

# 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  
13 to arbitration under this provision only with the written consent and joinder of the agent’s Broker. In connection with any arbitration  
14 or 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  
18 Section 1031 of the Internal Revenue Code, including execution of any documents that may be reasonably necessary to effect  
19 the 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 Property  
29 resulting from the inspections and return the Property to its present condition, and (2) release to **Seller** copies of all reports and  
30 other work generated as a result of the inspections. **Seller** has no duty to make repairs except to those defects and conditions  
31 reported by **Buyer** in writing prior to 5:00 p.m. on the date the applicable Inspection Period expires. **Seller** makes no warranties  
32 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  
35 all 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.  
39\* If 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\*  **(2) Environmental Hazards:** Within \_\_\_\_\_ days from Effective Date (“Inspection Period”), **Buyer** shall, at  **Buyer’s**  **Seller’s**  
43 expense, apply for a Phase I inspection to be conducted by an environmental engineer. **Buyer** shall deliver to **Seller** a copy of all  
44 resulting environmental reports. If a lender requires a Phase II or III investigation, **Buyer** shall deliver written notice of the requirement to  
45\* **Seller** and **Seller** may elect, within \_\_\_\_\_ days from receipt of the notice, to conduct the investigation at (check one)  **Seller’s**   
46 **Buyer’s** expense. If **Seller** elects not to conduct the investigation, either party may terminate this Contract. If **Seller** elects to conduct the

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

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 Section 482.021(27), Florida Statutes. Within \_\_\_\_\_ days from Effective Date ("Inspection Period"),  
57 **Buyer** shall, at **Buyer's** expense, have the Property inspected by a Florida-licensed pest control business to determine the presence in  
58 the improvements of past or present infestation and damage caused by infestation. **Seller** shall have \_\_\_\_ days from receipt of **Buyer's**  
59 written report to obtain repair estimates from a licensed building or general contractor and treatment estimates from a licensed pest  
60 control business. **Seller** shall treat and repair the Property if the cost to do so does not exceed \_\_\_\_% of the purchase price ("Termite  
61 Repair Limit"). If the cost of treatment and repair exceeds the Termite Repair Limit, either party may elect to pay the excess, failing which  
62 either party may terminate this Contract. If there is no evidence of live infestation and the Property is covered by a full treatment warranty,  
63 **Seller** shall transfer the 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.

69 **Seller Initials    Buyer Initials**

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

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

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

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

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

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

107 The mortgage, note and any security agreement shall be in a form acceptable to **Seller**, but shall contain only clauses generally  
 108 utilized by lending institutions in the county where the Property is located and shall provide for (1) a late payment fee, (2)  
 109 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  
 110\* time(s) with interest only to date of payment, (4) the loan to be  due on conveyance or sale  assumable with mortgagee's  
 111 consent, which may not be unreasonably withheld and (5) **Buyer** to keep the Property insured against loss by fire (and flood, if  
 112 Property is in a flood zone) with extended coverage in an amount not less than the amount of the purchase money mortgage and  
 113\* note. **Buyer** shall furnish credit, employment, and financial information reasonably required by **Seller**. Within \_\_\_\_\_ days from  
 114 receipt of all requested information, **Seller** shall deliver written notice to **Buyer** of **Seller's** decision to provide this financing. **Seller**  
 115 shall not unreasonably withhold approval of this financing.

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

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

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

138\* (J) \_\_\_\_\_ \ \_\_\_\_\_; \_\_\_\_\_ \ \_\_\_\_\_ **BUYER'S ATTORNEY APPROVAL:** This Contract is contingent upon **Buyer's** attorney  
 139 approving the Contract. **Buyer** may terminate the Contract and receive a return of the deposits if **Buyer's** attorney disapproves the  
 140\* Contract and **Buyer** notifies **Seller** in writing within \_\_\_\_\_ days (5 days if left blank) after Effective Date.

141\* (K) \_\_\_\_\_ \ \_\_\_\_\_; \_\_\_\_\_ \ \_\_\_\_\_ **SELLER'S ATTORNEY APPROVAL:** This Contract is contingent upon **Seller's** attorney  
 142 approving the Contract. **Seller** may terminate the Contract and the deposit will be returned to **Buyer** if **Seller's** attorney  
 143\* disapproves the Contract and **Seller** notifies **Buyer** in writing within \_\_\_\_\_ days (5 days if left blank) after Effective Date.

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

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