

**FIRPTA Tax Withholding Obligation: Seller/Buyer Advisory**  
*(This is advisory only and should not be relied upon as legal or tax advice.)*

Buyer(s) \_\_\_\_\_

Seller(s) \_\_\_\_\_

Property Address \_\_\_\_\_

**FIRPTA Law Summary.** Seller and Buyer are advised that upon Closing, a Federal law, known as the Foreign Investment in Real Property Tax Act ("FIRPTA"), requires buyers to withhold a portion of a seller's proceeds if the real property is located within the United States and the seller is a "foreign person" who does not qualify for an exemption ("Withholding Requirement"). A "foreign person" includes a non-resident alien individual, foreign corporation, foreign partnership, foreign trust or a foreign estate. Generally, the following rules apply under FIRPTA:

(a) There is no Withholding Requirement, even if the seller is a "foreign person", if: (i) The purchase price of the property is not more than \$300,000; and (ii) The property will be occupied as a residence by a buyer who is an individual (or a member of his/her family) (iii) for at least 50% of the number of days (excluding days the property is vacant) it is used by such person during each of the first two 12-month periods following the date of closing;

(b) The Withholding Requirement will be ten percent (10%) of the purchase price when the seller is a "foreign person" and the purchase price is over \$300,000, but less than \$1,000,000, and (a)(ii) and (iii) above apply; and

(c) The Withholding Requirement will be fifteen percent (15%) of the purchase price when the seller is a "foreign person" and the purchase price is over \$1,000,000, or the purchase price is less than \$1,000,000 and Seller does not qualify for any of the exemptions in (a) or (b) above.

If FIRPTA applies (i.e. Seller *is* a foreign person), even if there is an exemption, Seller and Buyer must complete and sign the FIRPTA Addendum, OREF 093. If FIRPTA does not apply (i.e. seller *is not* a foreign person), then Seller shall complete, upon Buyer's request, sign, and deliver to Buyer a FIRPTA Certification of Nonforeign Status ("the Certificate") prior to Closing. If Seller fails or refuses to complete, sign, or deliver the Certificate to Buyer prior to Closing, the Withholding Requirement shall be applied in to this transaction and escrow shall be so notified. *Seller's and Buyer's Agents are not experts in FIRPTA and will not act as a transferor or transferee agent for purposes of the Withholding Requirement.*

***If FIRPTA may apply in this transaction, Seller and Buyer should promptly consult their own experts familiar with the law and regulations. For further information, Seller and Buyer should go to: <https://www.irs.gov/individuals/international-taxpayers/firpta-withholding>***

**Seller Representation of Non-FIRPTA Status.** At the Seller Representations Section of the Sale Agreement, Seller represents that Seller is NOT a "foreign person" (hereinafter "Seller's Non-FIRPTA Status"). If Seller knows that is incorrect, and Seller intends to accept or counter Buyer's offer, Seller should disclose that fact in an Addendum or Counteroffer. If Seller is unsure, Seller should first confer with Seller's tax counsel or CPA before entering into this transaction. If Seller is exempt from FIRPTA, Seller will be expected to sign and deliver, as appropriate, any instrument, affidavit or statement, reasonably requested by Buyer and/or Escrow to confirm Seller's Non-FIRPTA status.

**Right to Rely on Seller's Representation.** In submitting their offer, it is presumed that Buyer has no knowledge, information, or belief that Seller is a foreign person or that this transaction is subject to FIRPTA. Furthermore, Buyer's and Seller's Agents, their respective Firms, and Escrow, its agents, employees and representatives, shall have the absolute right to rely upon Seller's representations regarding Seller's Non-FIRPTA Status at Seller

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43 Representation Section of the Sale Agreement. This right of reliance shall continue through the Closing Date  
44 and thereafter, unless Seller has disclosed otherwise in a written counteroffer or Addendum to the Sale  
45 Agreement.

46 ***Withholdings Paid to IRS.*** If FIRPTA will apply to this transaction and taxes are due to the Internal Revenue Service,  
47 they will be withheld from Seller's gross proceeds and paid within twenty (20) days of closing.

48 **BUYER AND SELLER ACKNOWLEDGMENT**

49 **By their signatures below, Seller and Buyer acknowledge that they have read and understand the above**  
50 **information, and that if FIRPTA will apply to this transaction, OREF 093 FIRPTA Addendum will be attached to,**  
51 **and become a part of the Sale Agreement.**

52 Buyer Signature \_\_\_\_\_ Date \_\_\_\_\_, \_\_\_\_\_ a.m. \_\_\_\_\_ p.m. ←

53 Buyer Signature \_\_\_\_\_ Date \_\_\_\_\_, \_\_\_\_\_ a.m. \_\_\_\_\_ p.m. ←

54 Buyer's Agent **Hendrick F Binnendyk** Buyer's Agent's Firm **Century 21, Hart Realty**

55 Seller Signature \_\_\_\_\_ Date \_\_\_\_\_, \_\_\_\_\_ a.m. \_\_\_\_\_ p.m. ←

56 Seller Signature \_\_\_\_\_ Date \_\_\_\_\_, \_\_\_\_\_ a.m. \_\_\_\_\_ p.m. ←

57 Seller's Agent **Corporate Web Site** Seller's Agent's Firm **Century 21, Hart Realty**

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