

## REAL PROPERTY DONATION AGREEMENT

This Real Property Donation Agreement (“Agreement”) is made on \_\_\_\_\_ (“Effective Date”), between **Bank of America, N.A.**, for itself (“Donor”), and **City of Palm Coast** (“Donee”). It is agreed that upon the terms and conditions set forth in this Agreement the Donor shall donate and convey all of its rights and interests in, and the Donee shall accept and be the successor to all such rights and interests in, the real property identified and described herein. This Real Property Donation Agreement and any addenda, riders, counterparts, or amendments together constitute the complete Agreement.

Donor and Donee may each be referred to herein as a “Party” and collectively as the “Parties.”

Donor is the owner, or the agent of the owner with the authority to enter into this Agreement, of the real property described in **Exhibit “A”** attached hereto and incorporated herein by this reference (the “Property”).

**1. PROPERTY ADDRESS:** The physical address of the Property, and any improvements thereon, is 70 LARAMIE DRIVE, PALM COAST, FL, 32137.

**2. EFFECTIVE DATE:**

The date of Donor’s execution of this Agreement shall be the “Effective Date” of the Agreement, notwithstanding any prior understanding or agreement with respect to the financial terms set forth herein. The Agreement shall be null and void if the Agreement signed by the Donee is not actually received by the Donor before the Donor gives verbal or written notice of revocation to Donee, the Donee’s agent or attorney, or the listing agent. The Agreement must be signed by all parties in order to be binding.

**3. CONSIDERATION:**

The Parties acknowledge and agree that there shall be no consideration or payment of money or goods of any kind made by Donee in exchange for Donor’s transfer of the Property to Donee. This Agreement, and performance of any covenant or condition contained herein, is not contingent upon Donee obtaining financing from any source. To the extent that the Parties have entered any other agreement with respect to the donation of real property prior to this Agreement, each Party acknowledges full performance by the other Party of all covenants and conditions contained in such prior agreement.

**4. RESTRICTIONS, EASEMENTS, LIMITATIONS:**

Donee shall take title to the Property subject to all matters of record unless otherwise set forth in the Addendum to Real Property Agreement attached hereto and incorporated here by this reference.

**5. TIME OF THE ESSENCE; CLOSING DATE:**

**(a)** It is agreed that time is of the essence with respect to all dates specified in the Agreement and any addenda, riders, or amendments thereto, meaning that all deadlines are intended to be strict and absolute. The Agreement shall terminate automatically, and without notice, if it is not concluded by the Closing Date, or any agreed extension thereof.

(b) The Closing shall take place on or before **7/31/2014** ("Closing Date"), unless the Closing Date is extended in writing signed by Donor and the Donee, or extended by Donor under the terms of the Agreement. If no extension is agreed upon and if the Closing does not occur (through no fault of Donor) by the Closing Date, the Agreement is automatically terminated.

**6. DOCUMENTS FOR CLOSING:**

Donor shall prepare or cause to be prepared a deed transferring the Property to Donee. Donor shall be responsible for recording the deed following the Closing. Donor shall provide all escrow and closing services through a title insurance company of its choice licensed or authorized to provide such services in the state in which the Property is located. The deed to be delivered at closing shall be a deed in which the Grantor therein grants and conveys to the Grantee therein only that title to, or interest and rights in, the property granted therein that the Grantor may have at the time of the grant, and shall contain no warranty, guaranty or indemnification of any kind, express or implied. Such deed may be known as a Quitclaim, Grant Deed or by the title of such deed used in the state, county or city in which the property is located. Any reference to the term "deed" or "quitclaim" herein shall be construed to refer to such form of deed.

**7. CLOSING COSTS AND EXPENSES:**

(a) The Parties agree that Donor shall only be responsible for payment of real estate taxes through the date of closing. At Closing, Donor shall pay any and all real estate taxes through the date of Closing that are due and owing. In States where taxes are paid in arrears, Donor shall also credit Donee for general real estate taxes through the date of closing. In States where real estate taxes are paid prospectively, Donee shall not be required to credit Donor for any days after closing for which taxes are paid. At closing Donor shall pay all HOA fees through the date of Closing that are due or owing. In State where HOA dues are paid in arrears Donor shall also credit Donee for HOA dues through the date of closing. In states where HOA dues are paid prospectively Donee shall not be required to credit Donor for any days after closing for which HOA dues are paid.

(b) All other costs, expenses, fees and other amounts due and paid at or through escrow or the Closing shall be paid (mark the line that applies):

BY DONOR;

BY DONEE;

EQUALLY BE DONOR AND DONEE; or

AS OTHERWISE AGREED TO BY THE PARTIES AND CONTAINED IN PARAGRAPH 4. OF THE ADDENDUM TO REAL PROPERTY DONATION AGREEMENT, AGREED TO BY THE DONOR AND DONEE ON , AND ATTACHED HERETO AND MADE A PART HEREOF.

(c) An itemization of all amounts paid at or through the Closing, including without limitation, a HUD – 1 Settlement Statement, shall be prepared in connection with the Closing and approved and signed by Donor and Donee.

**8. PROPERTY CONDITION:**

(a) Donee acknowledges and agrees that Donor has not made and hereby specifically disclaims any warranty, guaranty, or representation, oral or written, past, present, or future, of, as to, or concerning (i) the nature, square footage, condition, value, or quality of the geology, the presence of environmental hazards, or the suitability of the Property for any and all activities and uses which Donee may elect to conduct thereon, specifically including but not limited to, using the Property as a residence; (ii) the manner, construction, condition, quality, the state of repair or lack of repair of any of the Property; (iii) except for any warranties contained in the deed, the nature and extent of any right of way, lease, possession, lien, encumbrance, license, reservation, condition, or otherwise; (iv) the compliance of the Property, its operation, or use with any laws, rules, ordinances, or regulations of any government or other body; and, (v) the income to be derived from the Property.

(b) Donee hereby expressly acknowledges and agrees that Donee has thoroughly inspected and examined the Property to the extent deemed necessary by the Donee in order to enable Donee to evaluate the acceptance of the Property. Donee hereby further acknowledges and agrees that Donee is relying solely upon the inspection, examination, and evaluation of the Property, if any, by Donee and that Donee is accepting the Property on an "AS IS, WHERE IS" and "WITH ALL FAULTS" basis and not on any information provided or to be provided by Donor. Donee acknowledges that it has sufficient information regarding the Property; is relying on its own experts and not Donor or any information provided by Donor, if any; and is not looking to Donor for any additional information with respect to condition of the Property. Donee expressly acknowledges that, in consideration of the agreements of Donor herein, Donor makes no warranty of representation expressed or implied, or arising by operation of law, including, but in no way limited to any warranty of condition, habitability, merchantability, or fitness for a particular purpose except otherwise specified herein. It is further agreed that Donor has not warranted, and does not hereby warrant the Property and any improvements located thereon now or in the future will meet or comply with the requirements of any safety code or regulation of the state, city, or county in which the Property is located, or any other authority or jurisdiction.

#### **9. CODE VIOLATIONS:**

(a) Donor and Donee acknowledge and agree that that there may be outstanding and unpaid liens, fines, fees or penalties attached to or assessed against the Property or the owner of the Property (including Donor), ("Assessments") at the time this Agreement is executed. If such Assessments do exist, Donor and Donee agree to resolve the payment of and liability for such Assessments, as between the parties, in this Agreement.

(b) Therefore, Donor and Donee shall each place its mark next to the statement that accurately represents their agreed upon resolution of such Assessments. **If either party fails to make its mark, or if the parties make their marks next to different statements, then there is no agreement between the parties and each is released by**

**the other of all liability for failure to perform any obligation contained in the Agreement.** The Parties agree as follows:

No later than at the Closing, any and all liens, fines, fees or penalties attached to or assessed against the Property, or owed by an owner of the Property as a result of one or more violations of county, city, township or village ordinances, codes, regulations or administrative orders shall:

\_\_\_\_\_  \_\_\_\_\_ (i) be paid in full by Donor and fully released by the Donee, entity, corporation, partnership, limited liability company, department, agency, or person to which such assessments were owed and/or which holds the legal authority to release Donor of liability for such assessments;

\_\_\_\_\_ \_\_\_\_\_ (ii) be forgiven and Donor fully released by the Donee, entity, corporation, partnership, limited liability company, department, agency, or person to which such assessments were owed and/or which holds the legal authority to release Donor of liability for such assessments;

\_\_\_\_\_ \_\_\_\_\_ (iii) shall remain unsatisfied by Donor and Donee, taking and owning the Property subject thereto, shall accept and assume sole liability for payment, abatement or extinguishment of such assessments; or

\_\_\_\_\_ \_\_\_\_\_ (iv) NOT APPLICABLE

**10. EXPOSURE TO LEAD OR LEAD-BASED PAINT:**

If the Property was built prior to 1978, the Property may contain lead-based paint or other sources of lead. Exposure to lead-based paint or other sources may place young children at risk of developing lead poisoning. Lead poisoning in young children may produce permanent neurological damage, including learning disabilities, reduced intelligence quotient, behavior problems and impaired memory. Lead poisoning also poses a particular risk to pregnant woman. Donee agrees that it is accepting the Property "as-is" without any representations or warranties whatsoever as to the condition of the Property. Donee further agrees that the Donor has no responsibility or liability for, and Donee hereby unconditionally releases Donor from, any and all liability, known and unknown, present or future, that is based upon or related to, the existence of lead or lead-based paint on or about the Property. Donee acknowledges that it has been informed by Donor of possible health hazards posed by exposure to lead from lead-based paint or other sources on or about the Property. Donee further acknowledges that Donee has waived the opportunity to conduct a risk assessment for the presence of lead-based paint hazards on the Property.

**11. DEFECTS IN TITLE:**

If Donee raises an objection to Donor's title to the Property, which, if valid, would make title to the Property uninsurable, Donor shall have the right, but not the obligation, to unilaterally terminate the Agreement by giving written notice of the termination to Donee. Donor is not obligated to (i) remove any exception; (ii) bring any action or proceeding or bear any expense

in order to convey title to the Property; or (iii) make the title marketable or insurable. Any attempt by Donor to remove such title exceptions shall not impose an obligation upon Donor to remove those exceptions.

## **12. REPRESENTATIONS AND WARRANTIES:**

In addition to Donee's representations and warranties made elsewhere herein, Donee represents and warrants to Donor the following:

**(a)** Donee is accepting the Property solely in reliance on its own information and/or findings and not on any information, representation or warranty provided or to be provided by Donor, its servicers, representatives, brokers, employees, agents, or assigns, including, but not limited to, any information provided on any brochures or web sites of Donor or Donor's agents or brokers, or any information on the Multiple Listing Service;

**(b)** Neither Donor, nor its servicers, employees, representatives, brokers, agents or assigns, has made any representations or warranties, implied or express, relating to the condition of the Property or the contents thereof;

**(c)** Donee has not relied on any representation or warranty from Donor, or Donor's agents or brokers regarding the nature, quality, or workmanship of any repairs made by Donor;

**(d)** Donee will not occupy, or cause or permit others to occupy, the Property prior to Closing; and

**(e)** Donee is not an officer, an employee, a director, or a Business Partner (as defined below) of Bank of America, N.A., or its parent company, subsidiaries, or affiliated companies. Donee understands and acknowledges that Donor prohibits such persons from purchasing the Property, directly, indirectly, or through a family member or an interest in a partnership, corporation, joint venture, trust, or other entity. "Business Partner" shall mean any agent, broker, appraiser, attorney, trustee, property inspection or, title company, representative, or vendor of Bank of America, N.A., or its parent company, subsidiaries, or affiliated companies.

## **13. CONDITIONS TO DONOR'S PERFORMANCE:**

Donor shall have the right, at Donor's sole discretion, to extend the Closing Date or to terminate the Agreement if:

**(a)** full payment of any mortgage insurance claim related to the loan previously secured by the Property is not confirmed prior to the Closing Date or the mortgage insurance company exercises its right to acquire title to the Property;

**(b)** a third party having an interest in the Property (or the loan that was secured by the property) has requested that the servicing entity, or any other party, release the servicing of or repurchase such loan or the Property;

**(c)** full payment of any property, fire or hazard insurance claim is not confirmed prior to the Closing Date;

(d) any third party, whether tenant, homeowner's association, or otherwise, exercises rights under a right of first refusal to purchase the Property;

(e) Donee is the former mortgagor of the Property whose interest was foreclosed, or is related to or affiliated in any way with the former mortgagor, and Donee has not disclosed this fact to Donor prior to Donor's acceptance or execution of this Agreement. Such failure to disclose shall constitute a material breach under the Agreement, entitling Donor to exercise any of its rights and remedies, including, without limitation, immediately terminating this Agreement; or

(f) Donor, at Donor's sole discretion, determines that the donation and transfer of the Property to Donee, or any related transactions, are in any way associated with illegal activity of any kind.

#### **14. DONOR'S REMEDIES FOR DONEE'S DEFAULT:**

In the event of Donee's material breach or material misrepresentation of any fact under the terms of the Agreement, Donor is automatically released from the obligation to donate and convey the Property to Donee, and Donor and any indemnified parties shall not be liable to Donor for any Claims arising out of or relating in any way to Donor's failure to donate and convey the Property to Donee.

#### **15. WAIVER OF CLAIMS:**

Donee, for itself and any other parties claiming, by, through, or under Donee, hereby waives and fully releases Donor and its agents from and against any and all losses, claims, demands, liabilities, costs, damages and expenses (including attorney's fees and costs) from and against any and all claims, causes of action, whether administrative, judicial or otherwise, losses, costs (including any and all reasonable attorneys' fees, court costs, and reasonable costs of investigation, litigation, and settlement), expenses, sanctions, curtailments, interest, liabilities, penalties, fines, demands, liens, judgments, compensation, fees, loss of profits, injuries, death, and/or damages, of any kind whatsoever, whether known or unknown, fixed or contingent, joint or several, criminal or civil, or in law or in equity arising from, in connection with any local, state or federal law, rule or ordinance affecting the Property including, but not limited to, building code requirements, nuisance claims or abatements thereof, condemnation proceedings, lien enforcement actions, and the like. Further, except for money claims for nuisance or utility charges arising prior to the date of title transfer, Donee acknowledges that the Property may be subject to proceedings in law or equity to abate, correct, or otherwise comply with local, state or federal requirements regarding the Property and that the Donee shall solely be solely responsible for the payment of any amounts arising therefrom.

#### **16. RISK OF LOSS:**

In the event of a casualty loss, including but not limited to damage or destruction of the Property caused by fire, wind, and water, and **expressly excluding the Donor's intentional demolition or deconstruction of the Property pursuant to an agreement with a federal,**

**state, county, or municipal government branch, department or agency, and other third parties**, after Donor's acceptance and execution of the Agreement, and prior to Closing, Donor may, at its sole discretion, repair or restore the Property, or either Party may terminate the Agreement. If Donor elects to repair or restore the Property, then Donor may, at its sole discretion, limit the amount to be expended. If Donor elects to repair or restore the Property, Donee shall either (a) acquire the Property in its AS-IS condition at the time of such acquisition, or (b) terminate the Agreement.

**17. SPECIAL CLAUSES:**

**RESERVED**

**18. OTHER AGREEMENTS:**

No other agreements or representations, unless specifically set forth in the Agreement, shall be binding upon any of the Parties. This Agreement sets forth the full and complete understanding of the Parties hereto. No amendment, modification or supplement to this Agreement shall be binding unless in writing and duly executed and delivered by each of the Parties hereto to the other Party or Parties. Nothing herein shall be construed as constituting a partnership or joint venture between Donor and Donee. If either or both Parties has or have employed a real estate broker or agent in connection with this property, then each party shall be liable for the payment of any and all broker fees and commissions due that Party's real estate agent or broker, and each Party indemnifies the other for any and all amounts due the other Party's real estate agent or broker. Payments to real estate agents or brokers shall be made directly to the real estate agent or broker prior to Closing or at Closing through escrow or settlement agent, and shall be disclosed on the itemization required under paragraph 7(d), above.

**19. EMINENT DOMAIN:**

In the event that the Donor's interest in the Property, or any part thereof, shall have been taken by eminent domain, or shall be in the process of being taken on or before the Closing Date, either Party may terminate the Agreement and neither Party shall have any further rights or liabilities hereunder.

**20. KEYS:**

Donee is aware that the Property may be on a master key system. Donee is encouraged to re-key the Property after Closing. Donee agrees to hold Donor harmless for any claims relating in any way to any theft or damage of personal property that occurs after the Closing Date.

**21. SURVIVAL:**

Donor's delivery of the deed to the Property to Donee shall be deemed to be full performance and discharge of all of Donor's obligations under the Agreement. Notwithstanding anything to the contrary in the Agreement, any provisions that contemplate performance or observance subsequent to any termination or expiration of the Agreement, shall survive the closing, funding and the delivery of the deed and/or termination of the Agreement by any Party and

such provisions shall continue in full force and effect.

**22. SEVERABILITY:**

If any provision of the Agreement is determined to be invalid, illegal or unenforceable, the remaining provisions shall not be affected or impaired thereby, and no provision shall be deemed dependent upon any other provision unless so expressed herein.

**23. TERMINATION OF AGREEMENT:**

If either Party terminates the Agreement when permitted to do so, the Parties shall have no further obligation to each other, except as to any provision that survives the termination of the Agreement.

**24. ASSIGNMENT OF AGREEMENT:**

Neither Donor nor Donee shall assign the Agreement.

**25. MODIFICATION AND WAIVER:**

No provision, term or clause of the Agreement shall be revised, modified, amended or waived, except by an instrument in writing signed by Donor and Donee. The waiver by any Party of a breach of the Agreement shall not operate or be construed as a waiver of any other or subsequent breach. No course of dealing between the Parties shall operate as a waiver of any provision of the Agreement.

**26. RIGHTS OF OTHERS:**

The Agreement does not create any rights, claims or benefits inuring to any person or entity, other than Donor's successors and/or assigns, that is not a Party to the Agreement, nor does it create or establish any third party beneficiary to the Agreement.

**27. COUNTERPARTS AND FACSIMILE:**

The Agreement may be executed simultaneously in any number of counterparts. Each counterpart shall be deemed to be an original, and all such counterparts shall constitute one and the same instrument. A signed facsimile or photocopy of the Agreement shall be treated as an original, and shall be deemed to be as binding, valid, genuine, and authentic as an originally signed agreement for all purposes, including all matters of evidence and the "best evidence" rule.

**28. HEADINGS:**

The titles to the sections and headings of various paragraphs of the Agreement are placed for convenience of reference only, and in case of conflict the text of the Agreement, rather than such titles or headings, shall control.

**29. GENDER:**

Unless the context otherwise requires, singular nouns and pronouns, when used herein, shall



be deemed to include the plural of such nouns or pronouns, and pronouns of one gender shall be deemed to include the equivalent pronoun of the other gender.

**30. FORCE MAJEURE:**

Except pursuant to the Risk of Loss provisions above, no Party shall be responsible for delays or failure of performance resulting from acts of God, riots, acts of war, epidemics, power failures, earthquakes or other disasters, providing such delay or failure of performance could not have been prevented by reasonable precautions and cannot reasonably be circumvented by such Party through use of alternate sources, workaround plans, or other means.

**31. ATTORNEY REVIEW:**

Donee acknowledges that it has had the opportunity to consult with its legal counsel regarding the Agreement and that accordingly the terms of the Agreement are not to be construed against any Party because that Party drafted the Agreement or construed in favor of any Party because that Party failed to understand the legal effect of the provisions of the Agreement.

**32. NOTICES:**

Any notices required to be given under the Agreement shall be deemed to have been delivered when actually received in the case of hand or overnight delivery or by fax with confirmation of transmission to the numbers below, or five (5) calendar days after mailing by first class mail, postage paid. All notices to Donor will be deemed sent or delivered to Donor when sent or delivered to Donor at the address or fax number shown below. All notices to Donee shall be deemed sent or delivered and effective when sent or delivered to Donee at the address or fax number shown below.

**33. APPLICABLE LAW:**

This Agreement and the provisions contained herein shall be construed, controlled and interpreted according to the laws of the State in which the Property is located.

**34. DISPUTE RESOLUTION:**

At the request of either Party, any dispute arising under this Agreement shall be submitted to mediation before resorting to arbitration or court action. Mediation fees shall be divided equally and each Party shall bear his or its own attorney's fees and costs. Neither Party may require binding arbitration prior to commencement of court action, although the parties may mutually agree to such arbitration.

**35. ATTORNEYS' FEES, COURT COSTS, AND LEGAL EXPENSES:**

In any action, proceeding, or arbitration arising out of, brought under, or relating to the terms or enforceability of the Agreement each Party shall bear its own attorneys' fees, costs, and expenses incurred in such action, proceeding, or arbitration.

**36. COMPLIANCE**

Donee assumes all duties and obligations for compliance with any and all applicable requirements or conditions precedent to conveyance of the Property, including (without limitation) any requirements imposed by governmental agencies or authorities as conditions precedent to conveyance of real property generally, or conditions precedent to conveyance of foreclosed or distressed real estate, or otherwise.

**37. LANGUAGE IN BOLD OR CAPITALIZED:**

**FOR EMPHASIS AND DONEE'S BENEFIT SOME PROVISIONS HAVE BEEN BOLDED AND/OR CAPITALIZED (LIKE THIS SECTION), BUT EACH AND EVERY PROVISION IN THIS AGREEMENT IS SIGNIFICANT AND SHOULD BE REVIEWED AND UNDERSTOOD. NO PROVISION SHOULD BE IGNORED OR DISREGARDED BECAUSE IT IS NOT IN BOLD OR EMPHASIZED IN SOME MANNER, AND THE FAILURE TO BOLD, CAPITALIZE, OR EMPHASIZE IN SOME MANNER ANY TERMS OR PROVISIONS IN THIS AGREEMENT SHALL NOT AFFECT THE ENFORCEABILITY OF ANY TERMS OR PROVISIONS.**

[Signatures Appear on Next Page]

IN WITNESS WHEREOF, Donor and Donee have entered into the Agreement effective as of the date it is executed by Donor as set forth below.

**DONEE(S): City of Palm Coast**

**DONOR:**

**Signature:**

**Bank of America, N.A.:**

Date:

**Bank of America, N.A.**

Print Name:

Print Name:

Title:

Title:

Address: 160 Cypress Point Pkwy, Suite  
B-106 Palm Coast, FL 32164

Date:

Telephone: 386.986.3713

E-Mail: vsmith@palmcoastgov.com

**Bank of America, N.A. CLOSING CONTACT:**

Escrow/Closing Officer Name:

Escrow/Closing Officer Phone No.:

**Exhibit "A":**

**Legal Description of Property**

Legal description and/or tax identification number to be verified and provided by title company prior to closing.

\_\_\_\_\_ Donor's Initials

\_\_\_\_\_ Donee's Initials

**ADDENDUM TO  
REAL PROPERTY DONATION AGREEMENT**

This Addendum to Real Property Donation Agreement (“Addendum”) is made between Bank of America, N.A., for itself, (“Donor”), and City of Palm Coast (“Donee”), on , for the express purpose of amending and supplementing that Real Property Donation Agreement, (“Agreement”), entered into between Donor and Donee, on , regarding terms and conditions of the Donation of the Property. (The word, “Property”, when capitalized, shall mean the real property with improvements, if any, indentified by its legal description in Exhibit “A” of the Agreement.)

Donor and Donee may each be referred to as “Party”, or when referring to both the “Parties”.

**1. INTENTION:** With this Addendum Donor and Donee agree to certain additional terms and conditions with respect to the donation of the Property more generally agreed to in the Agreement.

**2. TITLE INSURANCE:** A title insurance policy identifying the Donee as “Owner” and/or “Insured” shall (mark the line that applies):

**BE ISSUED BY A TITLE COMPANY OF DONOR’S CHOICE LICENSED OR AUTHORIZED TO PROVIDE SUCH INSURANCE IN THE STATE IN WHICH THE PROPERTY IS LOCATED AND PAID FOR BY DONOR;**

**BE ISSUED BY A TITLE COMPANY OF DONOR’S CHOICE LICENSED OR AUTHORIZED TO PROVIDE SUCH INSURANCE IN THE STATE IN WHICH THE PROPERTY IS LOCATED AND PAID FOR BY DONEE;**

**NOT BE PROVIDED BY DONOR. DONEE MAY ELECT TO OBTAIN SUCH A POLICY OF TITLE INSURANCE AND PAY THE PREMIUM FOR SUCH POLICY, BUT THE ABILITY OF DONEE TO OBTAIN SUCH A POLICY, THE ABILITY OF ANY TITLE INSURANCE COMPANY TO ISSUE SUCH A POLICY, NOR THE AVAILABILITY OF SUCH A POLICY SHALL EXCUSE DONEE FROM FULL PERFORMANCE UNDER THE AGREEMENT AS AMENDED BY THIS ADDENDUM.**

**3. DONOR CONTRIBUTIONS:** Donor and Donee shall each place its mark immediately below the paragraph that shall amend the Agreement and which accurately represents specific terms of the donation of the Property as agreed to by the Parties. **If either Party fails to make its mark, or if the Parties make their respective marks next to different statements, then there is NO AGREEMENT between the Parties and each is released by**

**the other of all liability for failure to perform any obligation contained in the Agreement and this Addendum.** The Parties agree as follows:

**(NO CONTRIBUTION)**

Donor and Donee acknowledge and agree that there shall be no cash or other valuable consideration paid by Donor to Donee in connection with the donation of the Property.

**Donor** \_\_\_\_\_

**Donee** \_\_\_\_\_

**(DEMOLITION)**

**(A) Contribution Toward Cost of Demolition – General Purpose**

- (1)** Donor shall accompany the donation of the Property to Donee with a payment of N/A, for the purpose of demolishing or deconstructing the Property.
  
- (2)** If, for any reason, Donee does not cause the improvements on the Property to be demolished or deconstructed and to be clear of debris within ten (10) days after the Closing Date, Donee shall return to Donor any and all funds provided by Donor for the purpose of defraying Donee’s demolition and deconstruction costs.

**Donor** \_\_\_\_N/A\_\_\_\_

**Donee** \_\_\_\_N/A\_\_\_\_

**(B) Contribution Toward Cost of Demolition – HUD Designated Area**

- (1)** The Parties acknowledge and agree that the Property is within an area specially designated by the U.S. Department of Housing and Urban Development, (HUD), under HUD’s Neighborhood Stabilization Program, and therefore, Donor shall accompany the donation of the Property to Donee with a payment of N/A, for the purpose of demolishing or deconstructing the Property.
  
- (2)** If, for any reason, Donee does not cause the improvements on the Property to be demolished or deconstructed and to be clear of debris within ten (10) days after the Closing Date, Donee shall return to Donor any and all funds provided

by Donor for the purpose of defraying Donee's demolition and deconstruction costs.

Donor \_\_\_N/A\_\_\_\_\_

Donee \_\_\_N/A\_\_\_\_\_

**(C) Contribution Toward Cost of Demolition – Non-HUD Designated Area**

(1) The Parties acknowledge and agree that the Property is NOT within an area specially designated by the U.S. Department of Housing and Urban Development, (HUD), under HUD's Neighborhood Stabilization Program, and therefore, Donor shall accompany the donation of the Property to Donee with a payment of N/A, for the purpose of demolishing or deconstructing the Property.

(2) If, for any reason, Donee does not cause the improvements on the Property to be demolished or deconstructed and to be clear of debris within ten (10) days after the Closing Date, Donee shall return to Donor any and all funds provided by Donor for the purpose of defraying Donee's demolition and deconstruction costs.

Donor \_\_\_N/A\_\_\_\_\_

Donee \_\_\_N/A\_\_\_\_\_

**(D) Contribution Toward Cost of Demolition – Other Special Purpose**

(1) The Parties acknowledge and agree that the Property is N/A, and therefore, Donor shall accompany the donation of the Property to Donee with a payment of N/A, for the purpose of demolishing or deconstructing the Property.

(2) If, for any reason, Donee does not cause the improvements on the Property to be demolished or deconstructed and to be clear of debris within ten (10) days after the Closing Date, Donee shall return to Donor any and all funds provided by Donor for the purpose of defraying Donee's demolition and deconstruction costs.

Donor \_\_\_N/A\_\_\_\_\_

Donee \_\_\_N/A\_\_\_\_\_

**(REHABILITATION)**

**(E) Contribution Toward Cost of Rehabilitation – General Purpose**

- (1)** Donor shall contribute N/A toward Donee’s cost of building, rebuilding, repairing, renovating and otherwise rehabilitating the Property, (“Contribution”). The Contribution will be paid at the Closing of the donation. Donee acknowledges and agrees to use the Contribution exclusively for the rehabilitation of the Property. Donee agrees to hold Donor harmless for any reduction to the value of the Property, damage to the Property’s structure, or injuries suffered by any person due to the rehabilitation of the Property.
  
- (2)** The Parties agree that employees of Bank of America and their families, and suppliers and vendors which contract directly with Bank of America, N.A. or Bank of America Corporation and their families may not benefit from the rehabilitation of the Property or receive other services, including but not limited to temporary or transitional housing, provided by Donee with respect to the Property.

Donor \_\_\_N/A\_\_\_\_\_ Donee \_\_\_N/A\_\_\_\_\_

**(F) Contribution Toward Cost of Rehabilitation – Natural Disaster Relief**

Through the Agreement and this Addendum thereto, it is the intention of the Parties to alleviate the displacement of families whose homes were rendered uninhabitable by natural weather and geological phenomena, or rising water. Therefore, the Parties agree as follows:

- (1)** Donor shall contribute N/A toward Donee’s cost of building, rebuilding, repairing, renovating and otherwise rehabilitating the Property, (“Contribution”). The Contribution will be paid at the Closing of the donation. Donee acknowledges and agrees to use the Contribution exclusively for the rehabilitation of the Property. Donee agrees to hold Donor harmless for any reduction to the value of the Property, damage to the Property’s structure, or injuries suffered by any person due to the rehabilitation of the Property.
  
- (2)** The Parties agree that employees of Bank of America and their families, and suppliers and vendors which contract directly with Bank of America, N.A. or Bank of America Corporation and their families may not benefit from the rehabilitation of the Property or receive other services, including but not limited to temporary or transitional housing, provided by Donee with respect to the Property.



Donor \_\_\_N/A\_\_\_\_\_

Donee \_\_\_N/A\_\_\_\_\_

**(G) Contribution Toward Cost of Rehabilitation – Other Special Purpose**

Through the Agreement and this Addendum thereto, it is the intention of the Parties to N/A. Therefore, the Parties agree as follows:

- (1) Donor shall contribute N/A, toward Donee’s cost of building, rebuilding, repairing, renovating and otherwise rehabilitating the Property, (“Contribution”). The Contribution will be paid at the Closing of the donation. Donee acknowledges and agrees to use the Contribution exclusively for the rehabilitation of the Property. Donee agrees to hold Donor harmless for any reduction to the value of the Property, damage to the Property’s structure, or injuries suffered by any person due to the rehabilitation of the Property.
- (2) The Parties agree that employees of Bank of America and their families, and suppliers and vendors which contract directly with Bank of America, N.A. or Bank of America Corporation and their families may not benefit from the rehabilitation of the Property or receive other services, including but not limited to temporary or transitional housing, provided by Donee with respect to the Property.

Donor \_\_\_N/A\_\_\_\_\_

Donee \_\_\_N/A\_\_\_\_\_

**4. AMOUNTS PAID AT CLOSING:** Except as otherwise agreed to and specified by the Parties in the Agreement or this Addendum, all costs, expenses, fees and other amounts due and paid at or through escrow or the Closing shall be paid as follows (additional sheets of paper may be added as required):

<u>Name or Description of Amount Due</u>	<u>Paid by Donor</u>	<u>Paid by Donee</u>
<u>Phase 1 ESA - \$1,900 Split between Donor/Donee</u>	__X__	__X__
<u>Closing costs to be split equally by Donor/Donee</u>	__X__	__X__

5. The Parties acknowledge and agree that this Addendum is integral to the Agreement and consistent with the understandings and agreements reached by the Parties and memorialized therein. If any condition, term or agreement contained in this Addendum conflicts with any condition, term or agreement in the Addendum, this Addendum shall supersede the Agreement and govern the obligations and conduct of the Parties.

IN WITNESS WHEREOF, Donor and Donee have entered into the Addendum effective as of the date it is executed by Donor as set forth below.

**DONEE(S): City of Palm Coast**

**DONOR:**

**Signature:**

**Bank of America, N.A.:**

Date:

**Bank of America, N.A.**

Print Name:

By:

Title:

Title:

Address: 160 Cypress Point Pkwy, Suite  
B-106

Date:

Telephone: 386.986.3713

Email: vsmith@palmcoastgov.com

**Bank of America, N.A. CLOSING CONTACT:**

Escrow/Closing Officer Name:

Escrow/Closing Officer Phone No.:

**WATER DAMAGE, TOXIC MOLD & ENVIRONMENTAL DISCLOSURE,**  
**AND RELEASE AGREEMENT**

The undersigned parties to a purchase contract dated , for the purchase of the property and the improvements commonly known as 70 LARAMIE DRIVE PALM COAST, FL 32137 (the "Property") between City of Palm Coast ("Buyer") and Bank of America, N.A. ("Seller"), acknowledge and agree as follows:

Seller hereby advises Buyer that the Property (including, but not limited to, the basement) is or may be affected by water or moisture damage, toxic mold, and/or other environmental hazards or conditions. Seller further advises Buyer that as a consequence of possible water damage and/or excessive moisture, the Property may be or has been irrevocably contaminated with mildew, mold, and/or other microscopic organisms. Buyer is being advised that exposure to certain species of mold may pose serious health risks, and that individuals with immune system deficiencies, infants, children, the elderly, individuals with allergies or respiratory problems, and pets are particularly susceptible to experiencing adverse health effects from mold exposure.

Buyer acknowledges that Seller has advised Buyer to make his/her own evaluation of the Property and to have the Property thoroughly inspected. Buyer has been further advised by Seller that all areas contaminated with mold, and/or other environmental hazards or conditions, should be properly and thoroughly remediated. Additionally, Buyer has been advised by Sellers that habitation of the Property without complete remediation may subject the inhabitants to potentially serious health risks and/or bodily injury. Buyer acknowledges that it is the sole responsibility of Buyer to conduct any remediation on the Property.

Buyer also acknowledges that Buyer is buying the Property AS-IS. Buyer represents and warrants to Seller that Buyer has made (or will make before closing on the purchase of the Property) his/her own inspection and evaluation of the Property to Buyer's complete satisfaction, and Buyer accepts the Property AS-IS at the time of closing. Buyer is electing to purchase the Property from Seller in an AS-IS condition with full knowledge of the potential condition of the Property, the potentially serious health risks, and the potential liability that Buyer could incur as the owner of the Property for claims, losses, and damages arising out of any toxic mold contamination, and/or other environmental hazards or conditions on the Property. Buyer agrees that the purchase price of the Property reflects the agreed upon value of the Property AS-IS taking into account the aforementioned disclosures.

Buyer understands and acknowledges that the Property was acquired by Seller through foreclosure, deed-in-lieu of foreclosure, or similar process, that Seller has never occupied the Property, and that Seller has little or no direct knowledge regarding the condition of the Property. Buyer further acknowledges that Seller has not made and does not make any express or implied representations or warranties of any kind with respect to the

environmental condition of the Property or whether the Property is in compliance with applicable local, state, or federal environmental or other laws, statutes, regulations, rules, ordinances, codes, or standards ("Laws"). Buyer hereby agrees not to pursue any claims, losses, or damages, against Seller, or Seller's parent company, subsidiaries, affiliates, directors, officers, employees, partners, shareholders, representatives, agents, brokers, predecessors, successors, or assigns, arising out of or relating in any way to any violations of Laws, or for costs, fees, or expenses incurred in conducting investigations relating to Laws or the Property. In addition, to the fullest extent permitted by law, Buyer, for himself/herself, and for all Buyer's invitees, agents, heirs, executors, devisees, and assigns hereby forever waives and fully releases Seller, and Seller's parent company, subsidiaries, affiliates, directors, officers, employees, partners, shareholders, representatives, agents, brokers, predecessors, successors, and assigns (the "Released Parties") from and against any and all claims, causes of action, whether administrative or judicial, losses, costs (including any and all reasonable attorneys' fees, court costs, and reasonable costs of investigation, litigation, and settlement), expenses, sanctions, curtailments, interest, liabilities, penalties, fines, demands, liens, judgments, compensation, fees, loss of profits, injuries, death, and/or damages, of any kind whatsoever, whether known or unknown, fixed or contingent, joint or several, criminal or civil, or in law or in equity arising from, in connection with, or in any way relating to any known or unknown conditions of the Property, including but not limited to, the existence of toxic mold, and/or any other environmental hazards or conditions on the Property ("Claims").

BUYER:

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Name:

Title:

Date:

SELLER: Bank of America, N.A.

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Name: Davis Barrantes

Title: Assistant Vice President

Date:

# Bank of America

## E-Transaction Consent Disclosure

*This electronic transaction disclosure, consent and agreement (collectively, the “E-Transaction Consent”) contains important information that you are entitled to receive before you consent to receive electronic records. Please read this e-transaction consent carefully and download, save and/or print a copy for your files.*

### Part 1: Overview

Bank of America (“Bank,” “we,” “us,” “our”) may occasionally be required by law to provide you, the signer(s) of this E-Transaction Consent (“you” or “your”) with certain written notices or disclosures (including those embedded within an agreement or other document). This E-Transaction Consent:

- (i) Discloses certain information to you that we are required to provide before obtaining your consent to receive such legally required notices and disclosures by electronic means,
- (ii) Obtains your consent to electronically receive such legally required notices and disclosures (i.e., “Required Information”) in a manner that reasonably demonstrates your ability to access and retain the Required Information, and
- (iii) Elicits your agreement to use electronic signatures (“e-signatures”) on documents we need to process a short sale, deed in lieu or real estate owned (REO) transaction with you.

### Part 2: Types of Required Information Provided by Electronic Means; Accessing and Retaining Information

Solely in conjunction with the processing (but not the settlement) of any short sale, deed in lieu or REO transaction in which you participate with us, we will provide or make Required Information available to you in either HTML or PDF formats, or both. To access Required Information, you will need the following hardware and software:

- **Operating systems:** Windows 2000, Windows XP, Windows Vista, Mac OS X.
- **Browsers:** Final release versions of Internet Explorer 6.0 or above (Windows only); Mozilla Firefox 2.0 or above (Windows and Mac); Safari 3.0 or above (Mac only)
- **PDF reader:** Adobe Reader or similar software may be required to view and print PDF files.
- **Screen resolution:** 800 x 600 minimum.
- **Enabled security settings:** Allow per-session cookies.

Prerelease (beta) versions of operating systems and browsers are not supported. You may download the most current versions of any software identified above by going to [www.microsoft.com](http://www.microsoft.com), [www.apple.com](http://www.apple.com), [www.mozilla.org](http://www.mozilla.org) or [www.adobe.com](http://www.adobe.com).

To retain Required Information, you will need a printer (for printed copies) or a working hard drive or other storage device (to store electronic copies). As indicated above, we encourage you to download, print and/or save this E-Transaction Consent and any Required Information.

# Bank of America

## E-Transaction Consent Disclosure

These technical requirements are subject to change. If they change, you will be provided with an updated version of this E-Transaction Consent and asked to provide us with your consent in a manner that reasonably demonstrates your ability to receive notices and disclosures under the new technical requirements.

### **Part 3: How to Obtain Paper Copies of Required Information**

You may request a free paper copy of Required Information we have electronically provided or made available to you at any time by contacting us as set out below.

Additionally, you may download and print any Required Information we send you through any Bank system.

#### **Our Option to Send Paper**

Your consent does not mean that we must provide the Required Information electronically. We may, at our option, deliver Required Information and other communications to you on paper should we choose to do so. We may also require that certain communications from you be delivered to us on paper at a specified address.

### **Part 4: Withdrawing Your Consent**

If, after you have consented to receive the Required Information electronically, you decide that you wish to receive the Required Information in paper format only, you may withdraw your previously provided consent by either of the following means:

- Decline to sign any document containing Required Information during any e-signature signing session.
- Contact us as set out below.

If you withdraw your consent to receive Required Information by electronic means, your short sale, deed in lieu or REO transaction may take longer to process

### **Part 5: Informing Us of Your Current Email Address**

You are responsible for providing us with a working individual email address to which we can send Required Information and for ensuring that it is kept current in our files. Please inform us each time you change your email address by contacting us as set out below.

# Bank of America

## E-Transaction Consent Disclosure

### Part 6: How to Contact Bank of America

You may contact us to:

- Request paper copies of Required Information,
- Withdraw your prior consent to receive Required Information electronically, and
- Inform us of your current email address.

In each instance, you may contact us by sending an email to your assigned short sale or deed in lieu specialist. If you are an REO buyer, you may send an email to the listing agent, who will then contact the REO asset manager on your behalf. In the body of the request, state your email address, full name, U.S. Postal address and telephone number.

### Part 7: Declaration, Consent and Agreement

Under penalties of perjury, I declare that I have examined all required/requested documentation by Bank of America to process a short sale, a deed in lieu or an REO transaction and have agreed to use the electronic signature method on all required documents where indicated. Furthermore, to the best of my knowledge and belief, all documentation is true, correct and complete.

### Part 8: Use of Electronic Records & Signatures

If you are a real estate agent or other authorized third party who has downloaded and/or uploaded certain electronic documents (each an "Electronic Record" or, when associated in a file or folder with other Electronic Records, a "File") from and/or to Equator in connection with a short sale, deed-in lieu or REO transaction, you represent, warrant, and covenant to us by your electronic signature below that:

- 1 You have implemented and maintain storage, retrieval and back-up systems for Electronic Records and Files (each, a "System");
- 2 At all times relevant to these Terms, any Electronic Records and Files you supply, generate and/or have electronically signed meet all applicable legal standards;
- 3 Each System has been designed and, at all times relevant to these Terms, implemented and maintained so as to:
  - 3.1 Ensure the accuracy, security, integrity, and confidentiality of Electronic Records and Files, including through the use of various audit logging methods and stamps or markings issued by any electronic signing platform or other vendor ("Platform Vendor"), all as may be prescribed by the Bank from time to time;
  - 3.2 Protect against any anticipated threats or hazards to the security or integrity of Electronic Records and Files;

# Bank of America

## E-Transaction Consent Disclosure

- 3.3 Protect against unauthorized access to or use of Electronic Records and Files (including through these use of any authentication methods we may prescribe from time to time, such as unique email addresses, user-specific credentials, knowledge-based authentication and other means of identity verification); and
- 4 By your electronic signature below, you represent, warrant and covenant to us that (a) you have obtained and shall maintain all licenses necessary to perform your responsibilities as a real estate agent or other authorized third party relative to the Electronic Records and Files, (b) you have entered or shall enter into a contract with a Platform Vendor into the platform of which you upload to and/or download from Electronic Records or Files, whether or not other electronic signatures are generated on such platform, and (c) such contract shall obligate the Platform Vendor to the provisions of this Part 8, except for this paragraph 4.

### BY CLICKING OR CHECKING "I CONSENT & AGREE" BELOW, I:

- (1) Acknowledge that I have read and understand this E-Transaction Consent,
- (2) Acknowledge that I can (a) print on paper or electronically save this E-Transaction Consent for my future reference, or (b) e-mail it to an address where I am able to so print or save it,
- (3) Consent to receive the Required Information by the electronic means described above,
- (4) Acknowledge that I am reasonably demonstrating that I can access the Required Information in the form described above,
- (5) Agree to the use of electronic signatures, such as my act of clicking, checking or otherwise manifesting my assent in the processing of electronic records (including those in which the Required Information is embedded) in conjunction with short sale, deed in lieu and REO transactions, and
- (6) Affirm that I have (a) established an exclusive email address used to authenticate access to, (b) created a password or passcode with, and (c) had my identity validated by knowledge-based authentication through, the e-signature system on which I am electronically signing this E-Transaction Consent.

I Consent & Agree  I Decline \_\_\_\_\_  
Signature

I Consent & Agree  I Decline \_\_\_\_\_  
Signature

I Consent & Agree  I Decline \_\_\_\_\_  
Signature

I Consent & Agree  I Decline \_\_\_\_\_  
Signature

I Consent & Agree  I Decline \_\_\_\_\_  
Signature



# Bank of America, N.A.

## Buyer's Acknowledgement and Disclosure

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**BUYER(S), is/are buying the property known as:**

Property Address: 70 LARAMIE DRIVE PALM COAST, FL 32137

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Buyer(s) understand(s) and acknowledge(s) that the following persons are prohibited from purchasing the Property, directly, indirectly or through a family member, household member or an interest in a partnership, corporation, joint venture, trust or other entity:

1. officers, employees, or directors of Bank of America, N.A. (Bank), its parents, subsidiaries, or affiliated companies;
2. a spouse or domestic partner of a Bank employee, a dependent child who lives with a Bank employee, or any other person who derives his or her primary means of financial support from a Bank employee; and
3. agents, brokers, appraisers, attorneys, trustees, employees of representatives and vendors (including but not limited to property inspection companies, property preservation companies, title companies) of Bank of America, N.A., its parents, subsidiaries, or affiliated companies.

Buyer(s) hereby certifies/certify that:

I/we am/are not an officer, employee, or director of Bank of America, N.A. (Bank), its parents, subsidiaries, or affiliated companies.

I/we am/are not a spouse or domestic partner of a Bank employee, a dependent child who lives with a Bank employee, or any other person who derives his or her primary means of financial support from a Bank employee.

I/we am/are not an agent, broker, appraiser, attorney, trustee, employee of any representative or vendor (including but not limited to a property inspection company, property preservation company, or title company) of Bank, its parents, subsidiaries, or affiliated companies.

This certification is made to the Seller in connection with the closing of the sale of the Property to the Buyer(s) under the purchase and sale agreement dated between Seller and Buyer/Buyers, as a material inducement to the Seller and Bank to proceed with the short sale, and it may be relied upon by the Seller or Bank and their respective affiliates, agents, representatives, and successors and assigns.

\_\_\_\_\_  
Buyer Name

\_\_\_\_\_  
Buyer Signature

Davis Barrantes, Assistant Vice President

\_\_\_\_\_  
Seller Name

\_\_\_\_\_  
Date

\_\_\_\_\_  
Seller Signature

\_\_\_\_\_  
Date