

**ADDENDUM TO PURCHASE AGREEMENT: WETLANDS, SHORELAND AND FLOOD PLAIN DISCLOSURE.** © Copyright 1997, 2017 by Minnesota State Bar Association, Minneapolis, Minnesota.

[Use with "Minnesota Standard Residential Purchase Agreement," M.S.B.A.]

1 This addendum is a continuation of the Purchase Agreement dated \_\_\_\_\_  
2 \_\_\_\_\_ by and between \_\_\_\_\_, as Sellers,  
3 and \_\_\_\_\_, as Buyers, for  
4 property located at or described as:  
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**PRECAUTION TO BUYERS: Minnesota law and local ordinances restrict the ability to build or to rebuild improvements within flood plains, shorelands, and wetlands. These restrictions affect homes, garages, outbuildings, wells, and individual on-site sewage treatment systems. You should not excavate in a wetland, fill a wetland or drain a wetland until you have received the proper permits from the local governmental agencies having jurisdiction over the wetlands.**

**If you are purchasing property which has existing improvements constructed within flood plains, shorelands, or wetlands, the improvements might be "nonconforming" under the law. In other words, you might not be allowed to rebuild the home in the event of a fire or windstorm, and you might not be allowed to rebuild the individual on-site sewage treatment system if it fails.**

**If you are purchasing a home which is in a flood plain, you will likely be required by your mortgage lender to purchase flood insurance. Your costs for flood insurance over the life of the mortgage might exceed \$20,000.**

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For the purposes of this Purchase Agreement, Wetlands, Shoreland, and Flood Plain are defined as follows:

**Flood Plain.** The term "flood plain" means the area adjoining a water course or water basin which has been or hereafter might be covered by the regional flood which recurs once in 100 years, as defined by MINN. STAT. §103F.111 and by MINN. RULES, Part 6120.5000. The boundary of the 100-Year Flood Plain shall be determined by reference to the Flood Insurance Rate Maps promulgated by the Federal Emergency Management Agency for the National Flood Insurance Program or by reference to Minnesota Department of Natural Resources flood plain elevation data.

**Shoreland.** The term "shoreland" has the meaning given to it by MINN. STAT. §103F.205, Subd. 4, as follows: "Shoreland" means land located within the following distances from the ordinary high water elevation of public waters:

- (1) land within 1,000 feet from the normal high watermark of a lake, pond, or flowage; and,
- (2) land within 300 feet of a river or stream or the landward side of a flood plain delineated by ordinance on the river or stream, whichever is greater.

**Wetlands.** The term "wetlands" has the meaning given it to by the Minnesota Wetlands Conservation Act of 1991, (1991 Minn. Sess. Law Serv. {West}, Chapter 354, as amended from time to time, codified as MINN. STAT. §103G.005, Subd. 19(a), as follows: "Wetlands" means lands transitional between terrestrial and aquatic systems where the water table is usually at or near the surface or the land is covered by shallow water. For purposes of this definition, wetlands must have the following three attributes:

- (1) have a predominance of hydric soils;
- (2) are inundated or saturated by surface or ground water at a frequency and duration sufficient to support a prevalence of hydrophytic vegetation typically adapted for life in saturated soil conditions; and
- (3) under normal circumstances support a prevalence of such vegetation.

**PRECAUTION TO SELLERS: If you do not understand the definitions above, or the disclosures below, or the significance of the "Seller's Representations" below, you should consult with your lawyer before completing this form.**

**Seller's Representations.** *[check all statements that apply:]*

**a. Flood Plain.** Seller represents that

- 1. the real property is not in a flood plain;
- 2. all or part of the real property is in a flood plain, but none of the improvements, including all buildings, the well, and the individual on-site sewage treatment system is in the flood plain or in any setback from a flood plain;
- 3. Seller does not know if any of the improvements or the real property is in a flood plain or "flood insurance area", as defined by federal law.

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**b. Shoreland.** Seller represents that

- 1. the real property is not in a shoreland;
- 2. all or part of the real property is in a shoreland, but none of the improvements, including all buildings, the well, and the individual on-site sewage treatment system is in any setback within a shoreland;
- 3. Seller does not know if any of the improvements or the real property is in a shoreland.

**c. Wetlands.** Seller represents that

- 1. the real property does not contain wetlands;
- 2. part of the real property contains wetlands, but all of the improvements, including all buildings, the well, and the individual on-site sewage treatment system are not in the wetlands or in any setback from the edge of a wetland;
- 3. Seller does not know if the real property has wetlands or if any of the improvements is located in wetlands.

**d. Conforming / Nonconforming Improvements.** If Seller has disclosed the presence of flood plain, shoreland, or wetlands on or affecting the property, Seller further discloses that Seller

*[check one]*  has  has not received notice from any governmental unit indicating that any of the improvements is nonconforming under current law. Seller makes no representation about future changes to laws which might render the property or the improvements “nonconforming.”

Flood plain, shoreland, and wetlands areas are as shown on the map, drawing or sketch attached as an exhibit. *[Attach drawing.]*

***[SELECT EITHER (1) OR (2), BUT NOT BOTH, BY CHECKING THE BOX AND BY PLACING YOUR INITIALS WHERE INDICATED:]***

**(1) Buyer is Not Relying on Seller’s Representations.** The price offered by Buyer in this Purchase Agreement does not reflect any reliance upon any representations made by Seller as to the location or presence of wetlands, flood plain, or shoreland. Buyer’s obligation to close under this Purchase Agreement is contingent upon Buyer obtaining, at Buyer’s expense, verification that all or part of the real property, the currently existing improvements or intended future improvements are unaffected by the presence of wetlands, flood plain, or shoreland. This contingency shall be satisfied by *[date]* \_\_\_\_\_ or be deemed waived. If the contingency is waived by Buyer, the presence of wetlands, shoreland, or flood plain, if any, shall be deemed acceptable to Buyer. If Buyer’s investigation reveals wetland, shoreland, or flood plain conditions that are unsatisfactory for Buyer’s purposes, then Buyer may elect to terminate this Purchase Agreement and receive a full refund of the earnest money

**“(1), Buyer is Not Relying on Seller’s Representations,” is accepted as a term of this Purchase Agreement.**

**INITIALS: Sellers \_\_\_\_\_ Buyers \_\_\_\_\_**

***[ IF YOU INITIAL (1) HERE, DO NOT INITIAL (2), BELOW. ]***

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140  (2) **Buyer is Relying on Seller's Affirmative Representations.** The price offered by Buyer in this  
141 Purchase Agreement reflects that Buyer is relying upon Seller's affirmative representations that the land  
142 and improvements are affected by the presence of wetlands, flood plain, or shoreland only as indicated  
143 by Seller above. Buyer's obligation to close under this Purchase Agreement is contingent upon Buyer  
144 verifying, at Buyer's expense, that wetlands, flood plain, or shoreland are as represented by Seller.  
145 Buyer's investigation to satisfy this contingency is limited to any combination of the following: (i)  
146 physical inspection of the property; (ii) inspection of available, local public records; (iii) survey; or, (iv)  
147 written determination by the local governmental unit having jurisdiction over any wetlands, flood plain,  
148 or shoreland. Buyer's investigation shall be completed by the later of *[deadline date]*  
149 \_\_\_\_\_, or 10 days after buyer's receipt of written determination by the local  
150 governmental unit having jurisdiction over any wetlands, flood plain, or shoreland or this contingency  
151 shall be deemed waived.

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153 If Buyer's investigation reveals a wetland, shoreland, or flood plain and shows that

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155 a. wetlands, flood plain, or shoreland are not as represented above by Seller; or;  
156 b. existing improvements are nonconforming under current wetlands, flood plain, or shoreland  
157 regulations; or,  
158 c. future improvements cannot be constructed as planned under wetlands, flood plain, or  
159 shoreland regulations; or,  
160 d. a mortgage cannot be placed without obtaining flood insurance;

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162 then, at least 10 days before the Date of Closing or within 10 days after completion of Buyer's  
163 investigation, whichever is later, Buyer shall notify Seller of these circumstances, and, prior to closing,  
164 Buyer may, at Buyer's option, elect one or more of the solutions at (1), (2), and (3), or Buyer may elect  
165 (4): *[strike out any of the following that are not appropriate]*

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167 (1) Offer to reduce the price of the property to a value that reflects the presence of wetlands,  
168 shoreland, or flood plain and/or the nonconforming status of existing improvements; or,  
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170 (2) In the case of nonconforming status for existing improvements, accept the property at  
171 the stated price provided seller can obtain a recordable, nonrevocable zoning certificate  
172 or its functional equivalent from the local governmental unit having jurisdiction over any  
173 wetlands, flood plain, or shoreland indicating that the improvements may be  
174 reconstructed at any time during the next 30 years in the event of partial or total  
175 destruction from any cause and that they may be reconstructed at their present size,  
176 location and elevation; or,  
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178 (3) In the case of a flood plain, if flood insurance is available, offer to amend the Purchase  
179 Agreement to reduce the price by the present value of flood insurance premiums, with  
180 current "replacement cost" endorsement, paid over a 30-year period on the full value of  
181 the improvements (present value calculation to use the interest rate currently paid on  
182 simple savings accounts at Norwest Bank Minnesota, N.A.) or accept Seller's payment at  
183 closing of a single, 30-year flood insurance premium, with current "replacement cost"  
184 endorsement; or,  
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186 (4) Terminate this Purchase Agreement and receive a full refund of the earnest money, in  
187 which case, Seller shall reimburse Buyer for all expenses incurred by Buyer pursuant to  
188 this Purchase Agreement, including but not limited to all expenses incurred in attempting  
189 to satisfy any of Buyer's contingencies and for all expenses of survey and Buyer shall  
190 assign all rights in and to the survey to Seller.  
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**“(2), Buyer is Relying on Seller’s Affirmative Representations,” is accepted as a term of this Purchase Agreement.**

**INITIALS: Sellers \_\_\_\_\_ Buyers \_\_\_\_\_**

***[ IF YOU INITIAL (2) HERE, DO NOT INITIAL (1), ABOVE. ]***

This Addendum is initialed contemporaneously with the signing of the Purchase Agreement.

INITIALS: Sellers \_\_\_\_\_ Buyers \_\_\_\_\_

**SKETCH OR DRAWING OF PROPERTY, SHOWING LOCATION OF FLOOD PLAIN, SHORELAND, OR WETLANDS:**