

Commercial Contract: Optional Clauses

FLORIDA ASSOCIATION OF REALTORS®



1* Addendum No. _____ to the Commercial Contract between _____ (“**Seller**”)
2* and _____ (“**Buyer**”) concerning the sale and purchase of the Property
3* described as: _____

4 **The clauses below shall be incorporated into the Contract referenced above only if initialed by all parties:**

5 **Seller Initials Buyer Initials**

6* **(A)** _____ \ _____; _____ \ _____ **ARBITRATION:** Any controversy or claim arising out of or relating to this Contract, or the
7* breach thereof, shall be settled by neutral binding arbitration in _____ County, Florida, in accordance with
8* the rules of (name of organization) _____ and not by any court action
9 except as provided by Florida law for judicial review of arbitration proceedings. Any court having appropriate jurisdiction may enter
10 judgment upon the award rendered by the arbitrator(s). Filing a judicial action to enable the recording of a notice of pending action,
11 for order of attachment, receivership, injunction or other provisional remedies shall not constitute a waiver of the right to arbitrate
12 under this paragraph. Any claims or disputes with or against real estate agents participating in this transaction shall be submitted to
13 arbitration under this provision only with the written consent and joinder of the agent’s Broker. In connection with any arbitration or
14 litigation between the parties, the prevailing party shall be entitled to recover all fees, costs, and expenses, including reasonable
15 attorneys’ fees, arbitrators’ fees and administrative fees of arbitration.

16* **(B)** _____ \ _____; _____ \ _____ **SECTION 1031 EXCHANGE:** **Buyer** **Seller** requests a Section 1031 tax deferred
17 exchange in connection with this transaction. The parties agree to cooperate in effecting the exchange in accordance with Section
18 1031 of the Internal Revenue Code, including execution of any documents that may be reasonably necessary to effect the
19 exchange; provided that (1) the party requesting the exchange shall bear all additional costs incurred in connection with the
20 exchange, (2) the non-requesting party shall not be obligated to delay the closing or to execute any note, contract, or other
21 document providing for any personal liability which would survive the exchange.

22* **(C)** _____ \ _____; _____ \ _____ **PROPERTY INSPECTION AND REPAIR:** Paragraph 7 of the Contract is deleted. **Seller**
23 shall grant reasonable access to the Property to **Buyer**, its agents, contractors and assigns for the purpose of conducting the
24 inspections described below; provided, however, that all such persons enter the Property and conduct the inspections at their own
25 risk. **Buyer** shall indemnify and hold **Seller** harmless from losses, damages, costs, claims and expenses of any nature, including
26 attorneys’ fees, and from liability to any person, arising from the conduct of any and all inspections or work authorized by **Buyer**.
27 **Buyer** shall not engage in any activity that could result in a mechanics lien being filed against the Property without **Seller’s** prior
28 written consent. In the event this transaction does not close, **Buyer** shall, at **Buyer’s** expense, (1) repair all damages to the
29 Property resulting from the inspections and return the Property to its present condition, and (2) release to **Seller** copies of all
30 reports and other work generated as a result of the inspections. **Seller** has no duty to make repairs except to those defects and
31 conditions reported by **Buyer** in writing prior to 5:00 p.m. on the date the applicable Inspection Period expires. **Seller** makes no
32 warranties other than marketability of title. (Check if applicable):

33* **(1) Structure and Systems:** Within _____ days from Effective Date (“Inspection Period”), **Buyer** shall, at **Buyer’s** expense,
34 have a certified general contractor or engineer make inspections which **Buyer** deems necessary to determine the condition of all
35 structures and systems, including roof; exterior walls; foundation; major appliances; electrical, HVAC, plumbing, and sewer,
36 septic and well systems; pool and pool equipment; parking lot; fences; and seawall or other retaining structures on the Property
37 except _____. **Seller** shall have _____ days from the date
38 **Seller** receives **Buyer’s** written report to obtain repair or replacement estimates from a licensed building or general contractor. If
39 the cost to correct the defects does not exceed _____% of the purchase price (“Structural Repair Limit”), **Seller** shall have the
40 defects repaired in a workmanlike manner by an appropriately licensed contractor. If the cost to correct the defects exceeds the
41 Structural Repair Limit, either party may elect to pay the excess, failing which either party may terminate this Contract.

42* **Buyer** (____) (____) and **Seller** (____) (____) acknowledge receipt of a copy of this page, which is page 1 of 3 Pages.

43* **(2) Environmental Hazards:** Within _____ days from Effective Date ("Inspection Period"), **Buyer** shall, at **Buyer's** **Seller's**
44 expense, apply for a Phase I inspection to be conducted by an environmental engineer. **Buyer** shall deliver to **Seller** a copy of all resulting
45 environmental reports. If a lender requires a Phase II or III investigation, **Buyer** shall deliver written notice of the requirement to **Seller** and
46* **Seller** may elect, within _____ days from receipt of the notice, to conduct the investigation at (check one) **Seller's** **Buyer's**
47 expense. If **Seller** elects not to conduct the investigation, either party may terminate this Contract. If **Seller** elects to conduct the
48* investigation, **Seller** will pay for and make corrective measures required by law. If remediation is necessary, **Seller** shall have _____
49 days to complete the cleanup ("Cleanup Period"). If remediation is completed within Cleanup Period, then **Seller** shall deliver written
50 notice to **Buyer** within 3 days after cleanup completion, and the parties will close the transaction on Closing Date, or, if Closing Date has
51 passed within 10 days from **Buyer's** receipt of **Seller's** notice. If **Seller** is unable to complete remediation within Cleanup Period, **Seller**
52 will deliver written notice to **Buyer** within 3 days after this determination is made and **Buyer** will within 10 days from receipt of **Seller's**
53 notice either cancel this Contract or accept the property in current condition and shall close on Closing Date, or, if Closing Date has
54 passed within 10 days from **Buyer's** receipt of **Seller's** notice with costs of completing the remediation being held in escrow at closing.

55* **(3) Wood Destroying Organism Inspection:** "Wood destroying organism" means arthropod or plant life which may damage the
56* wood in a structure, as defined in F.S. 482.021(26). Within _____ days from Effective Date ("Inspection Period"), **Buyer** shall, at **Buyer's**
57 expense, have the Property inspected by a Florida-licensed pest control business to determine the presence in the improvements of past
58* or present infestation and damage caused by infestation. **Seller** shall have _____ days from receipt of **Buyer's** written report to obtain
59 repair estimates from a licensed building or general contractor and treatment estimates from a licensed pest control business. **Seller** shall
60* treat and repair the Property if the cost to do so does not exceed _____% of the purchase price ("Termite Repair Limit"). If the cost of
61 treatment and repair exceeds the Termite Repair Limit, either party may elect to pay the excess, failing which either party may terminate
62 this Contract. If there is no evidence of live infestation and the Property is covered by a full treatment warranty, **Seller** shall transfer the
63 warranty to **Buyer** at closing and shall not be obligated to treat the Property.

64 **Seller** shall deliver the Property to **Buyer** at the time agreed in its present condition, ordinary wear and tear and repairs made pursuant to
65 this Paragraph excepted, and shall maintain the landscaping and grounds in a comparable condition. Walk-through Inspection: **Buyer** may,
66 on the day prior to closing or any other time mutually agreeable to the parties, conduct a final "walk-through" inspection of the Property to
67 determine compliance with this paragraph and to ensure that all Property is on the premises. No new issues may be raised as a result of the
68 walk through. Radon Gas: Radon is a naturally occurring radioactive gas that, when it has accumulated in a building in sufficient quantities,
69 may present health risks to persons who are exposed to it over time. Levels of radon that exceed federal and state guidelines have been
70 found in buildings in Florida. Additional information regarding radon and radon testing may be obtained from your county public health unit.
71 **Energy Efficiency:** **Buyer** may have determined the energy efficiency rating of the building, if any is located on the Real Property.

72 **Seller Initials** **Buyer Initials**

73* **(D)** _____ \ _____; _____ \ _____ **SELLER REPRESENTATIONS:** **Seller** shall, within _____ days from Effective Date and at
74 **Seller's** expense, deliver to **Buyer** current copies of the rent roll; leases; notes and mortgages; existing title reports or policies; surveys;
75 permits and certificates of occupancy; certified income and expense statements for the period January 1, _____ through December
76* 31, _____, as Evidence that the Property generated income of \$ _____ against expenses of \$ _____;
77 and agreements with third parties that will remain in effect after closing. **Buyer** may terminate this Contract by written notice to **Seller**
78* within _____ days after receipt of the above documents if the statements differ materially from **Seller's** representations. If **Buyer** fails
79 to provide timely written notice, **Buyer** shall be deemed to waive this contingency.

80* **(E)** _____ \ _____; _____ \ _____ **SELLER WARRANTY:** **Seller** warrants that **Seller** has no knowledge of (1) notice of city,
81 county, state, federal, building, zoning, fire, or health codes, regulations or ordinances filed or issued against the Property, (2) current
82 pending lawsuit(s), investigation(s), inquiry(ies), action(s), or other proceeding(s) or the right to use and occupy the Property, (3)
83 unsatisfied construction liens, (4) incompatibility of property with land use plans (5) tenants in bankruptcy, or (6) special assessments,
84 condemnation, eminent domain, change in grade of public streets affecting the Property or similar proceedings affecting the Property. If
85* **Seller** is notified of any of the above matters prior to closing, **Seller** shall notify **Buyer** in writing within _____ days. If **Buyer** requires the
86* matter to be corrected prior to closing, **Buyer** shall notify **Seller** in writing within _____ days from receipt of **Seller's** notice. **Buyer's**
87 failure to provide timely notice shall be deemed acceptance of the Property with the matter as it then exists. If **Seller** is unable or
88 unwilling to correct the matter prior to closing, **Buyer** may terminate this Contract. **Seller** warrants that, as of Effective Date, execution of
89 this Contract and delivery of title is not a violation or breach of any agreement or judgment to which **Seller** is a party.

90* **(F)** _____ \ _____; _____ \ _____ **COASTAL CONSTRUCTION CONTROL LINE:** All or part of the Property is located
91 seaward of the Coastal Construction Control Line as defined in Florida Statute 161.053, and is therefore subject to government
92 regulation. Florida law requires **Seller** to provide **Buyer** with an affidavit, or a survey meeting the requirements of chapter 472 of the
93 Florida Statutes, delineating the location of the CCCL on the Property at or prior to closing, unless **Buyer** waives this requirement in
94 writing. The property being purchased may be subject to coastal erosion and to federal, state, or local regulations that govern coastal
95 property, including the delineation of the coastal construction control line, rigid coastal protection structures, beach nourishment, and the
96 protection of marine turtles. Additional information can be obtained from the Florida Department of Environmental Protection, including
97* whether there are significant erosion conditions associated with the shoreline of the property being purchased. **Buyer** waives the right
98* to receive a CCCL affidavit or survey. requests a CCCL affidavit or survey within the time allowed for **Seller** to deliver title evidence.

99* **Buyer** (____) (____) and **Seller** (____) (____) acknowledge receipt of a copy of this page, which is page 2 of 3 Pages.

101* (G) \ ; \ FLOOD AREA HAZARD ZONE: The Property is located in a Special Flood Hazard
102* Area Coastal High Hazard Area. Flood insurance on structures may be required as a condition of financing. If the first year
103* premium of flood insurance required by a lender exceeds \$_____ per year, Buyer may terminate this Contract unless
104* either party elects, within _____ days of notification of the excess amount, to pay the excess. In addition, there may be restrictions
105 on rebuilding in the event of casualty or substantial modification to the structure. Buyer is advised to verify all such restrictions with
106* the appropriate government agencies. Seller's flood insurance policy is is not transferable to or assumable by Buyer.

107* (H) \ ; \ SELLER FINANCING: Buyer shall execute a purchase money note and _____ mortgage
108* to Seller in the amount of \$_____, due _____, bearing annual interest at _____% and payable as
109* follows: _____.

110 The mortgage, note and any security agreement shall be in a form acceptable to Seller, but shall contain only clauses generally
111 utilized by lending institutions in the county where the Property is located and shall provide for (1) a late payment fee, (2)
112 acceleration at Seller's option in the event Buyer defaults, (3) the right to prepay without penalty all or part of the principal at any
113* time(s) with interest only to date of payment, (4) the loan to be due on conveyance or sale assumable with mortgagee's
114 consent, which may not be unreasonably withheld and (5) Buyer to keep the Property insured against loss by fire (and flood, if
115 Property is in a flood zone) with extended coverage in an amount not less than the amount of the purchase money mortgage and
116* note. Buyer shall furnish credit, employment, and financial information reasonably required by Seller. Within _____ days from
117 receipt of all requested information, Seller shall deliver written notice to Buyer of Seller's decision to provide this financing. Seller
118 shall not unreasonably withhold approval of this financing.

119* (I) \ ; \ EXISTING MORTGAGE: Seller shall, within _____ days from Effective Date, deliver to
120 Buyer a copy of the mortgage and an estoppel letter from the lender stating principal balance and accrued interest, maturity date,
121* time and method of payments, interest rate and status of mortgage. Buyer shall have _____ days from receipt of lender's
122 statement to examine the mortgage and approve the terms of the loan. Buyer shall not unreasonably withhold approval. If
123 mortgage contains a due on sale or conveyance clause, Seller shall, at Buyer's expense, obtain lender's consent to the
124* assumption within _____ days from Effective Date. Any variance in the mortgage will be adjusted in the balance due at closing with
125 no adjustment to purchase price; however, Seller shall not prepay any portion of the mortgage without Buyer's consent. Buyer
126 shall purchase Seller's escrow account dollar for dollar.

127* (1) First Mortgage: Buyer shall assume and take title subject to the existing first mortgage, LN# _____ in favor
128* of _____,
129* having an approximate present principal balance of \$_____ payable \$_____ per month including
130* principal, interest, other _____, and having a fixed
131* other (describe) _____ interest rate of
132* _____%, which will will not escalate upon assumption. Additional terms: _____
133*

134* (2) Second Mortgage: Buyer shall assume and take title subject to the existing second mortgage, LN# _____ in
135* favor of _____,
136* having an approximate present principal balance of \$_____ payable \$_____ per month including
137* principal, interest, other _____, and having a fixed
138* other (describe) _____
139* interest rate of _____%, which will will not escalate upon assumption. Additional terms: _____
140*

141* (J) \ ; \ OTHER TERMS AND CONDITIONS:

142*
143*
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149* Buyer (____) (____) and Seller (____) (____) acknowledge receipt of a copy of this page, which is page 3 of 3 Pages.

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