Tribe; and

(c) If a purchaser cannot be found within such 30-day period, Lender shall be entitled to lease the Property an unlimited number of times with the approval of the Secretary (but the Tribe shall not be entitled to approve any such lease, and the Tribe shall not impose any qualifying criteria on any such lessee). The term of any lease period, however, shall not exceed one year. Where the Property has been leased as provided in this paragraph, a subsequent purchaser approved by the Tribe and the Lender must wait until the expiration of any current lease period before occupying the Property. Any and all leases shall be satisfactory in all respects to the Lender and the Secretary. There shall be no modification, cancellation, or surrender of any leases, or prepayment of rent thereunder, without the consent of Lender. If Lender forecloses on the Security Instrument or takes a deed in lieu of foreclosure, all tenants shall attorn to Lender or its assignee.

## **3. GOVERNING LAW**

(a) The Borrower agrees that the choice of law governing the Note, the Security Instrument and this Rider shall be the federal law and the laws of the Tribe, except to the extent that any such Tribal laws are silent or nonexistent, in which case the laws of the state in which the Property is located shall apply.

(b) The Borrower consents and attorns to the personal jurisdiction of any court of competent jurisdiction designated by the Tribe in the Tri-Party Agreement with respect to all controversies or claims relating to or arising out of the Note, the Security instrument or this Rider. The Borrower agrees that such controversies or claims shall be litigated in any such court.

**[NOTE: FOR CONVENTIONAL ASSUMABLE LOANS ADD THE FOLLOWING PROVISION:**

## **4. TRANSFER OF THE PROPERTY OR A BENEFICIAL INTEREST IN BORROWER; ASSUMPTION**

Uniform Covenant 18 of the Security Instrument is hereby deleted and the following shall be substituted therefor:

**Transfer of the Property or a Beneficial Interest in Borrower; Assumption.** If all or any part of the Property or any interest in it is sold or transferred (or if a beneficial interest in Borrower is sold or transferred and Borrower is not a natural person) without Lender's prior written consent, Lender may, at its option, require immediate payment in full of all sums secured by the Security Instrument. However, this option shall not be exercised by Lender if exercise is prohibited by federal law as of the date of the Security Instrument. Lender also shall not exercise this option if (a) Borrower causes to be submitted to Lender information required by Lender to evaluate the intended transferee as if a new loan were being made to the transferee; (b) Lender reasonably determines that Lender's security will not be impaired by the loan assumption and that the risk of a breach of any covenant or agreement in the Security Instrument is acceptable to Lender; and (c) the Property is sold or transferred to an eligible transferee in accordance with the laws of the Tribe.

To the extent permitted by applicable law, Lender may charge a reasonable fee as a condition to Lender's consent to the loan assumption. Lender may also require the transferee to sign an assumption agreement that is acceptable to Lender and that obligates the transferee to keep all the promises and agreements made in the Note and in the Security Instrument. Borrower will continue to be obligated under the Note and the Security Instrument unless Lender releases Borrower in writing.

If Lender exercises the option to require immediate payment in full, Lender shall give Borrower notice of acceleration. The notice shall provide a period of not less than 30 days from the date the notice is delivered or mailed within which Borrower must pay all sums secured by the Security Instrument. If Borrower fails to pay these sums prior to the expiration of this period, Lender may invoke any remedies permitted by the Security Instrument without further notice or demand on Borrower; provided, however, Lender's right to invoke any remedies under the Security Instrument after the expiration of this period shall be subject to the right of first refusal to acquire the Property as provided in the Native American Housing Security Instrument Rider for Allotments.]

**[NOTE: FOR VA LOANS ADD THE FOLLOWING PROVISIONS:**

The Note and Security Instrument are subject to Title 38, United States Code.

If this loan is guaranteed by the Secretary of Veterans Affairs ("VA"), any transfer of the Property by the Borrower must be approved by VA or its authorized agent unless the loan is being repaid in full, as required by this section.

**THIS LOAN MAY NOT BE  
ASSUMED WITHOUT THE PRIOR  
APPROVAL OF THE DEPARTMENT  
OF VETERANS AFFAIRS OR ITS  
AUTHORIZED AGENT,  
SUCCESSORS OR ASSIGNS.**

This loan may be declared immediately due and payable upon transfer of the property securing such loan to any transferee, unless the acceptability of the assumption of the loan is established either pursuant to the provisions of section 3714 of chapter 37, title 38, United States Code, or by the loan holder if the loan has been sold without

recourse.

A fee equal to one-half of 1 percent of the balance of this loan as of the date of transfer of the property shall be payable to the Department of Veterans Affairs at the time of transfer. If the assumer fails to pay this fee at the time of transfer, the fee shall constitute an additional debt to that already secured by this instrument and shall bear interest at the rate herein provided, and, at the option of the payee of the indebtedness hereby secured or any transferee hereof, the full indebtedness shall be immediately due and payable. This fee is automatically waived if the assumer is exempt under the provisions of 38 U.S.C. 3729(c). The assumer is not obligated to pay this fee if the Department of Veterans Affairs has sold this loan without recourse.

Upon application for approval to allow assumption of this loan, a processing fee may be charged by the Department of Veterans Affairs or its successors or assigns for determining the creditworthiness of the assumer and subsequently revising the ownership records when an approved transfer is completed. The amount of this charge shall not exceed \$300.]

**[NOTE: FOR HUD LOANS ADD THE FOLLOWING PROVISION:**

If this loan is guaranteed by the Secretary of Housing and Urban Development ("HUD"), any transfer of the Property by the Borrower must be approved by HUD or its authorized agent unless the loan is being repaid in full, as required by this section.]

BY SIGNING BELOW, Borrower accepts and agrees to the terms and covenants contained in this Rider.

\_\_\_\_\_  
-Borrower (SEAL)

\_\_\_\_\_  
-Borrower (SEAL)

**CERTIFICATE OF APPROVAL**

The foregoing Security Instrument and Rider are hereby approved on behalf of the Secretary of the Interior. Approval of the Security Instrument and the Rider shall not be construed to be an agreement or assurance that the Property subject to the Security Instrument and the Rider will remain in a trust or restricted status during the period of the Security Instrument and the Rider.

Date: \_\_\_\_\_

\_\_\_\_\_  
Authorized Representative