

# **PROPOSED RESIDENTIAL CONTRACT-SUMMARY OF NEW PROVISIONS**

## **1. Parties and Property**

- List of personal property with blanks to be checked if named item is included in the sale and number of items to be conveyed if multiple items

## **2. Purchase Price**

- Check boxes to indicate that the original deposit is to be made (i) with the offer (ii) on Effective Date or (iii) within specified number of days from Effective Date
- Funds are subject to collection (previous term used by FAR/BAR contract is clearance of funds)

## **3. Acceptance**

- The blank for time to accept now covers both the time to accept offers and counteroffers

## **4. Financing**

- Check box to indicate Buyer will pay cash or may obtain a loan but there is no financing contingency to Buyer's obligation to close
- Check boxes for fixed or adjustable loan, and a blank for the cap on interest rate (from FAR/BAR)
- Buyer shall notify Seller of loan application status and approval (from FAR)
- If Buyer gets loan approval and notifies Seller of approval but fails to close the transaction, Buyer will lose his deposit unless: Seller defaults; the appraisal is too low to support the loan; the loan conditions related to the property aren't met (unless waived in the contract); or the loan isn't funded due to the financial failure of lender

## **5. Closing Date**

- Provides for extension up to 14 days due to Force Majeure, including extreme weather

## **6. Occupancy and Possession**

- Seller to remove personal items and trash from the property and deliver keys, garage door openers and access devices to Buyer (from FAR)
- References post and preoccupancy issues

## **7. Closing Location, Documents and Procedure**

- Disbursements of proceeds and recording the deed are subject to collection of funds

## **8. Closing Costs, Title Insurance and Survey Costs, Prorations, Homeowner's Warranty**

### Closing Costs

- List of costs parties may incur (from FAR)
- Escrow requirement of 125%, not to exceed applicable cap for Maintenance, General Inspection, WDO and Permit Limits if work not completed at time of closing

### Title Insurance

- Title Commitment includes legible copies of instruments listed as exceptions
- If Seller has an existing owner's policy of title insurance, Seller is to furnish Buyer a copy of same within 14 days after Effective Date
- Check box for Seller to obtain and pay for policy and title charges; check box for Buyer to obtain and pay for policy and title charges; check box for South Florida contracts for Seller to provide a copy of prior owner's policy or other title evidence and pay for update of title evidence and Buyer to pay for post-closing update and premium for Buyer's owner's policy.

### Survey

- If Seller has an existing survey, Seller is to furnish the Closing Agent a copy of same within 5 days after Effective Date

### Prorations

- Provides for re-prorations of taxes in the event a party requests same (from FAR/BAR)
- Excludes proration of special assessments which is specifically addressed in 9(a), but requires proration of Community Development District special benefit tax assessments

## **9. Disclosures**

- Special assessments that are certified, confirmed and ratified or where improvements are substantially completed are to be paid by Seller. If

assessments are to be paid in installments, boxes to be checked for Buyer or Seller to pay and if boxes are left blank, Buyer to pay (from FAR)

- Radon gas disclosure which does not provide for Buyer to cancel if specific EPA levels are exceeded (from FAR/BAR)
- Provides that a Seller does not know of open permits on the Property or any improvements made to the Property without required permits unless disclosed to Buyer in a written disclosure statement.
- Provides that Buyer may obtain a flood elevation certificate. Buyer may cancel by written notice within 20 days from Effective Date if the Property is in a special flood hazard area or coastal high hazard area and the finished floor elevation is below the minimum flood elevation (from FAR)

#### **10. Property Maintenance**

- From both FAR and FAR/BAR contracts

#### **11. Property Access, Inspection and Examination, Property Repair**

- Buyer has 10 days from Effective Date to have a professional conduct General Repair and WDO Inspections (or 5 days prior to Closing if earlier)
- Buyer has 10 days prior to Closing to conduct Permit Inspection
- Seller is responsible to repair or replace missing and torn screens and fogged windows up to General Repair Limit (from FAR)
- Seller shall provide access for appraisals
- Time to deliver written notice and inspection reports under General Repair and WDO clause is within 3 days after Inspection Period
- Provides for Seller to obtain second inspection after receipt of Buyer's inspection report, and for a third inspection if the reports differ (from FAR) Seller to obtain an estimate of the repairs (from FAR)
- Seller is not obligated to treat for WDO if Seller transfers a full treatment warranty for the type of WDO found and there is no live infestation (from FAR)
- Buyer, at Buyer's expense, may determine if there are open permits on the Property and if all improvements were permitted. Buyer must notify Seller within 3 days after the Permit Inspection Period of unpermitted improvements or open permits. Seller is obligated to close open permits and permit unpermitted improvements up to the Permit Limit set forth in paragraph 8a.
- If the cost to permit the Property exceeds the Permit Limit, either party can terminate the contract unless either party pays the excess or Buyer takes the Property as is and receives a credit for the amount of the Permit Limit. Closing may be delayed up to 10 days to correct the permit issues on the Property (from FAR)

**12. Title**

- Provision primarily from the FAR/BAR

**13. Standards**

- Lease provision from the FAR/BAR
- Time is calendar days
- Force Majeure (from FAR) allows for delay of closing up to 14 days
- Risk of loss provision similar to FAR/BAR in that Seller is responsible for casualty damage up to 1 1/2 % of purchase price, with tree loss limited to pruning and removal of damaged trees. If damage exceeds cap, Buyer may cancel or take the Property as is along with the 1 1/2 %. If restoration isn't complete as of Closing Date, 125% of the estimate (up to cap) is to be escrowed at Closing

**14. Default**

- If a portion of the Deposit is paid to Listing Broker upon default by Buyer, it will be divided between the Listing and Cooperating Broker in the same proportion as the offer of compensation relates to the full commission.

**15. Dispute Resolution**

- Buyer and Seller will have 10 days from date of conflicting demands for the Deposit to resolve the Dispute, failing which, they will mediate pursuant to the Florida Rules for Certified and Court-Appointed Mediators by a mediator with real estate industry experience.
- Buyer and Seller must mediate all non-deposit disputes in the same manner as deposit disputes except there is no 10 day time-period to resolve these disputes before submitting the dispute to mediation.
- Any dispute not resolved by mediation, shall be settled by arbitration if both Buyer and Seller initialed paragraph 15(c). If all parties do not initial the arbitration provision, then the parties may litigate.

**16. Attorneys Fees**

- The parties will split mediator's fee but each pay their own costs, expenses and attorneys fee in mediation.
- In litigation, the prevailing party will be entitled to attorneys fees.

**17. Escrow Agent**

- Funds will be disbursed by escrow agent subject to collection.

**18. Broker Liability**

- Clause is primarily from FAR contract with more restrictive hold harmless clause (Broker to be held harmless by the one party who committed the wrong, but not by both parties)

**19. Assignability**

- Clause from FAR/BAR

**20. Addenda**

- List of addenda is from both the FAR and FAR/BAR contract with additional addenda items such as appraisal contingency, short sale, and Chinese Drywall.

**21. Additional Terms**

- Defines Broker as the Listing and Cooperating Broker (from FAR)
- Provides instruction to the Closing Agent to disburse at Closing the full amount of the brokerage fees as specified in a cooperative brokerage agreement or separate brokerage agreement (from FAR)
- States the contract shall not be used to modify the MLS offer of compensation (from FAR)