

# Excerpts and explanation of significant changes to the 2021 Florida Realtors/Florida Bar AS IS Residential Contract for Sale and Purchase

(Key: **yellow highlight used when the change is particularly significant**)

Note: excerpts are a general representation of the change but are not always precise

## I. Paragraph 1. Property Description:

Redline change

(d) Personal Property: Unless excluded in Paragraph 1(e) or by other terms of this Contract, the following items which are owned by Seller and existing on the Property as of the date of the initial offer are included in the purchase: range(s)/oven(s), refrigerator(s), dishwasher(s), disposal, ceiling fan(s), ~~intercom~~, light fixture(s), drapery rods and draperies, blinds, window treatments, smoke detector(s), garage door opener(s), **thermostat(s), doorbell(s), television wall mounts and television mounting** hardware, security gate and other access devices, **mailbox keys**, and storm shutters/**storm protection items panels and hardware** ("Personal Property").

### Explanation of revision to Paragraph 1(d)

Items were added to list of personal property to be conveyed to the buyer (excluding those not owned by the seller, not present on the property on the initial date of the offer or omitted by the contract). New items: Thermostats and doorbells (due to the increase in smart home devices), TV wall mounts and TV mounting hardware (due to the popularity of securing televisions to walls), alternative storm protection devices and hardware, and mailbox keys. Deleted item: intercom

## II. Paragraph 2. Purchase Price

Redline change

1. **PURCHASE PRICE** (U.S. currency): ..... \$\_\_\_\_\_

(a) Initial deposit to be held in escrow in the amount of **(checks subject to COLLECTION)** ..... \$\_\_\_\_\_ The initial deposit made payable and delivered to "Escrow Agent" named below **(CHECK ONE):** (i)  accompanies offer or (ii)  is to be made within \_\_\_\_\_ (if left blank, then 3) days after Effective Date. IF NEITHER BOX IS CHECKED, THEN OPTION (ii) SHALL BE DEEMED SELECTED.

Escrow Agent Name: \_\_\_\_\_

Address: \_\_\_\_\_ Phone: \_\_\_\_\_

Email: \_\_\_\_\_ Fax: \_\_\_\_\_

\* (b) Additional deposit to be delivered to Escrow Agent within \_\_\_\_\_ (if left blank, then 10) days after Effective Date..... \$\_\_\_\_\_

(All deposits paid or agreed to be paid, are collectively referred to as the "Deposit")

\* (c) Financing: Express as a dollar amount or percentage ("Loan Amount") see Paragraph 8

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

(e) Balance to close (not including Buyer's closing costs, prepaids and prorations) by wire

transfer or other Collected funds (See STANDARD S) .....\$ \_\_\_\_\_  
~~NOTE: For the definition of "COLLECTION" or "COLLECTED" see STANDARD~~

### Explanation of revision to Paragraph 2(a) and 2(e)

- 2(a) increased length of lines for email address of escrow agent to accommodate longer entries per numerous requests.
- 2(e) Removed capital and bold lettering for the word Collected here and wherever the word Collected/Collection appears in the contract, as these terms are no longer new.

### III. Paragraph 4. Closing Date:

Redline change

**4. CLOSING; CLOSING DATE:** ~~Unless modified by other provisions of this Contract, †~~The closing of this transaction shall occur **when all funds required for closing are received by Closing Agent and Collected pursuant to STANDARD S.** and ~~the all~~ closing documents required to be furnished by each party pursuant to this Contract shall be are delivered ("Closing"). **Unless modified by other provisions of this Contract,** the Closing shall occur on \_\_\_\_\_ ("Closing Date"), at the time established by the Closing Agent.

### Explanation of revision to Paragraph 4

The paragraph was retitled **Closing, Closing Date** to help people locate this information in one paragraph and understand the elements of closing.

Another addition: The definition of closing includes closing agent's receipt and collection of all funds required by the contract (meaning funds are actually and finally collected and deposited in Closing Agent's account), along with the language from the previous contract that all documents be furnished at closing.

### IV. Paragraph 5. Extension of Closing Date

Redline change

#### **EXTENSION OF CLOSING DATE:**

~~(a) If Paragraph 8(b) is checked and~~ **In the event** Closing funds from Buyer's lender(s) are not available on Closing Date due to Consumer Financial Protection Bureau Closing Disclosure delivery requirements ("CFPB Requirements"), **if Paragraph 8(b) is checked, Loan Approval has been obtained, and lender's underwriting is complete,** then Closing Date shall be extended for such period necessary to satisfy CFPB Requirements, provided such period shall not exceed ~~40~~ **7** days.

### Explanation of revision to Paragraph 5

Added language which limits the extension of closing date provided for in this paragraph to a maximum of 7 days (instead of up to 10 days) to meet Consumer Financial Protection Bureau (CFPB) delivery requirements if all the following apply to the contract and loan status:

- 1) Paragraph 8(b) (financing) was selected, and:
- 2) Loan approval was obtained and
- 3) Underwriting is complete.

Previous language included item 1) but not items 2) and 3). This often resulted in a buyer believing an extension was merited even when the reason funding was not available at closing was unrelated to CFPB delivery requirements.

## V. Paragraph 6. Occupancy and Possession

### Redline Change

(a) Unless ~~the box in~~ Paragraph 6(b) is checked, Seller shall, at Closing, deliver occupancy and possession of the Property to Buyer free of tenants, occupants and future tenancies. Also, at Closing, Seller shall have removed all personal items and trash from the Property and shall deliver all keys, garage door openers, access devices 73 and codes, as applicable, to Buyer. If occupancy is to be delivered before Closing, Buyer assumes all risks of loss to the Property from date of occupancy, shall be responsible and liable for maintenance from that date, and shall be deemed to have accepted the Property in its existing condition as of time of taking occupancy, **See Rider T PRE-CLOSING OCCUPANCY BY BUYER**

(b) **CHECK IF PROPERTY IS SUBJECT TO LEASE(S) OR OCCUPANCY AFTER CLOSING.** If Property is subject to a lease(s) **or any occupancy agreements (including seasonal rentals and short-term vacation rentals)** after Closing or is intended to be rented or occupied by third parties beyond Closing, the facts and terms thereof shall be disclosed in writing by Seller to Buyer and copies of the written lease(s) shall be delivered to Buyer, all within 5 days after Effective Date. If Buyer determines, in Buyer's sole discretion, that the lease(s) or terms of occupancy are not acceptable to Buyer, Buyer may terminate this Contract by delivery of written notice of such election to Seller within 5 days after receipt of the above items from Seller, and Buyer shall be refunded the Deposit thereby releasing Buyer and Seller from all further obligations under this Contract. Estoppel Letter(s) and Seller's affidavit shall be provided pursuant to STANDARD D, **except that tenant Estoppel Letters shall not be required on seasonal or short-term vacation rentals.** If Property is intended to be occupied by Seller after Closing, see Rider U POST-CLOSING OCCUPANCY BY SELLER.

### Explanation of revision to Paragraph 6

(a) If a buyer is to pre-occupy a property, parties are directed to Rider T for use in such situations.

(b) The new language in this subparagraph expands the seller's obligation to disclose to the buyer all occupancy arrangements that will occur after closing which exist or seller intends to enter into. The previous version of the contract covered disclosing leases. Given how commonplace seasonal and short-term vacation occupancies are, these arrangements are now covered as well. The new contract excludes the need for obtaining tenant estoppel letters from short-term or seasonal rental tenants.

## VI. Paragraph 7. Assignability

### Redline Change

**ASSIGNABILITY: (CHECK ONE):** Buyer \_\_\_\_\_ may assign and thereby be released from any further liability under this Contract; \_\_\_\_\_ may assign but not be released from liability under this Contract; or \_\_\_\_\_ may not assign this Contract. **IF NO BOX IS CHECKED, THEN BUYER MAY NOT ASSIGN THIS CONTRACT.**

### Explanation of revision to Paragraph 7

Where parties fail to select whether the contract is assignable, a default has been added that the contract will NOT be assignable. This is a change from the previous version of the contract, which did not contain default language.

## VII. Paragraph 8. Financing

### Redline Change

~~(a) This is a cash transaction with no financing contingency. Buyer will pay cash for the purchase of the Property at Closing. There is no financing contingency to Buyer's obligation to close. If Buyer obtains a loan for any part of the Purchase Price of the Property, Buyer acknowledges that any terms and conditions imposed by Buyer's lender(s) or by CFPB Requirements shall not affect or extend the Buyer's obligation to close or otherwise affect any terms or conditions of this Contract.~~

### Explanation of revision to Paragraph 8

- (a) Language was simplified; deleted that lender requirements would have no impact on the contract. Because it is a cash transaction, reference to lender requirements is unnecessary.
- (b) Financing. Many changes were made to this paragraph. The following details some of the changes as they appear in the contract.

### Redline change Paragraph 8(b)

### First Redline Change to 8(b)

(b) This Contract is contingent upon, **within \_\_\_\_\_ (if left blank, then 30) days after Effective Date ("Loan Approval Period"):** (1) Buyer obtaining approval of a        conventional        FHA        VA or other        (describe) loan ~~within \_\_\_\_\_ (if left blank, then 30) days after Effective Date ("Loan Approval Period")~~ **mortgage loan for the purchase of the Property for a (CHECK ONE):** fixed, adjustable, fixed or adjustable rate in the Loan Amount (See Paragraph 2(c)), at an initial interest rate not to exceed \_\_\_\_\_ % (if left blank, then prevailing rate based upon Buyer's creditworthiness), and for a term of \_\_\_\_\_ (if left blank, then 30) years ("Financing") **and (2) Buyer's mortgage broker or lender having received an appraisal or alternative valuation of the Property satisfactory to lender, if either is required by lender, prior to Closing, which is sufficient to meet the terms required for lender to issue provide Financing for Buyer and proceed to Closing ("Appraisal").**

### Explanation of revisions in first paragraph of 8(b)

This change specifies **two tasks be completed within the loan approval period**. The first task is not new; the buyer must obtain loan approval of financing as described in the contract (amount, for a term of \_\_\_\_, at a % rate not to exceed ...). The second task is new: it is receipt of an appraisal (or alternative valuation) satisfactory to the buyer's lender, if required.

**Again, both tasks are to be achieved within loan approval period.** This change was made to expedite the lender's receipt of the appraisal report so that any possible problems related to an insufficient appraisal could be resolved before closing. This is a significant change. No previous version of this contract included this deadline. Remember this when you fill in the blank that establishes the duration of loan approval period.

In addition, for the first time, the definition of appraisal has expanded to include alternative valuations if applicable to buyer's lender. This was done because lender practices have changed; some lenders no longer require any valuation. Some lenders, on certain loans, accept valuation products other than appraisals.

## Second change to paragraph 8(b)

### Redline change to 8(b)(i)

(i) Buyer shall make ~~mortgage loan~~ application for the Financing within \_\_\_\_\_ (if left blank, then 5) days after Effective Date and use good faith and diligent effort to obtain approval of a loan meeting the Financing **and Appraisal** terms of **Paragraph 8(b)(1) and (2), above**, ("Loan Approval") **within the Loan Approval Period** and, thereafter, to close this Contract. Loan Approval which requires ~~a condition related to the sale by Buyer of~~ **to sell other real property** shall not be ~~deemed~~ **considered** Loan Approval for purposes of this subparagraph **unless Rider V is attached**.

Buyer's failure to use **good faith and** diligent effort to obtain Loan Approval during the Loan Approval Period shall be considered a default under the terms of this Contract. For purposes of this provision, "diligent effort" includes, but is not limited to, timely furnishing all documents and information ~~and paying of all fees and charges requested~~ **required** by Buyer's mortgage broker and lender **and paying for Appraisal and other fees and charges** in connection with Buyer's ~~mortgage loan~~ application **for Financing**

### Explanation of revisions to 8(b)(i)

**This revision redefines loan approval.** The first component of loan approval is not new. A lender must agree to loan the buyer funds described in the contract. The second component is new and adds that an appraisal (or alternative valuation) satisfactory to the lender is to be received sufficient for the loan to be funded. In other words, a loan approval which is conditioned on an appraisal/ valuation is not loan approval under the revision. Why? Because under the revision, a satisfactory appraisal is part of loan approval, not something to be satisfied later.

The second noteworthy change in this subparagraph relates to a loan approval that requires the buyer to sell a property. As before, the contract establishes that a loan approval which requires the buyer to sell a property is not loan approval. However, a caveat has been added. A loan approval which requires the buyer to sell a property will be considered a loan approval if Rider V entitled Sale of Buyer's Property is attached. The key here is that the buyer who uses Rider V has informed the seller that the offer is contingent on the sale of the buyer's property.

### Third change to paragraph 8(b)

#### Redline change

(ii) Buyer shall, ~~upon written request~~, keep Seller and Broker fully informed about the status of Buyer's mortgage loan application, ~~Loan Approval, and~~ loan processing, and ~~appraisal, and Loan Approval, including any Property related conditions of Loan Approval.~~ Buyer authorizes Buyer's mortgage broker, lender, and Closing Agent to disclose such status and progress, and release preliminary and finally executed closing disclosures and settlement statements, ~~as appropriate and allowed~~, to Seller and Broker

#### Explanation of revision to 8(b)(ii)

The buyer's duty to keep the seller informed of status of loan application, loan approval, appraisal and property related conditions during the sale process now depends on the seller's written request for this information from the buyer. The previous version of this clause did not require the seller to make a WRITTEN request for this information. Nor did the previous version of the contract require the buyer to specifically inform the seller of the property related conditions contained within loan approval.

### Fourth change to paragraph 8(b)

#### Redline change to 8(b)(iii)

~~(iii) Upon Buyer obtaining Loan Approval, Buyer shall promptly deliver written notice of such approval to Seller.~~

(iii) ~~If within the Loan Approval Period, Buyer obtains Loan Approval, Buyer shall notify Seller of same in writing prior to expiration of the Loan Approval Period, or, if Buyer is unable to obtain Loan Approval but Buyer is satisfied with Buyer's ability to obtain Loan Approval and proceed to Closing, Buyer shall deliver written notice to Seller confirming same, prior to the expiration of the Loan Approval Period.~~

#### Explanation of the revisions to 8(b)(iii)

The buyer now has until the end of the loan approval period to inform the seller in writing that loan approval was obtained. Previously, the buyer was required to promptly advise the seller upon receipt of the approval.

Also note, new language specifies a buyer who does not obtain loan approval within the loan approval period may remain in the transaction under the following circumstances:

- The buyer is satisfied with his ability to obtain loan approval and to close
- The buyer delivers written notice of this to the seller within the loan approval period.

A buyer in these circumstances (one without loan approval, but confident he'll obtain a loan and with the ability to close, and who notifies the seller of this), will continue to be eligible to benefit from Paragraph 8(b).

## Fifth change to paragraph 8(b)

### Redline change

(iv) If Buyer is unable to obtain Loan Approval **within the Loan Approval Period, or cannot timely meet the terms of Loan Approval, all** after the exercise of **good faith and** diligent effort, ~~then at any time prior to expiration of the Loan Approval Period, Buyer may provide written notice to Seller stating that Buyer has been unable to obtain Loan Approval and has elected to either:~~

- (1) ~~waive Loan Approval, in which event this Contract will continue as if Loan Approval had been obtained;~~
- (2) ~~or (2) terminate this Contract.~~

~~(v) If Buyer fails to timely deliver either notice provided in Paragraph 8(b)(iii) or (iv), above,~~ **by delivering written notice of termination** to Seller prior to expiration of the Loan Approval Period, ~~then Loan Approval shall be deemed waived,;~~ **whereupon, provided Buyer is not in which event default under the terms of this Contract will continue, Buyer shall be refunded the Deposit thereby releasing Buyer and Seller from all further obligations under this Contract.**

### Explanation of revisions to 8(b)(iv)

New language specifies that the buyer who obtains loan approval may terminate the contract if the buyer cannot timely meet the terms of the loan approval, after using good faith and diligent effort. To receive his deposit back, the buyer must deliver a written termination notice to the seller prior to the end of the loan approval period. Although this language did not previously appear in the contract, the concept is not new. If it were otherwise, such buyers would always lose their deposit, despite the fact that they had no ability to meet the conditions of the loan approval.

## Sixth change to paragraph 8(b)

### Redline change

~~(v) If Buyer fails to timely deliver any written notice provided for in Paragraph 8(b)(iii) or (iv), above to Seller prior to expiration of the Loan Approval Period, then Buyer shall proceed forward with this Contract as if Loan Approval though Paragraph 8(a), above, had been obtained, checked as of the Effective Date;~~ provided however, Seller may elect to terminate this Contract by delivering written **notice of termination** to Buyer within 3 days after expiration of the Loan Approval Period

### Explanation of revisions to 8(b)(v)

Per this revision, if the buyer stays silent (does not notify the seller in writing) as to whether he was approved for a loan, the transaction will proceed as a cash transaction, unless the seller timely terminates the contract (within 3 days after expiration of loan approval period) by written notice. Under the previous version of the contract, the buyer's selection of financing did not automatically convert to a cash transaction when the buyer remained silent regarding loan approval. Now the silent buyer loses the benefits of the financing provisions.

## Seventh change to paragraph 8(b)

### Redline change

~~vii(vi) If Loan Approval Buyer has been obtained, or deemed to have been obtained, as timely provided either written notice provided for in Paragraph 8b(iii), above, and Buyer thereafter fails to close this Contract, the Deposit shall be paid to Seller unless failure to close is due to: (1) Seller's default or inability to satisfy other contingencies of this Contract; or (2) Property related conditions of the Loan Approval (specifically excluding the Appraisal valuation) have not been met unless such conditions are waived by other provisions of this Contract; or (3) appraisal of the Property obtained by Buyer's lender is insufficient to meet terms of the Loan Approval, in which event(s) the Buyer shall be refunded the Deposit, thereby releasing Buyer and Seller from all further obligations under this Contract.~~

### Explanation of revisions to 8(b)(vi)

This clause was retooled. Before, if the buyers obtained a loan approval, they were entitled to a return of their deposit if there was no closing due to the appraisal being insufficient to meet terms of the loan approval under paragraph 8(b). This is no longer the case, because the language that directed the deposit back to the buyer due to insufficient appraisal was deleted; now appraisal issues will be resolved at the time the buyer determines whether the loan approval is obtained.

Along these lines, the buyer will not be able to claim that the appraisal is a property-related condition because the new language precludes this.

Also note that the provision only benefits buyers who provide the seller timely written notice that 1) the loan approval was obtained or 2) in the absence of obtaining the loan approval, the buyer is confident of his ability to obtain the loan approval and close on the property.

Previously a buyer obtained the benefits of this subparagraph if he was approved for a loan or was deemed to have obtained Loan Approval.

One last note regarding this subparagraph. It is hoped that fewer contracts will fail to close at the end of a transaction due to property related conditions not being met under this new agreement. Why? Because sellers can discover if there are property-related conditions (by requesting this information in writing from the buyer), property-related conditions can be identified earlier than closing and, if they can't be resolved, the property can be returned to the market sooner.

## **VIII. Paragraph 9. Closing Costs, Title Insurance, Survey, Special Assessments. Many changes here, which will be broken up by paragraph**

### Redline Change

(a) COSTS TO BE PAID BY SELLER:



- Documentary stamp taxes and surtax on deed, if any fees
- Owner's Policy and Charges (if Paragraph 9(c)(i) is checked)
- Title search charges (if Paragraph 9(c)(iii) is checked)
- Municipal lien search (if Paragraph 9(c)(i) or (iii) is checked)
- **Charges for FIRPTA withholding and reporting**
- HOA/Condominium Association estoppel fees
- Recording and other fees needed to cure title
- Seller's attorneys' fees \_\_\_\_\_
- Other:

### Explanation of revision to Paragraph 9(a)

Costs to be Paid by Seller: Charges for FIRPTA withholding and reporting have been added to Costs to be paid by Seller. How did these charges land in Seller costs? FIRPTA applies only if the seller is a foreign person.

### Redline Change

(iii) **[MIAMI-DADE/BROWARD REGIONAL PROVISION]: Buyer shall designate Closing Agent.** Seller shall furnish a copy of a prior owner's policy of title insurance or other evidence of title and pay fees for: (A) a continuation or update of such title evidence, which is acceptable to Buyer's title insurance underwriter for reissue of coverage; (B) tax search; and (C) municipal lien search. Buyer shall obtain and pay for post-Closing continuation and premium for Buyer's owner's policy, and if applicable, Buyer's lender's policy. Seller shall not be obligated to pay more than \$\_\_\_\_\_ (if left blank, then \$200.00) for abstract continuation or title search ordered or performed by Closing Agent.

### Explanation of revision to Paragraph 9(c)(iii)

Language was added to Miami-Dade title provision that the buyer will designate the closing agent. This was already typical, as the buyer pays the title insurance premium in this Miami-Dade/Broward clause.

### Redline Change

(d) **SURVEY: At least 5 days prior to Closing Date,** ~~On or before Title Evidence Deadline,~~ Buyer may, at Buyer's expense, have the Real Property surveyed and certified by a registered Florida surveyor ("Survey"). If Seller has a survey covering the Real Property, a copy shall be furnished to Buyer and Closing Agent within 5 days after Effective Date.

### Explanation of revision to Paragraph 9(d)

Timing for the buyer to obtain a survey will now be at least 5 days prior to closing rather than on or before Title Evidence Deadline. Why the change? The new timing is preferred because it gives a surveyor more time to complete the survey and will enable the surveyor to use the title work (which shows exceptions and easements not reflected on the previous deed) when surveying the property.

### Redline change to first paragraph of 9(f)

If special assessments may be paid in installments (CHECK ONE):

    a) Seller shall pay installments due prior to Closing and Buyer shall pay installments due after Closing. Installments prepaid or due for the year of Closing shall be prorated

~~\_\_\_(b) Seller shall pay the assessment(s) in full prior to or at the time of Closing.~~ Seller shall pay, in full, prior to or at the time of Closing any assessment(s) allowed by the public body to be prepaid. For any assessment(s) which the public body does not allow to be prepayment, OPTION (a), above, shall be deemed selected for such assessment(s).

#### **Explanation of revision to first Paragraph 9(f)**

This change was made because special assessments that may be paid in installments can't always be paid off in full even if option (b) is selected. Sometimes restrictions/collection requirements of the public body making the assessment do not allow this. If payment in full is not possible, the revision provides the seller will pay such installments due prior to closing and the buyer will be responsible for the balance.

#### **Redline change to the second paragraph of 9(f)**

This Paragraph 9(f) shall not apply to a special benefit tax lien imposed by a community development district (CDD) pursuant to Chapter 190, F.S., or special assessment(s) imposed by a special district pursuant to Chapter 189, F.S., which lien(s) or assessment(s) shall be prorated pursuant to STANDARD K.

#### **Explanation of revision to second Paragraph 9(f)**

Special assessments imposed by a special district will no longer be negotiated by selecting the option regarding which party will pay. Special assessments imposed by special districts will be treated like community development districts: both will be prorated as specified in Standard K.

### **IX. Paragraph 10. Disclosures**

#### **Redline Change**

**PERMITS DISCLOSURE:** Except as may have been disclosed by Seller to Buyer in a written disclosure, Seller does not know of any improvements made to the Property which were made without required permits or made pursuant to permits which have not been properly closed or otherwise disposed of pursuant to Section 553.79 F.S. If Seller identifies permits which have not been closed or improvements which were not permitted, then Seller shall promptly deliver to Buyer all plans, written documentation or other information in Seller's possession, knowledge, or control relating to improvements to the Property which are the subject of such open permits or unpermitted improvements.

#### **Explanation of revision to Paragraph 10(b)**

Language was added referencing a 2019 statutory amendment that allows for additional methods to satisfy expired or open permits.

## X. Paragraph 11. Property Maintenance

Redline Change

**11. PROPERTY MAINTENANCE:** Except for ordinary wear and tear and Casualty Loss, Seller shall maintain the Property, including, but not limited to, lawn, shrubbery, and pool, in the condition existing as of Effective Date (“AS IS Maintenance Requirement”). See Paragraph 9(a) for escrow procedures, if applicable

### Explanation of revision to Paragraph 11

New language was added directing parties to Paragraph 9(a), which specifies the seller can escrow amounts to cover maintenance costs if the property has not been maintained before Closing. Subparagraph 9(a) escrow procedures is not new, but the direction in paragraph 11 to 9(a) is.

## XII. Paragraph 18. Standards For Real Estate Transactions

Some of the Standards were revised including Standard F, G, K and O which are summarized.

Redline change

**F. TIME: Time is of the essence in this Contract.** Calendar days based on where the Property is located, shall be used in computing time periods. **Time is of the essence in this Contract.** Other than time for acceptance and Effective Date as set forth in Paragraph 3, any time periods provided for or dates specified in this Contract, whether preprinted, handwritten, typewritten or inserted herein, which shall end or occur on a Saturday, Sunday, a national legal public holiday (see as defined in 5 U.S.C. Sec.6103(a)) or a day on which a national legal public holiday is observed because it fell on a Saturday or Sunday, shall extend to 5:00 p.m. (where the property is located) of the next business calendar day which is not a Saturday, Sunday or a day on which a national legal public holiday is observed.

### Explanation of revisions to Paragraph 18, Standard F

“Time is of the essence” was moved to the beginning of the paragraph to stress its importance. Added language to clarify the time zone where the property is located (rather than where the parties are) is the basis for computing a calendar day.

The new contract also changed the time calculation when a time period or date ends on a Saturday, Sunday or on a day that is either a national legal public holiday, or on a Friday or Monday when such a holiday is observed. These time periods or dates for performance will extend to the next calendar day which is not a Saturday, Sunday or on the day a national legal public holiday is observed. Note there is no longer a 5 p.m. cutoff.

Redline change

**G. FORCE MAJEURE:** Buyer or Seller shall not be required to exercise or perform any right or obligation under this Contract or be liable to each other for damages so long as performance or non-performance of the right or obligation, or the availability of services, insurance, or required approvals essential to Closing, is disrupted, delayed, caused or prevented by a Force Majeure event. "Force Majeure" means: hurricanes, floods, extreme weather, earthquakes, fires, or other acts of God, unusual transportation delays, wars, insurrections, civil unrest, or acts of terrorism, governmental actions and mandates, government shut downs, epidemics, or pandemics, which, by exercise of reasonable diligent effort, the non-performing party is unable in whole or in part to prevent or overcome. The Force Majeure event will be deemed to have begun on the first day the effect of the Force Majeure prevents performance, non-performance, or the availability of services, insurance or required approvals essential to Closing. All time periods affected by the Force Majeure event, including Closing Date, will be extended a reasonable time up to 7 days after the Force Majeure event no longer prevents performance under this Contract; provided, however, if such Force Majeure event continues to prevent performance under this Contract more than 30 days beyond Closing Date, then either party may terminate this Contract by delivering written notice to the other and the Deposit shall be refunded to Buyer, thereby releasing Buyer and Seller from all further obligations under this Contract.

### **Explanation of revisions to Paragraph 18, Standard G**

Force Majeure previously provided that a party was entitled to additional time to perform contractual obligations. It now also provides additional time for a party to perform contractual rights. (An example of an obligation is the buyer making a deposit in a timely manner. Buyer is obligated to do this. An example of a contractual right is the buyer performing a walk through inspection. The buyer has a right to do this but it is not an obligation.)

In addition to broadening the scope of the standard, the definition of Force Majeure was expanded. Now, in addition to what was previously covered by the clause, the revised definition of force majeure includes pandemics, epidemics, government shutdowns, governmental actions and mandates and civil unrest. Lastly, new language clarifies that Force Majeure is an event which begins when performance of either a right or an obligation is prevented by the Force Majeure, such as when a hurricane interferes with the performance of a contractual obligation, prior to its making landfall at or near the property.)

### **Redline change**

**K. PRORATIONS; CREDITS:** The following recurring items will be made current (if applicable) and prorated as of the day prior to Closing Date, or date of occupancy if occupancy occurs before Closing Date: real estate taxes (including special benefit tax assessments imposed by a CDD pursuant to Chapter 190, F.S., and assessments imposed by special district(s) pursuant to Chapter 189, F.S.), interest, bonds, association fees, insurance, rents and other expenses of Property. Buyer shall have option of taking over existing policies of insurance, if assumable, in which event premiums shall be prorated. Cash at Closing shall be increased or decreased as may be required by prorations to be made through day prior to Closing. Advance rent and security deposits, if any, will be credited to Buyer. Escrow deposits held by Seller's mortgagee will be paid to Seller. Taxes shall be prorated based on current year's tax. If Closing occurs on a date when current year's millage is not fixed but current year's assessment is available, taxes will be prorated based upon such assessment and prior year's millage. If current year's assessment is not available, then taxes will be prorated on prior year's tax. If there are completed improvements on the Real Property by January 1st of year of Closing, which improvements were not in existence on January 1st of prior year, then taxes shall be prorated based upon prior year's millage and at an equitable assessment to be agreed upon between the parties, failing which, request shall be made to the County Property Appraiser for an informal assessment taking into account available exemptions. In all cases, due

allowance shall be made for the maximum allowable discounts and applicable homestead and other exemptions. A tax proration based on an estimate shall, at either party's request, be readjusted upon receipt of current year's tax bill. This STANDARD K shall survive Closing.

#### **Explanation of revision to Paragraph 18, Standard K**

This change dovetails with the change to Paragraph 9(f) which deletes negotiating special assessments imposed by a special district. Assessments imposed by special districts have been added into this Standard as a prorated item, like assessments by a community development district.

Redline change

**O. CONTRACT NOT RECORDABLE; PERSONS BOUND; NOTICE; DELIVERY; COPIES; CONTRACT EXECUTION:** Neither this Contract nor any notice of it shall be recorded in any public or official records. This Contract shall be binding on, and inure to the benefit of, the parties and their respective heirs or successors in interest. Whenever the context permits, singular shall include plural and one gender shall include all. Notice and delivery given by or to the attorney or broker (including such broker's real estate licensee) representing any party shall be as effective as if given by or to that party. All notices must be in writing and may only be made by mail, **facsimile transmission**, personal delivery or ~~electronic (including "pdf") media~~ **email**. A facsimile or electronic (including "pdf") copy of this Contract and any signatures hereon shall be considered for all purposes as an original. This Contract may be executed by use of electronic signatures, as determined by Florida's Electronic Signature Act and other applicable laws.

#### **Explanation of revisions to Paragraph 18, Standard O**

Methods of delivery of notices required by the contract have changed. They may be delivered by email or fax and, as before, by mail or personal delivery. Please note you may no longer deliver notices through electronic media, (except by fax or email); text messaging is not included as a method of delivery. This change was made because texts can disappear over time, making them difficult to use as evidence that notice was given. Since other electronic media were deleted as well, social media postings or any other type of communication not named in this paragraph will not constitute delivery for purposes of giving notice.

### **XIII. Paragraph 19 Addenda and Additional Terms**

Redline change

\* **19. ADDENDA:** The following additional terms are included in the attached addenda or riders and incorporated into this Contract (**Check if applicable**):

- |  |   |   |
|--|---|---|
| <input type="checkbox"/> A. Condominium Rider      | <input type="checkbox"/> K. RESERVED                          | <input type="checkbox"/> T. Pre-Closing Occupancy                                 |
| <input type="checkbox"/> B. Homeowners' Assn.      | <input type="checkbox"/> L. RESERVED                          | <input type="checkbox"/> U. Post-Closing Occupancy                                |
| <input type="checkbox"/> C. Seller Financing       | <input type="checkbox"/> M. Defective Drywall                 | <input type="checkbox"/> V. Sale of Buyer's Property                              |
| <input type="checkbox"/> D. Mortgage Assumption    | <input type="checkbox"/> N. Coastal Construction Control Line | <input type="checkbox"/> W. Back-up Contract                                      |
| <input type="checkbox"/> E. FHA/VA Financing       | <input type="checkbox"/> O. Insulation Disclosure             | <input type="checkbox"/> X. Kick-out Clause                                       |
| <input type="checkbox"/> F. Appraisal Contingency  | <input type="checkbox"/> P. Lead Paint Disclosure (Pre-1978)  | <input type="checkbox"/> Y. Seller's Attorney Approval                            |
| <input type="checkbox"/> G. Short Sale             | <input type="checkbox"/> Q. Housing for Older Persons         | <input type="checkbox"/> Z. Buyer's Attorney Approval                             |
| <input type="checkbox"/> H. Homeowners/Flood Ins.  | <input type="checkbox"/> R. Rezoning                          | <input type="checkbox"/> AA. Licensee Property Interest                           |
| <input type="checkbox"/> I. RESERVED               | <input type="checkbox"/> S. Lease Purchase/ Lease Option      | <input type="checkbox"/> BB. Binding Arbitration                                  |
| <input type="checkbox"/> J. Interest-Bearing Acct. |   | <input type="checkbox"/> CC. Miami-Dade County Special Taxing District Disclosure |
|  |   | <input type="checkbox"/> DD. Seasonal/Vacation Rentals                            |
|  |   | <input type="checkbox"/> EE. PACE Disclosure                                      |
|  |   | <input type="checkbox"/> Other: _____   |
|  |   | _____   |
|  |   | _____   |

**Explanation of changes to revisions to Paragraph 19**

Two new addenda were created for use with the contract. They are:

- Rider DD. Seasonal/Vacation Rentals
- Rider EE. PACE Disclosure.

Explanation for each can be found where Rider changes have been summarized.

**XIV Counter-Offer/Rejection paragraph**

Redline Change

**COUNTER-OFFER**

\_\_\_ Seller counters Buyer's offer.

**~~COUNTER-OFFER/REJECTION~~**

~~\_\_\_ Seller counters Buyer's offer (to accept the counter-offer, Buyer must sign or initial the counter-offered terms and deliver a copy of the acceptance to Seller).~~

~~\_\_\_ Seller rejects Buyer's offer~~

**Explanation of revisions to Counter-Offer/Rejection**

The counteroffer language was simplified. The box for the seller to check if the offer is rejected has been deleted. Since the seller is not required to indicate in writing that he rejects the offer, this check box was rarely used. It was also a source of frustration for those whose offers were rejected but did not receive a written rejection.