

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

THE SECURITY INSTRUMENT, AS AMENDED BY THIS RIDER, ENCUMBERS (OR ATTACHES TO) YOUR LEASEHOLD INTEREST ON INDIAN TRUST LAND OR RESTRICTED LAND. THE SECURITY INSTRUMENT EVIDENCES A PLEDGE OF YOUR INTEREST IN SUCH PROPERTY TO A LENDER AS SECURITY FOR REPAYMENT OF A LOAN AND THE PERFORMANCE OF OTHER LOAN OBLIGATIONS RELATING TO THE PROPERTY. YOUR LEASEHOLD INTEREST IS MORE PARTICULARLY DESCRIBED IN A GROUND LEASE BETWEEN THE TRIBE, AS LESSOR, AND YOU, AS LESSEE. DURING THE TERM OF THE GROUND LEASE YOU HAVE A LEASEHOLD INTEREST IN THE LAND AND THE IMPROVEMENTS (BUILDINGS) LOCATED ON THE LAND. GENERALLY, UPON THE EXPIRATION OF THE TERM OF A GROUND LEASE, THE LAND AND THE IMPROVEMENTS BECOME THE PROPERTY OF THE LESSOR (i.e., REVERT BACK TO THE LESSOR). HOWEVER, UPON EXPIRATION OF THE TERM OF YOUR LEASE YOU MAY BE ENTITLED TO CERTAIN USE RIGHTS IN THE LAND AND THE IMPROVEMENTS WHICH MAY ENTITLE YOU TO CONTINUE TO USE AND OCCUPY THE PROPERTY IF YOU ARE QUALIFIED UNDER THE LAWS AND CUSTOMS OF THE TRIBE TO SUCH CONTINUING USE.

THIS NATIVE AMERICAN HOUSING SECURITY INSTRUMENT RIDER FOR LEASEHOLDS (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 "Leasehold Estate").

[Property Address]

The Leasehold Estate is within the jurisdiction 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 (defined below), and approved by the Secretary of the Interior or a duly authorized representative thereof (the "Secretary").

The interest of Borrower in the Leasehold Estate was created by a residential ground lease (the "Ground Lease") dated _____, _____, by and between Borrower, as ground lessee, and the Tribe, as ground lessor (the "Lessor"), and approved by 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. **GROUND LEASE TERMINATION**

Borrower shall not attempt to terminate the Ground Lease, whether by default or otherwise, during any initial or renewal term if, and as long as, the Ground Lease and/or any improvements on the Leasehold Estate, or any interest therein, are subject to the Security Instrument, unless consent in writing to such termination is given by Lender and the Secretary.

2. GROUND LEASE DEFAULT

A default under the Ground Lease shall constitute a default under the Security Instrument.

Upon the occurrence of an event of default under the Ground Lease, Lender shall have the right to postpone and extend the specified date for the termination of the Ground Lease for a period sufficient to enable Lender to acquire Borrower's Leasehold Estate by foreclosure or assignment in lieu of foreclosure.

3. GROUND LEASE ASSIGNMENT

Borrower shall not assign the Leasehold Estate without the prior written approval of Lender. Upon Lender's request [during the existence of][upon the occurrence of] a default by Borrower under the Security Instrument, Borrower shall assign to Lender, by written instrument satisfactory to Lender, the Leasehold Estate or deliver possession of the Leasehold Estate, including any improvements thereon, to Lender without the Lessor's or the Secretary's consent. Nothing in the Ground Lease shall prevent Lender, without the Secretary's consent, from foreclosing or instituting other appropriate proceedings under appropriate law (including assignment of the Leasehold Estate in lieu of foreclosure) in the event of default under the Security Instrument [NOTE: FOR HUD LOANS ADD THE FOLLOWING: "Lender shall obtain the Tribe's consent prior to obtaining title to the Leasehold Estate pursuant to a foreclosure or assignment in lieu of foreclosure.].

4. RIGHT OF FIRST REFUSAL

Subsequent to Borrower's breach of any covenant or agreement in the Security Instrument or the Rider, and upon the expiration of any applicable cure period provided Borrower under Non-Uniform Covenant 22 of the Security Instrument, the Lessor shall have the right of first refusal to acquire Borrower's Leasehold Estate (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). Such assumption agreement shall include, without limitation, a limited waiver of sovereign immunity, duly authorized by the Lessor, with respect to any action to collect any or all sums due or obligations owed by the Lessor to the Lender pursuant to the assumption, or to enforce any of the Lender's other rights and/or remedies in connection with the assumption. The Lessor's right of first refusal may be exercised at any time within fifteen (15) business days of the date of Lender's written notice to the Lessor of 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, the Rider, or by law. This right of first refusal shall be exercised by notice in writing from the Lessor to Borrower and Lender. The Lessor's right of first refusal pursuant to an assumption of the loan shall be exercised solely for the purpose of providing a principal residence on the Leasehold Estate for eligible transferees in accordance with the laws of the Tribe. Notwithstanding the Lessor's right of first refusal to acquire Borrower's interest in the Leasehold Estate, 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.

The estate acquired by the Lessor through exercise of the right of first refusal shall not merge with any other estate or title held by the Lessor as long as the Leasehold Estate and/or any improvements on the Leasehold Estate, or any

interest therein, are subject to the Security Instrument, and the Leasehold Estate shall remain subject to the Security Instrument.

5. ACCELERATION; REMEDIES

In the event Lender acquires Borrower's Leasehold Estate by foreclosure of the Security Instrument or assignment in lieu of foreclosure (for which foreclosure or assignment in lieu of foreclosure shall not require approval of the Lessor 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 assignment in lieu of foreclosure) then:

- (a) Lender will notify the Lessor in writing of the availability of the Leasehold Estate 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 assignment in lieu of foreclosure, upon completion of the sale upon terms satisfactory to Lender, the Leasehold Estate 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, and such purchaser shall be bound by the terms of the Lease and shall assume in writing all the obligations thereunder. The Lender is hereby authorized to sell the Leasehold Estate and the improvements thereon to any Tribal member without the approval of the Lessor, or to any other person with the approval of the Lessor; and
- (c) If a purchaser cannot be found within such 30-day period, Lender shall be entitled to sublet the Leasehold Estate an unlimited number of times with the approval of the Secretary (but the Lessor shall not be entitled to approve any such sublease, and the Lessor shall not impose any qualifying criteria on any such sublessee); provided, however, any sublessee shall accept and agree in writing to be bound by the terms and conditions of the Ground Lease. The term of any sublease period, however, shall not exceed one year. Where the Leasehold Estate has been sublet as provided in this paragraph, a subsequent purchaser approved by the Lessor and Lender must wait until the expiration of any current sublease period before occupying the Leasehold Estate. Any and all subleases shall be satisfactory in all respects to the Lender and the Secretary. There shall be no modification, cancellation, or surrender of any subleases, or prepayment of rent thereunder, without the consent of Lender. If Lender forecloses on the Security Instrument or takes an assignment of the Leasehold Estate in lieu of foreclosure, all subtenants shall attorn to Lender or its assignee.

6. NO SUBORDINATION OF GROUND LEASE

Borrower represents and warrants that there are no existing mortgages, charges, encumbrances, or other liens on the Leasehold Estate or on the trust land underlying the Leasehold Estate except those identified in the related Bureau of Indian Affairs Title Status Report and/or related title insurance policy and, so long as the Leasehold Estate is subject to the Security Instrument, Borrower shall not subordinate the Ground Lease to any mortgage or lien that may hereafter be placed on the Leasehold Estate or on the trust land or restricted land underlying the Leasehold Estate.

7. MODIFICATION; TERMINATION; FORFEITURE OF GROUND LEASE

Borrower shall not attempt to modify, amend, terminate, surrender or forfeit the Ground Lease or Leasehold Estate without the prior written consent of Lender.

8. 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 Leasehold Estate 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:

9. TRANSFER OF THE LEASEHOLD ESTATE 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 Leasehold Estate or a Beneficial Interest in Borrower; Assumption. If all or any part of the Leasehold Estate 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 Lessor consents to an assignment of the Ground Lease 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 Lessor's right of first refusal under the Ground Lease to acquire Borrower's interest in the Leasehold Estate.]

[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.

_____(SEAL)
-Borrower

_____(SEAL)
-Borrower

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 land covered by 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