



Sale Agreement # \_\_\_\_\_

## 2.17 BUYER PRE-CLOSING OCCUPANCY ADDENDUM

1 **1. Property Address or Description:** \_\_\_\_\_

2 **2. Names of Parties to this Agreement:**

3 **Buyer** \_\_\_\_\_ **Seller** \_\_\_\_\_

4 **Buyer** \_\_\_\_\_ **Seller** \_\_\_\_\_

5 **Buyer** \_\_\_\_\_ **Seller** \_\_\_\_\_

6 **Buyer** \_\_\_\_\_ **Seller** \_\_\_\_\_

7 **3. Purpose; Use of Form; Agreement Not Subject to Oregon Residential Landlord Tenant Act.** The purpose of this agreement  
8 (“Occupancy Agreement”) is to establish the terms and conditions under which Buyer may occupy the Property for residential use  
9 *before* title has transferred to Buyer as a part of the Purchase and Sale Agreement (“Sale Agreement”). Pursuant to ORS 90.110(2),  
10 this Occupancy Agreement is not subject to the Oregon Residential Landlord Tenant Act (“ORLTA”) because this Occupancy Agreement  
11 is for occupancy of a dwelling unit for no more than **90 Calendar Days** by a Buyer before Closing. If the Parties desire an occupancy  
12 lasting more than **90 Calendar Days**, the occupancy will be subject to ORLTA and this form should not be used. It is Buyer’s  
13 responsibility to confirm that the Occupancy Terms below conform with Buyer’s loan terms.

14 **4. Occupancy Terms.** Seller grants Buyer the right to occupy:

15  the entire Property; or

16  a portion of the Property (Describe: \_\_\_\_\_)

17 beginning at (choose one):

18  \_\_\_\_\_ (5:00 p.m. if not filled in) on \_\_\_\_\_ [Date].

19  \_\_\_\_\_ (5:00 p.m. if not filled in) \_\_\_\_\_ Calendar Days before Closing.

20 The occupancy will end at (choose one):

21  \_\_\_\_\_ (5:00 p.m. if not filled in) on \_\_\_\_\_ [Date].

22  \_\_\_\_\_ (5:00 p.m. if not filled in) on Closing.

23 The Buyer’s right to occupy Property will automatically terminate at the end of the term described above, or at the end of **90 Calendar**  
24 **Days**, whichever is sooner (“Occupancy Term”). If the parties terminate the Sale Agreement and the parties cannot agree upon a date  
25 for Buyer’s occupancy to end, the occupancy shall be deemed to terminate **15 Calendar Days** after delivery of **Form 5.3** or **Form 5.4**  
26 **Notice of Termination** terminating the Sale Agreement.

27 Buyer’s right to occupy Property is exclusive and for residential use of Buyer and:

28  \_\_\_\_\_ Additional Persons (spouses, children, etc.).

29  \_\_\_\_\_ Pets.

30 Buyer’s right to occupy may not be assigned and the Property may not be sublet. The following exceptions apply to these Occupancy  
31 Terms: \_\_\_\_\_

32 **5. Payment.** Buyer shall pay Seller for the Occupancy Term as follows (choose one):

33  a total amount of \$ \_\_\_\_\_

34  an amount of \$ \_\_\_\_\_ per day for a total amount of \$ \_\_\_\_\_

35 Unless otherwise agreed in a **Form 2.2 General Addendum**, Buyer shall pay Seller the total amount through Escrow, to be  
36 distributed to Seller at Closing.

37 **6. Security Deposit.**

38  Buyer is not obligated to pay a security deposit.

39  Buyer shall pay Seller a security deposit of \$ 1,000.00 through Escrow.

40  Buyer shall pay Seller a security deposit of \$ \_\_\_\_\_ through Escrow.

41 The terms governing the security deposit are those in this Occupancy Agreement, not those defined by state or local law. The deposit  
42 is not required to be held in a trust account. After the beginning of the Occupancy Term, Buyer shall provide Seller with Buyer’s contact  
43 information for returning Security Deposit and for maintaining contact during the Occupancy Term.

44 Seller shall refund the security deposit to Buyer in full within  **5 Business Days** or  \_\_\_\_\_ **Business Days** of the end of the  
45 Occupancy Term unless Buyer has breached a material term of this Occupancy Agreement.

46 If Buyer has breached a material term of this Occupancy Agreement, Seller may retain the portion of the security deposit necessary to  
47 cover the damages suffered by Seller, or any reasonable costs incurred or expected to be incurred by Seller due to Buyer’s breach

**Buyer Initials** \_\_\_\_\_ **Seller Initials** \_\_\_\_\_



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48 including but not limited to the reasonable costs required to bring the Property into the condition required by Section 8 of this  
49 Occupancy Agreement and Seller's reasonable attorneys' fees, costs and expenses incurred in pursuing eviction or otherwise enforcing  
50 this agreement. If Seller retains all or a portion of the security deposit, within  **10 Business Days** or  \_\_\_\_\_ **Business Days** after  
51 such retention, Seller shall provide Buyer with:

- 52 (i) A written explanation of Buyer's breach and any damages suffered by Seller, along with any supporting evidence;
- 53 (ii) An itemized list of repairs and expenses incurred by Seller or reasonably expected to be incurred by Seller, supported by  
54 receipts or written estimates; and
- 55 (iii) The balance of any remaining security deposit funds.

56 **7. Buyer's Obligations.** Buyer shall comply with all laws, covenants, conditions and restrictions related to the Property and shall not  
57 interfere with any legal rights of use held by others. Buyer shall not engage in any unlawful activities on or about the Property and  
58 shall not interfere with the peaceful enjoyment of others' properties. Buyer shall not engage in any dangerous activities or store any  
59 dangerous products that could cause damage to the Property or increase the likelihood of a Property casualty. Buyer shall not make  
60 any improvements or alterations to the Property without express written consent of Seller. Buyer shall keep the Property free of all  
61 liens caused by Buyer's actions and shall indemnify Seller from the same and pay any reasonable costs and attorney fees associated  
62 with removal of said liens. Buyer shall maintain functioning smoke and carbon monoxide detectors as described in the Sale Agreement.

63 **8. Property Condition at Time of Possession; Responsibilities of Buyer and Seller.** Regardless of any terms in the Sale Agreement,  
64 Buyer shall be responsible for any damage caused by pets or Buyer's negligence.

65 The terms of any cleaning provision in the underlying Sale Agreement will only apply if the Occupancy Term ends more than **10**  
66 **Business Days** before Closing. If a cleaning provision does not apply, Buyer agrees to accept the condition of the Property "As-Is,  
67 Where-Is" at Closing, regardless of any damage to the Property that occurred during Buyer's occupancy.

68 During the Occupancy Term, Seller's duty to repair or replace any system or appliance that becomes inoperative or malfunctions prior  
69 to Possession shall not apply, with the following exceptions:

- 70 (i) To the extent that the system or appliance is eligible for coverage under a home warranty, Buyer and Seller shall work  
71 collaboratively to have the system or appliance repaired or replaced through the application of the home warranty, and Buyer  
72 shall pay any applicable deductible or service fee;
- 73 (ii) Damage to the Property that is covered under Seller's property and casualty insurance policy shall be the responsibility of  
74 Seller. However, if the damage was the result of negligent, reckless or willful conduct of the Buyer, Buyer shall pay any deductible  
75 associated with Seller's property and casualty insurance claim; and
- 76 (iii) Damage to the Property caused by Seller's negligence or normal wear and tear.

77 Buyer and Seller should carefully review the Sale Agreement. Buyer understands that, unless otherwise agreed in writing or listed as  
78 an exception in this paragraph, Buyer is responsible for the repair or replacement of any systems, components or appliances that fail  
79 during Buyer's occupancy.

80 **9. Seller's Remedies and Right to Evict.** If Buyer fails to vacate Property by the end of the Occupancy Term or otherwise is in default  
81 under this Occupancy Agreement, Seller may file an eviction action with the court pursuant to ORS 105.105 to 105.168, after at least  
82 24 hours written notice of the termination of the occupancy. Buyer will be liable to Seller for twice the actual damages suffered by  
83 Seller as a result of Buyer's failure to vacate, plus all reasonable attorneys' fees, costs and expenses incurred in pursuing eviction, at  
84 trial, on appeal, at mediation and at arbitration Pursuant to ORS 91.130, Seller's right to pursue an eviction action under this section  
85 does not create a landlord-tenant relationship. All remedies other than eviction will be pursued according to the Dispute Resolution  
86 terms of the underlying Sale Agreement. "Curable Default" provisions under the underlying Sale Agreement requiring use of **Form 5.1**  
87 or **5.2 Notice and Opportunity to Cure** do not apply to this Occupancy Agreement.

88 **10. Early Vacancy by Buyer.** Buyer shall provide Seller at least 24 hours written notice if Buyer intends to vacate the Property prior to  
89 the end of the Occupancy Term. Unless otherwise agreed in writing, Buyer remains fully obligated under this Occupancy Agreement  
90 for the entire Occupancy Term, including but not limited to Buyer's insurance obligations and Buyer is not entitled to a refund or  
91 proration for early vacancy.

92 **11. Seller Access.** Buyer shall make the Property available to Seller at reasonable times and with reasonable notice for Seller to inspect  
93 the Property. Buyer shall permit Seller to enter the Property at reasonable times and with reasonable notice to perform any repairs  
94 the parties agreed to in the Sale Agreement or an addendum to the Sale Agreement. If Seller is not granted permission to enter the  
95 Property and repair an agreed to condition, Buyer shall be deemed to have waived the right to repair of that condition.

Buyer Initials \_\_\_\_\_

Seller Initials \_\_\_\_\_



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96 **12. Injury to Other Persons or Property.** Buyer is solely liable for any injury that occurs to other persons on the Property or resulting  
97 from activities taking place at the Property, and damage that occurs to the real or personal Property of others as a result of Buyer's  
98 use of the Property. Buyer agrees to indemnify and hold harmless Seller, Buyer's and Seller's Agents and their firms, and all employees  
99 and representatives of those firms from any and all claims, suits or judgments, including all reasonable attorneys' fees, costs and  
100 expenses incurred at trial, on appeal, at mediation and at arbitration, resulting from Buyer's occupancy and use of the Property.

101 **13. Insurance.** Buyer shall obtain a renter's insurance policy for Buyer's Occupancy Term with liability coverage of at least  
102  \$1,000,000 or  \$ \_\_\_\_\_ listing Seller as an additional named insured or additional named interest. Buyer shall  
103 provide proof of insurance to Seller at least  **2 Business Days** or  \_\_\_\_\_ **Business Days** prior to the beginning of the  
104 Occupancy Term. Seller shall obtain a homeowner's property and casualty insurance policy covering at least the replacement cost  
105 value of the Property. The Parties may obtain additional insurance coverages and before signing this Occupancy Agreement should  
106 carefully review this entire Occupancy Agreement with their insurance professionals and discuss potential coverages that may be  
107 beneficial. Buyer's and Seller's Agents are not experts in insurance coverage and the Parties agree that they have not relied on any  
108 insurance related advice from said agents. Buyer and Seller shall cooperate with each other with respect to filing any insurance claims.  
109 Buyer shall cooperate with Seller's efforts to repair Property after any casualty event. If a casualty event occurs during the Occupancy  
110 Term, Seller may terminate this Occupancy Agreement by providing 48 hours written notice of termination to Buyer.

111 **14. Utilities.** Buyer shall be responsible for paying, on time, for all Utilities, including the replacement cost of any consumable fuel  
112 used during the Occupancy Term, through the end of the Occupancy Term.

113 **15. Death of the Parties.** This Occupancy Agreement survives the death of either or both Parties and is binding on their successors  
114 and estates.

115 **16. Dispute Resolution.** All disputes shall be resolved according to the dispute resolution provisions of the underlying Sale Agreement  
116 except in the event of Buyer's failure to vacate, in which case, pursuant to ORS 91.130 Seller may evict Buyer under ORS 105.105 to  
117 ORS 105.168.

118 **17. Encumbrances.** Buyer shall not permit the grant, creation or existence of any lien or encumbrance on the Property due to Buyer's  
119 actions during the Occupancy Term unless expressly permitted by Seller in writing.

120 **18. No Waiver.** Seller's rights shall not be affected by failure to enforce any terms or to insist on compliance with any obligation in this  
121 Occupancy Agreement either at law or in equity. No waiver of a default shall be considered a waiver of a later default or waiver of any  
122 clause of this Occupancy Agreement.

123 **19. Changes to Agreement; Role of Parties and Agents After Closing.** Amendments to this Occupancy Agreement must be in writing  
124 and signed by the parties. All discussions, negotiations and amendments related to this Occupancy Agreement that occur after the  
125 beginning of the Occupancy Term shall be conducted directly by the parties. Buyer's and Seller's Agents, and their respective firms  
126 and employees have no role in this Occupancy Agreement or in the relationship between the parties after the Beginning of the  
127 Occupancy Term. Until Closing, Seller is the legal owner of the Property. Buyer has no rights related to the Property other than those  
128 given by this Occupancy Agreement.

129 **20. Exchange of Keys.** Buyer to deliver keys to Seller at the end of the Occupancy Term.  
130 Additional instructions: \_\_\_\_\_

131 **21. Release of Real Estate Agents and Brokerages.** Buyer and Seller release and agree to indemnify and hold harmless all real estate  
132 brokerages, their agents and employees from any and all claims arising as a result of this Occupancy Agreement or the Buyer's  
133 possession of the Property.

134 **22. Additional Provisions:** \_\_\_\_\_  
135 \_\_\_\_\_

136 **23. By signing below, the Parties agree to the terms of this addendum and make it part of the above referenced Sale Agreement:**

137 Buyer: \_\_\_\_\_ Dated: \_\_\_\_\_ Seller: \_\_\_\_\_ Dated: \_\_\_\_\_  
138 Buyer: \_\_\_\_\_ Dated: \_\_\_\_\_ Seller: \_\_\_\_\_ Dated: \_\_\_\_\_  
139 Buyer: \_\_\_\_\_ Dated: \_\_\_\_\_ Seller: \_\_\_\_\_ Dated: \_\_\_\_\_  
140 Buyer: \_\_\_\_\_ Dated: \_\_\_\_\_ Seller: \_\_\_\_\_ Dated: \_\_\_\_\_