

# Commercial Contract

FLORIDA ASSOCIATION OF REALTORS®



1\* **1. PURCHASE AND SALE:** \_\_\_\_\_ ("Buyer")

2\* agrees to buy and \_\_\_\_\_ ("Seller")

3\* agrees to sell the property described as: Street Address:

4\*

5\* Legal Description:

6\*

7\* and the following Personal Property:

8\*

9 (all collectively referred to as the "Property") on the terms and conditions set forth below. **The "Effective Date" of this Contract is**  
10 **the date on which the last of the Parties signs the latest offer. Time is of the essence in this Contract.** Time periods of 5  
11 days or less will be computed without including Saturday, Sunday, or national legal holidays and any time period ending on a  
12 Saturday, Sunday or national legal holiday will be extended until 5:00 p.m. of the next business day.

13\* **2. PURCHASE PRICE:** \$ \_\_\_\_\_

14\* **(a)** Deposit held in escrow by \_\_\_\_\_ \$ \_\_\_\_\_

15\* **(b)** Additional deposit to be made within \_\_\_\_\_ days from Effective Date \$ \_\_\_\_\_

16\* **(c)** Total mortgages (as referenced in Paragraph 3) \$ \_\_\_\_\_

17\* **(d)** Other: \_\_\_\_\_ \$ \_\_\_\_\_

18\* **(e)** Balance to close, subject to adjustments and prorations, to be made with cash, locally drawn \$ \_\_\_\_\_  
19 certified or cashier's check or wire transfer.

20\* **3. THIRD PARTY FINANCING:** Within \_\_\_\_\_ days from Effective Date ("Application Period"), **Buyer** will, at **Buyer's** expense, apply for

21\* third party financing in the amount of \$ \_\_\_\_\_ or \_\_\_\_\_% of the purchase price to be amortized over a period of \_\_\_\_\_

22\* years and due in no less than \_\_\_\_\_ years and with a fixed interest rate not to exceed  \_\_\_\_\_% per year or variable interest rate not

23\* to exceed  \_\_\_\_\_% at origination with a lifetime cap not to exceed \_\_\_\_\_% from initial rate, with additional terms as follows:

24\*

25 **Buyer** will pay for the mortgagee title insurance policy and for all loan expenses. **Buyer** will timely provide any and all credit,

26 employment, financial and other information reasonably required by any lender. **Buyer** will notify **Seller** immediately upon obtaining

27\* financing or being rejected by a lender. If **Buyer**, after diligent effort, fails to obtain a written commitment within \_\_\_\_\_ days from

28 Effective Date ("Financing Period"), **Buyer** may cancel the Contract by giving prompt notice to **Seller** and **Buyer's** deposit(s) will be

29 returned to **Buyer** in accordance with Paragraph 9.

30\* **Buyer** (\_\_\_\_) (\_\_\_\_) and **Seller** (\_\_\_\_) (\_\_\_\_) acknowledge receipt of a copy of this page, which is page 1 of 5 Pages.

31\* **4. TITLE:** Seller has the legal capacity to and will convey marketable title to the Property by  statutory warranty deed  
32\*  other \_\_\_\_\_, free of liens, easements and encumbrances of record or known to Seller,  
33 but subject to property taxes for the year of closing; covenants, restrictions and public utility easements of record; and (list any  
34\* other matters to which title will be subject)  
35\* \_\_\_\_\_ ;  
36\* provided there exists at closing no violation of the foregoing and none of them prevents Buyer's intended use of the Property as  
37\* \_\_\_\_\_.

38\* **(a) Evidence of Title:** Seller will, at (check one)  Seller's  Buyer's expense and within \_\_\_\_\_ days  from Effective Date  
39\*  prior to Closing Date  from date Buyer meets or waives financing contingency in Paragraph 3, deliver to Buyer (check one)  
40\*  a title insurance commitment by a Florida licensed title insurer and, upon Buyer recording the deed, an owner's policy in  
41 the amount of the purchase price for fee simple title subject only to exceptions stated above.  
42\*  an abstract of title, prepared or brought current by an existing abstract firm or certified as correct by an existing firm.  
43 However, if such an abstract is not available to Seller, then a prior owner's title policy acceptable to the proposed insurer as  
44 a base for reissuance of coverage. The prior policy will include copies of all policy exceptions and an update in a format  
45 acceptable to Buyer from the policy effective date and certified to Buyer or Buyer's closing agent together with copies of all  
46 documents recited in the prior policy and in the update.

47 **(b) Title Examination:** Buyer will, within 15 days from receipt of the evidence of title deliver written notice to Seller of title  
48 defects. Title will be deemed acceptable to Buyer if (1) Buyer fails to deliver proper notice of defects or (2) Buyer delivers proper  
49\* written notice and Seller cures the defects within \_\_\_\_\_ days from receipt of the notice ("Curative Period"). If the defects are  
50 cured within the Curative Period, closing will occur within 10 days from receipt by Buyer of notice of such curing. Seller may  
51 elect not to cure defects if Seller reasonably believes any defect cannot be cured within the Curative Period. If the defects are  
52 not cured within the Curative Period, Buyer will have 10 days from receipt of notice of Seller's inability to cure the defects to  
53 elect whether to terminate this Contract or accept title subject to existing defects and close the transaction without reduction in  
54 purchase price. The party who pays for the evidence of title will also pay related title service fees including title and abstract  
55 charges and title examination.

56 **(c) Survey:** (check applicable provisions below)  
57\*  Seller will, within \_\_\_\_\_ days from Effective Date, deliver to Buyer copies of prior surveys, plans, specifications, and  
58\* engineering documents, if any, and the following documents relevant to this transaction:  
59\* \_\_\_\_\_, prepared for Seller or in Seller's  
60 possession, which show all currently existing structures.  
61\*  Buyer will, at  Seller's  Buyer's expense and within the time period allowed to deliver and examine title evidence,  
62 obtain a current certified survey of the Property from a registered surveyor. If the survey reveals encroachments on the  
63\* Property or that the improvements encroach on the lands of another,  Buyer will accept the Property with existing  
64\* encroachments  such encroachments will constitute a title defect to be cured within the Curative Period.

65 **(d) Ingress and Egress:** Seller warrants that the Property presently has ingress and egress.

66 **(e) Possession:** Seller will deliver possession and keys for all locks and alarms to Buyer at closing.

67\* **5. CLOSING DATE AND PROCEDURE:** This transaction will be closed in \_\_\_\_\_ County, Florida on  
68\* or before the \_\_\_\_\_, \_\_\_\_\_ or within \_\_\_\_\_ days from Effective Date ("Closing Date"), unless otherwise extended  
69\* herein.  Seller  Buyer will designate the closing agent. Buyer and Seller will, within \_\_\_\_\_ days from Effective Date, deliver to  
70 Escrow Agent signed instructions which provide for closing procedure. If an institutional lender is providing purchase funds, lender  
71 requirements as to place, time of day, and closing procedures will control over any contrary provisions in this Contract.

72 **(a) Costs:** Buyer will pay taxes and recording fees on notes, mortgages and financing statements and recording fees for the deed.  
73 Seller will pay taxes on the deed and recording fees for documents needed to cure title defects. If Seller is obligated to discharge  
74 any encumbrance at or prior to closing and fails to do so, Buyer may use purchase proceeds to satisfy the encumbrances.

75 **(b) Documents:** Seller will provide the deed, bill of sale, mechanic's lien affidavit, assignments of leases, updated rent roll,  
76 tenant and lender estoppel letters, assignments of permits and licenses, corrective instruments and letters notifying tenants of  
77 the change in ownership/rental agent. If any tenant refuses to execute an estoppel letter, Seller will certify that information  
78 regarding the tenant's lease is correct. If Seller is a corporation, Seller will deliver a resolution of its Board of Directors  
79 authorizing the sale and delivery of the deed and certification by the corporate Secretary certifying the resolution and setting forth  
80 facts showing the conveyance conforms with the requirements of local law. Seller will transfer security deposits to Buyer. Buyer  
81 will provide the closing statement, mortgages and notes, security agreements and financing statements.

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82\* Buyer (\_\_\_\_) (\_\_\_\_) and Seller (\_\_\_\_) (\_\_\_\_) acknowledge receipt of a copy of this page, which is page 2 of 5 Pages.

83\* (c) **Taxes, Assessments, and Prorations:** The following items will be made current and prorated  as of Closing Date  
84\*  as of \_\_\_\_\_; real estate taxes, bond and assessment payments assumed by **Buyer**, interest,  
85\* rents, association dues, insurance premiums acceptable to **Buyer**, operational expenses and \_\_\_\_\_.  
86 If the amount of taxes and assessments for the current year cannot be ascertained, rates for the previous year will be used with due  
87 allowance being made for improvements and exemptions. **Seller** is aware of the following assessments affecting or potentially  
88\* affecting the Property: \_\_\_\_\_.

89 **Buyer** will be responsible for all assessments of any kind which become due and owing on or after Effective Date, unless the  
90 improvement is substantially completed as of Closing Date, in which case **Seller** will be obligated to pay the entire assessment.

91 (d) **FIRPTA Tax Withholding:** The Foreign Investment in Real Property Act ("FIRPTA") requires **Buyer** to withhold at closing a  
92 portion of the purchase proceeds for remission to the Internal Revenue Service ("I.R.S.") if **Seller** is a "foreign person" as defined  
93 by the Internal Revenue Code. The parties agree to comply with the provisions of FIRPTA and to provide, at or prior to closing,  
94 appropriate documentation to establish any applicable exemption from the withholding requirement. If withholding is required  
95 and **Buyer** does not have cash sufficient at closing to meet the withholding requirement, **Seller** will provide the necessary funds  
96 and **Buyer** will provide proof to **Seller** that such funds were properly remitted to the I.R.S.

97\* **6. ESCROW:** **Buyer** and **Seller** authorize \_\_\_\_\_  
98\* Telephone: \_\_\_\_\_ Facsimile: \_\_\_\_\_ Address: \_\_\_\_\_

99\* \_\_\_\_\_ to act as "Escrow Agent"

100\* to receive funds and other items and, subject to clearance, disburse them in accordance with the terms of this Contract. Escrow  
101\* Agent will deposit all funds received in  a non-interest bearing escrow account  an interest bearing escrow account with  
102\* interest accruing to \_\_\_\_\_ with interest disbursed (check one)  at closing  
103\*  at \_\_\_\_\_ intervals. If Escrow Agent receives conflicting demands or has a good faith doubt as to Escrow  
104 Agent's duties or liabilities under this Contract, he/she may (a) hold the subject matter of the escrow until the parties mutually  
105 agree to its disbursement or until issuance of a court order or decision of arbitrator determining the parties' rights regarding the  
106 escrow or (b) deposit the subject matter of the escrow with the clerk of the circuit court having jurisdiction over the dispute. Upon  
107 notifying the parties of such action, Escrow Agent will be released from all liability except for the duty to account for items  
108 previously delivered out of escrow. If a licensed real estate broker, Escrow Agent will comply with applicable provisions of Chapter  
109 475, Florida Statutes. In any suit or arbitration in which Escrow Agent is made a party because of acting as agent hereunder or  
110 interpleads the subject matter of the escrow, Escrow Agent will recover reasonable attorneys' fees and costs at all levels, with  
111 such fees and costs to be paid from the escrowed funds or equivalent and charged and awarded as court or other costs in favor  
112 of the prevailing party. The parties agree that Escrow Agent will not be liable to any person for misdelivery to **Buyer** or **Seller** of  
113 escrowed items, unless the misdelivery is due to Escrow Agent's willful breach of this Contract or gross negligence.

114 **7. PROPERTY CONDITION:** **Seller** will deliver the Property to **Buyer** at the time agreed in its present "as is" condition, ordinary  
115 wear and tear excepted, and will maintain the landscaping and grounds in a comparable condition. **Seller** makes no warranties  
116 other than marketability of title. By accepting the Property "as is," **Buyer** waives all claims against **Seller** for any defects in the  
117 property. (Check (a) or (b))

118\*  (a) **As Is:** **Buyer** has inspected the Property or waives any right to inspect and accepts the Property in its "as is" condition.

119\*  (b) **Due Diligence Period:** **Buyer** will, at **Buyer's** expense and within \_\_\_\_\_ days from Effective Date ("Due Diligence Period"),  
120 determine whether the Property is suitable, in **Buyer's** sole and absolute discretion, for **Buyer's** intended use and development of  
121 the Property as specified in Paragraph 4. During the Due Diligence Period, **Buyer** may conduct any tests, analyses, surveys and  
122 investigations ("Inspections") which **Buyer** deems necessary to determine to **Buyer's** satisfaction the Property's engineering,  
123 architectural, environmental properties; zoning and zoning restrictions; flood zone designation and restrictions; subdivision  
124 regulations; soil and grade; availability of access to public roads, water, and other utilities; consistency with local, state and regional  
125 growth management and comprehensive land use plans; availability of permits, government approvals and licenses; compliance with  
126 American with Disabilities Act; absence of asbestos, soil and ground water contamination; and other inspections that **Buyer** deems  
127 appropriate to determine the suitability of the Property for **Buyer's** intended use and development. **Buyer** shall deliver written notice  
128 to **Seller** prior to the expiration of the Due Diligence Period of **Buyer's** determination of whether or not the Property is acceptable.

129 **Buyer's** failure to comply with this notice requirement shall constitute acceptance of the Property in its present "as is" condition.  
130 **Seller** grants to **Buyer**, its agents, contractors and assigns, the right to enter the Property at any time during the Due Diligence  
131 Period for the purpose of conducting Inspections; provided, however, that **Buyer**, its agents, contractors and assigns enter the  
132 Property and conduct Inspections at their own risk. **Buyer** shall indemnify and hold **Seller** harmless from losses, damages, costs,  
133 claims and expenses of any nature, including attorneys' fees at all levels, and from liability to any person, arising from the conduct of  
134 any and all inspections or any work authorized by **Buyer**. **Buyer** will not engage in any activity that could result in a mechanic's lien  
135 being filed against the Property without **Seller's** prior written consent. In the event this transaction does not close, (1) **Buyer** shall  
136 repair all damages to the Property resulting from the Inspections and return the Property to the condition it was in prior to conduct of  
137 the Inspections, and (2) **Buyer** shall, at **Buyer's** expense, release to **Seller** all reports and other work generated as a result of the  
138 Inspections. Should **Buyer** deliver timely notice that the Property is not acceptable, **Seller** agrees that **Buyer's** deposit shall be  
139 immediately returned to **Buyer** and the Contract terminated.

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140\* **Buyer** (\_\_\_\_) (\_\_\_\_) and **Seller** (\_\_\_\_) (\_\_\_\_) acknowledge receipt of a copy of this page, which is page 3 of 5 Pages.

141 (c) **Walk-through Inspection:** Buyer may, on the day prior to closing or any other time mutually agreeable to the parties,  
142 conduct a final "walk-through" inspection of the Property to determine compliance with this paragraph and to ensure that all  
143 Property is on the premises.

144 (d) **Disclosures:**

145 1. **Radon Gas:** Radon is a naturally occurring radioactive gas that, when it has accumulated in a building in sufficient  
146 quantities, may present health risks to persons who are exposed to it over time. Levels of radon that exceed federal and state  
147 guidelines have been found in buildings in Florida. Additional information regarding radon and radon testing may be obtained  
148 from your county public health unit.

149 2. **Energy Efficiency:** Buyer may have determined the energy efficiency rating of the building, if any is located on the Real  
150 Property.

151 8. **OPERATION OF PROPERTY DURING CONTRACT PERIOD:** Seller will continue to operate the Property and any business  
152 conducted on the Property in the manner operated prior to Contract and will take no action that would adversely impact the  
153 Property, tenants, lenders or business, if any. Any changes, such as renting vacant space, that materially affect the Property or  
154 Buyer's intended use of the Property will be permitted  only with Buyer's consent  without Buyer's consent.

155 9. **RETURN OF DEPOSIT:** Unless otherwise specified in the Contract, in the event any condition of this Contract is not met and  
156 Buyer has timely given any required notice regarding the condition having not been met, Buyer's deposit will be returned in  
157 accordance with applicable Florida laws and regulations.

158 10. **DEFAULT:**

159 (a) In the event the sale is not closed due to any default or failure on the part of Seller other than failure to make the title  
160 marketable after diligent effort, Buyer may either (1) receive a refund of Buyer's deposit(s) or (2) seek specific performance. If  
161 Buyer elects a deposit refund, Seller will be liable to Broker for the full amount of the brokerage fee.

162 (b) In the event the sale is not closed due to any default or failure on the part of Buyer, Seller may either (1) retain all deposit(s)  
163 paid or agreed to be paid by Buyer as agreed upon liquidated damages, consideration for the execution of this Contract, and in  
164 full settlement of any claims, upon which this Contract will terminate or (2) seek specific performance. If Seller retains the  
165 deposit, Seller will pay the Listing and Cooperating Brokers named in Paragraph 12 fifty percent of all forfeited deposits retained  
166 by Seller (to be split equally among the Brokers) up to the full amount of the brokerage fee.

167 11. **ATTORNEY'S FEES AND COSTS:** In any claim or controversy arising out of or relating to this Contract, the prevailing party,  
168 which for purposes of this provision will include Buyer, Seller and Broker, will be awarded reasonable attorneys' fees, costs and  
169 expenses.

170 12. **BROKERS:** Neither Buyer nor Seller has utilized the services of, or for any other reason owes compensation to, a licensed  
171 real estate Broker other than:

172\* (a) **Listing Broker:** \_\_\_\_\_,  
173\* who is  an agent of \_\_\_\_\_  a transaction broker  a nonrepresentative  
174\* and who will be compensated by  Seller  Buyer  both parties pursuant to  a listing agreement  other (specify)

175\*  
176\*  
177\*  
178\* (b) **Cooperating Broker:** \_\_\_\_\_,  
179\* who is  an agent of \_\_\_\_\_  a transaction broker  a nonrepresentative  
180\* and who will be compensated by  Buyer  Seller  both parties pursuant to  an MLS or other offer of compensation to a  
181\* cooperating broker  other (specify)

182\*  
183\*  
184\*  
185 (collectively referred to as "Broker") in connection with any act relating to the Property, including but not limited to inquiries,  
186 introductions, consultations and negotiations resulting in this transaction. Seller and Buyer agree to indemnify and hold Broker  
187 harmless from and against losses, damages, costs and expenses of any kind, including reasonable attorneys' fees at all levels, and  
188 from liability to any person, arising from (1) compensation claimed which is inconsistent with the representation in this Paragraph, (2)  
189 enforcement action to collect a brokerage fee pursuant to Paragraph 10, (3) any duty accepted by Broker at the request of Buyer or  
190 Seller, which duty is beyond the scope of services regulated by Chapter 475, F.S., as amended, or (4) recommendations of or services  
191 provided and expenses incurred by any third party whom Broker refers, recommends or retains for or on behalf of Buyer or Seller.

192\* 13. **ASSIGNABILITY; PERSONS BOUND:** This Contract may be assigned to a related entity, and otherwise  is not assignable  
193\*  is assignable. The terms "Buyer," "Seller" and "Broker" may be singular or plural. This Contract is binding upon Buyer, Seller  
194 and their heirs, personal representatives, successors and assigns (if assignment is permitted).

195\* Buyer (\_\_\_\_) (\_\_\_\_) and Seller (\_\_\_\_) (\_\_\_\_) acknowledge receipt of a copy of this page, which is page 4 of 5 Pages.

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