

# Summary of changes to 2021 Riders to Florida Realtors/Florida Bar Residential Contract for Sale and Purchase

## Rider B. Homeowners Association/Disclosure

### Redline Change

**1. APPROVAL:** The Association's approval of Buyer (**CHECK ONE**):    is    is not required. If Association approval of this transaction or the Buyer is required, this Contract is contingent upon Association approval no later than \_\_\_\_\_ (if left blank, then 5) days prior to Closing. Within \_\_\_\_\_ (if left blank, then 5) days after Effective Date, the Seller shall initiate the approval process with Association. Buyer shall pay application and related fees, as applicable, unless otherwise provided for in Association governing documents or agreed to by the parties. Buyer and Seller shall sign and deliver any documents required by the Association, provide for interviews or personal appearances, if required, and use diligent effort to timely obtain Association approval. If approval is not granted within the stated time period above, Buyer may terminate this Contract, and shall be refunded the Deposit, thereby releasing Buyer and Seller from all further obligations under this Contract.

### Explanation of changes to Rider B, paragraph 1

Added boxes to be checked that indicate whether the buyer to must be approved by the HOA.

### Redline Change

**2. PAYMENT OF FEES, ASSESSMENTS, AND OTHER ASSOCIATION CHARGES:** (a) Buyer shall pay any application, initial contribution, and/or membership or other fees charged by Association pursuant to its governing documents or applicable Florida Statutes. If applicable, the current amount(s) is: **at the time of Closing** \_\_\_\_\_ per \_\_\_\_\_ for \_\_\_\_\_ to \_\_\_\_\_

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(b) If levied special or other assessments **levied by the Association** exist as of the Effective Date, or an **any** assessment(s) ~~is-are~~ levied after the Effective Date and prior to the Closing Date, and **are due and payable in full prior to Closing Date, then Seller shall pay all such assessment(s) prior to or at Closing; or, if** any such assessment(s) may be paid in installments, then Seller shall pay all installments **which are** due before Closing Date, **prior to or at Closing**, and (**CHECK ONE**): ☐ Buyer ☐ Seller (if left blank, then Buyer) shall pay installments due after Closing Date. **If Seller is checked, Seller shall pay the assessment in full prior to or at the time of Closing.**

### Explanation of change to Rider B, paragraph 2(b)

Language was added regarding special assessments imposed by a Homeowners' Association due and payable prior to closing if the assessment either existed on the effective date or came into existence after the effective date and before closing. The latter was not addressed in the earlier version of the rider and now requires the seller to pay all assessments due and payable in full prior to closing. As with the previous version of the rider, the parties may designate who will pay special assessments payable in installments when such assessments are levied as of effective date or prior to closing.

### Redline Change

- (c) Seller shall pay, prior to or at Closing, all fines imposed against the Seller or the Property by the Association which exist as of the Closing Date and any fees the Association charges to provide information about the Property, assessment(s) and fees.

### Explanation of Rider B paragraph 2(c)

This language is found in Rider A. Condominium Rider and was added here, as it is also applicable to Homeowners' Associations.

## Rider E. Federal Housing Authority /Department of Veterans Affairs (FHA/VA)

### Redline Change

#### 2. INSPECTIONS AND APPRAISAL:

In addition to the requirements of Paragraph 12 of this Contract, Seller shall comply with applicable FHA or VA regulations regarding ~~termite inspection, roof inspection,~~ lender required inspections and appraisal repairs (collectively "Appraisal Repairs"). The cost to Seller for Appraisal Repairs shall not exceed \$ \_\_\_\_\_, which cost is in addition to the costs required to be paid under Paragraphs 9 (a) and 12 (b), (c) and (d). **by any other provisions of this Contract.**

### Explanation of changes to Rider E. FHA/VA rider Paragraph 2

Deleted the terms roof, termite inspections, Appraisal Repairs and reference to paragraph 12 to avoid the need to update the rider in the event requirements of FHA or contract paragraph numbers change. The inspections under this paragraph will now be referred to generically as lender required inspections.

### Redline Change

3. ☐ (CHECK IF APPLICABLE): **FHA FINANCING:** It is expressly agreed that notwithstanding any other provisions of this Contract, the Purchaser shall not be obligated to complete the purchase of the Property described herein or to incur any penalty by forfeiture of earnest money deposits or otherwise unless the Purchaser has been given in accordance with HUD/FHA or VA requirements a written statement by the Federal Housing Commissioner, Veterans Administration, or a Direct Endorsement lender setting forth the appraised value of the Property of not less than \$ \_\_\_\_\_. The Purchaser shall have the privilege and option of proceeding with consummation of this Contract without regard to the amount of the appraised valuation. The appraised valuation is arrived at to determine the maximum mortgage the Department of Housing and Urban Development will insure. HUD does not warrant the value or the condition of the Property. The Purchaser should satisfy himself/herself that the price and condition of the Property are acceptable.

- (a) **Fees, Prepayments:** Purchaser shall pay all loan expenses, except tax service fee which fee, if charged by Buyer's lender, shall be paid by Seller up to a maximum of \$ \_\_\_\_\_ (if left blank, then \$100.00).

### Explanation of change to Rider E. Paragraph 3(a) FHA Financing

A cap of \$100.00 has been added to the tax service fee to be paid by seller if the blank is not filled in. There was no default which capped this amount previously.

### Redline Change

#### 4. CHECK IF APPLICABLE): VA FINANCING

**(a) Fees, Prepayments:** Seller shall pay all required fees under the VA regulations up to \$\_\_\_\_\_ (if left blank, then \$250.00) for the ~~WDO inspection and tax service, underwriting, and document preparation fees required by the lender, and for recording fees for assigning Purchaser's mortgage.~~ Purchaser shall pay all prepayments and escrows for taxes, hazard insurance, and flood insurance, when applicable.

#### **Explanation of change to Rider E. Paragraph 4(a).**

Detailed descriptions of the costs to be paid by the seller were replaced with language requiring the seller to pay all fees required by the VA.

Note: The previous version of the rider required the seller to pay for the Wood Destroying Organisms (WDO) inspection because this was the policy of the VA at one time. This is no longer the policy of VA. Removing this requirement does not preclude the parties agreeing to this in additional terms.

Also, a blank was added which specifies the maximum amount seller will be obligated to pay for VA fees, with a default capping those fees at \$250.00 if the blank is not filled in.

### **Rider I. Mold Inspection**

Redline of new rider I. Mold Inspection (This rider only appears in the list of addenda in Paragraph 19 of the regular contract. It does not appear in the list of addenda in Paragraph 19 of the AS IS contract, in that the AS IS buyer can conduct any inspection buyer desires without the need to expand the inspection provision.)

#### **I. MOLD INSPECTION**

Buyer may, at Buyer's expense, have inspection(s) of the Property for the presence of mold conducted by a qualified and licensed home inspector, contractor, or other professional, as provided for in Section 468.8419, F.S., ("Mold Inspection") within \_\_\_\_\_ (if left blank, then 20) days after Effective Date ("Mold Inspection Period"). Buyer shall, within the Mold Inspection Period, deliver a copy of the written Mold Inspection report(s) to Seller if any evidence of the existence of mold or related damage is found. If this Contract does not close, Buyer will repair all damage to the Property resulting from the inspection and restore the Property to its pre-inspection condition. This latter obligation will survive termination of this Contract.

If the Mold Inspection reveals the presence of mold that requires remediation or repair at a cost which exceeds \$ \_\_\_\_\_ (if left blank, then \$500), Buyer may cancel this Contract by delivering written notice to Seller within the Mold Inspection Period, and Buyer's Deposit will be refunded, thereby releasing Buyer and Seller from all further obligations under this Contract. If Buyer fails to timely conduct the Mold Inspection or fails to timely deliver to Seller notice of Buyer's cancellation, this contingency shall be waived and Buyer shall continue with this Contract.

#### **Explanation of change to Rider I**

This rider is to be used when the buyer: (1) wants to inspect for mold, (2) does not want to buy the property in the event mold or mold damage is found, if the cost to remediate exceeds the

amount inserted in the rider and (3) uses the Residential Contract for Sale (versus the AS IS Contract), where paragraph 12, which provides for certain inspections, does not cover mold.

The rider requires that the buyer use a professional to inspect for mold and names what type of professional may conduct the inspection.

The rider provides a blank to specify the time for the inspection to be performed, referred to as the Mold Inspection Period. If the number of days is not specified, the default is 20 days after the effective date.

The buyer is required to deliver the report to the seller within the Mold Inspection Period if mold or damage caused by mold is found.

If the cost to repair damage and to remediate mold exceeds the amount indicated, the buyer may cancel the contract by delivering timely written notice to the seller within Mold Inspection Period.

If the buyer does not conduct the mold inspection during the inspection period or fails to cancel the contract because repairs exceed the cap within the Mold Inspection Period, the contingency is waived.

## **Rider L. Right to Inspect and Right to Cancel**

### **Redline Change**

1. In lieu of the Inspection Period set forth in Paragraph 12(a), Buyer shall have \_\_\_\_\_ (if left blank, then 15) days from Effective Date ("Right To Inspect Period") within which to have such inspections of the Property performed as Buyer shall desire and utilities shall be made available by the Seller during the Right To Inspect Period. Any inspections permitted under Paragraph 12 which Buyer desires to make must be completed during the Right To Inspect Period.
2. If this Contract is terminated or the transaction contemplated by this Contract does not close, Buyer shall repair all damage to Property resulting from Buyer's inspections, return Property to its pre-inspection condition and provide Seller with paid receipts for all work done on Property upon its completion. This provision shall survive termination of this Contract.
3. If Buyer determines, in Buyer's sole discretion, that the Property is not acceptable to Buyer, Buyer may terminate this Contract by delivering written notice to Seller on or before expiration of the Right To Inspect Period and the Deposit shall be refunded to Buyer, thereby releasing Buyer and Seller from all further obligations under this Contract, except as provided in Subparagraph 2, above.
4. If Buyer elects to proceed with this Contract or fails to timely terminate this Contract on or before expiration of the Right To Inspect Period, then this Contract shall remain in effect and:
  - (a) If, during the Right To Inspect Period, Buyer has conducted inspections permitted by Paragraph 12 and timely reports to Seller in writing within the Right To Inspect Period any items requiring repair, replacement, treatment, or the need to obtain and close Permits under such Paragraph 12, then Seller shall pay up to the applicable amounts required by Paragraph 9(a)(i),(ii), or (iii); or
  - (b) If, during the Right To Inspect Period Buyer: (i) fails to conduct inspections permitted by Paragraph 12, or (ii) conducts inspections, but fails to timely deliver to Seller a written notice or report required by Paragraphs 12 (b), (c), or (d), then, except for Seller's continuing Maintenance Requirement,

Buyer shall have waived Seller's obligation(s) to repair, replace, treat or remedy the matters not inspected and timely reported.

~~If this Contract does not close, Buyer shall repair all damage to Property resulting from Buyer's inspections, return Property to its pre-inspection condition and provide Seller with paid receipts for all work done on Property upon its completion.~~

### Explanation of change to Rider L. Paragraph 5

Paragraph 5 was deleted because it was already covered in Paragraph 2 of the rider.

## Rider T. Pre-Closing Occupancy by Buyer

### Redline changes

This Contract is contingent upon Buyer and Seller within \_\_\_\_\_ (if left blank, then 10) days after Effective Date delivering to each other a mutually agreeable written lease, **pre-closing occupancy agreement or other similar agreement (Pre-Closing Agreement)** prepared at (**CHECK ONE**): ☐ Seller's expense ☐ Buyer's expense ☐ split equally by the Buyer and Seller (if not checked, then split equally), for Buyer to take possession of the Property on \_\_\_\_\_. The ~~written lease~~ **Pre-Closing Agreement** shall provide that upon Buyer taking possession, Paragraph 11 (Property Maintenance) and 12 (Property Inspection and Repair) are no longer applicable and Buyer thereby accepts the Property in its existing condition, relieving Seller of any repair, replacement, treatment or remedy obligations, except with respect to any items identified by Buyer pursuant to Paragraph 12 prior to taking occupancy which require repair, replacement, treatment or remedy; Buyer shall then have the sole obligation of maintaining the Property and shall assume all risk of loss; and Buyer shall pay a monthly rent of \$\_\_\_\_\_, plus applicable sales tax, if any, payable monthly in advance.

If the parties fail to mutually agree to a ~~written lease~~ **Pre-Closing Agreement** within the time period stated above and Buyer has not taken occupancy of the Property, then either party by written notice to the other may terminate this Contract and Buyer shall be refunded the Deposit, thereby releasing Buyer and Seller from all further obligations under this Contract.

### Explanation for changes to Rider T. Pre-closing occupancy by Buyer

The previous version of this rider required parties to agree to a written lease prior to the buyer taking occupancy of the property prior to closing. This revision expands the type of agreement the parties can enter into beyond a lease, called a Pre-Closing Agreement. Why was this done? Sometimes, the pre-occupancy is just a day or two and parties prefer fewer details and wish to avoid the formalities of a lease.

## Rider U. Post-Closing Occupancy by Seller

### Redline change

This Contract is contingent upon Buyer and Seller within \_\_\_\_\_ (if left blank, then 10) days prior to Closing Date delivering to each other a mutually acceptable written lease, **post-closing occupancy agreement or other similar agreement (Post-Closing Agreement)** prepared at (**CHECK ONE**): ☐ Seller's expense ☐ Buyer's expense, ☐ split equally by the Buyer and Seller (if not checked, then split equally), for Seller to remain in possession of the Property until \_\_\_\_\_ days after Closing. The ~~written lease~~ **Post-Closing Agreement** shall provide that Seller shall pay a monthly rent of \$\_\_\_\_\_ payable monthly in advance and that Seller's maintenance obligation under Paragraph 11 shall continue after Closing until possession is delivered to Buyer; however, Seller's repair,

replacement, treatment and remedy obligations under Paragraph 12 shall not be extended beyond Closing.

If the parties fail to deliver a mutually acceptable ~~written lease~~ **Post-Closing Agreement** within the time period stated above, then either party by written notice to the other may terminate this Contract and Buyer shall be refunded the Deposit, thereby releasing Buyer and Seller from all further obligations under this Contract.

#### **Explanation for changes to Rider U.**

The previous version of this rider required parties to agree to a written lease for the seller to occupy the property after closing. The new version expands the type of agreement the parties can enter into to define the terms of the seller's occupancy, referred to as a Post-Closing Agreement. This agreement includes leases or other arrangements, such as when the post-occupancy is just a day or two and does not require the details/formalities of a lease.

### **Rider V. Sale of Buyer's Property**

#### **Redline change**

This Contract is contingent on the sale and closing of Buyer's property located at

\_\_\_\_\_

Upon entering into a contract for the sale of Buyer's property, Buyer shall give Seller a copy of such contract with the third parties' identification and purchase price information obliterated. If the sale of Buyer's property does not close by \_\_\_\_\_ Buyer may, within 3 days thereafter deliver written notice to Seller ~~either: a) terminating this Contract, in which event the Deposit shall be refunded to Buyer, thereby releasing Buyer and Seller from all further obligations under this Contract or b) waiving and removing this contingency and all financing contingencies, and continue with this Contract.~~ If Buyer fails to timely deliver said written notice to Seller, this contingency shall have no further force or effect.

Buyer's property ☐ is ☐ is not presently under contract for sale. If Buyer's property is under contract at the time this offer is made Buyer shall provide Seller a copy of the contract, ~~on or before \_\_\_\_\_~~ **with the third parties' identification and purchase price information obliterated, simultaneously with the original, signed Contract submitted to Seller from Buyer or not later than 24 hours after Buyer's offer is delivered to Seller.**

#### **Explanation for changes to Rider V. Sale of Buyer's Property**

The new language clarifies this contingency will have no force and effect if (1) the buyer's property does not close by the date specified in the blank and (2) thereafter the buyer does not timely deliver written notice terminating the contract. The previous version of this rider did not address what happened if the buyer failed to provide written notice to the seller of either termination of contract or waiving the contingency.

The second change is the Buyer is to provide the seller a copy of a pending contract if one exists within 24 hours of the buyer's offer being delivered to the seller.

## Rider W. Back up contract

### Redline changes

This back-up contract is subject to the termination of a prior executed contract between Seller and a third party for the sale of the Property. If the prior executed contract is terminated and Seller delivers written notice of the termination to Buyer **on** or before **5:00 p.m.** \_\_\_\_\_, this contingency shall be removed and this back-up contract shall move into first position. The "Effective Date" of this back-up contract shall be the date Seller delivers written notice of the termination of the prior executed contract. Buyer may terminate this back-up Contract by delivering written notice to the Seller prior to the date Seller delivers written notice of the termination of the prior executed Contract and Buyer shall be refunded the Deposit, **if any Deposit(s) have been paid.** thereby releasing Buyer and Seller from all further obligations under this Contract.

### Explanation for changes to Rider W. Back up contract

As you can see, the revision removed the 5 p.m. deadline for the backup contract to move into primary position. This is now consistent with other time frames and deadlines in the contract which conclude at the end of the calendar day.

The second change clarifies that the buyer's deposit will be returned if one was paid.

## New Rider: DD. SEASONAL and VACATION RENTALS AFTER CLOSING

### Redline

#### DD. SEASONAL and VACATION RENTALS AFTER CLOSING

The Property is or may be subject to seasonal or short-term vacation rental(s) for occupancy.

- A. Seller (CHECK ONE) \_\_\_\_ may or \_\_\_\_ may not, after Effective Date and prior to Closing, enter into new or renewal seasonal or short-term vacation rental/occupancy agreement(s), at market rate and terms, for occupancies of the Property by third parties after Closing,

If the box for "may", above, is checked, Seller may do so (CHECK ONE):

- ☐ Only with Buyer's prior approval of the rental terms and conditions, in writing; or  
☐ Without Buyer's prior approval of the rental terms and conditions.

Seller shall, at or prior to Closing, provide Buyer with a copy of any new or renewal occupancy agreement(s) for occupancy of the Property after Closing, which are entered into by Seller after Effective Date.

- B. If the Property has seasonal occupancy agreements in place which were procured pursuant to the terms of a Property Management Agreement, Seller shall provide to Buyer a copy of all Property Management Agreement(s) within 5 days after Effective Date. If terms of any Agreement(s) provided by Seller pursuant to the terms hereof are not acceptable to Buyer, Buyer shall have 5 days after receipt of said Agreement(s) to terminate this Contract, in accordance with



the terms of Paragraph 6(b). Unless this Contract is terminated, Buyer shall be subject to the terms of the Property Management Agreement(s) for the duration of the occupancy agreement(s) in place at the time of Closing. This provision shall survive Closing.

#### **Explanation of Paragraph A. New Rider DD.**

This rider was added because seasonal/short-term vacation rentals are now so common.

#### **Explanation of Paragraph A.**

There is an option for parties to agree whether the seller can make future rental arrangements, once the contract is pending on the property, if the occupancy will occur after closing. Some owners may want to continue renting the property in the event the transaction does not close, but this may not be agreeable to the buyer. This rider allows the parties to negotiate if the seller should move forward on agreeing to future rentals.

Should the parties agree that the seller may enter into such arrangements, there is a checkbox for the parties to select whether or not buyer's prior written approval of the rental terms is required.

If the seller is authorized to continue with entering into future rentals after the effective date of the contract, then the seller must provide the buyer copies of the agreements and renewals for occupancy that are to occur after closing.

#### **Explanation of Paragraph B.**

If there are seasonal rentals for the Property which were made pursuant to a Property Management Agreement, Seller is to provide Buyer with a copy of the of the management agreement within 5 days after Effective Date. Buyer agrees to be subject to the Property Management Agreement unless Buyer terminates the pending contract on the property within 5 days after receipt of the Property Management Agreement.

### **New Rider EE. Property Assessed Clean Energy (PACE) Disclosure**

#### **Redline**

#### **EE. PROPERTY ASSESSED CLEAN ENERGY (PACE) Disclosure**

Property Assessed Clean Energy (PACE) programs provide financing to property owners for improvements to their real property for energy efficiency, renewable energy, and wind resistance, and repayment of the debt through annual property tax bill assessments on the Property, and Florida Statutes, Sec. 163.08(14), states that the Seller shall give the Buyer a written disclosure statement, in the form set forth below, at or before the time Buyer executes a contract to purchase property for which a non-ad valorem assessment has been levied under this section and has an unpaid balance due.

In the event Buyer is obtaining a mortgage loan to purchase the Property, be advised that MOST MORTGAGE LENDERS WILL REQUIRE THE SATISFACTION OR RELEASE OF THE PACE FINANCING FROM THE PROPERTY.



## **STATUTORY DISCLOSURE:**

**QUALIFYING IMPROVEMENTS FOR ENERGY EFFICIENCY, RENEWABLE ENERGY, OR WIND RESISTANCE.**—The property being purchased is located within the jurisdiction of a local government that has placed an assessment on the property pursuant to s. 163.08, Florida Statutes. The assessment is for a qualifying improvement to the property relating to energy efficiency, renewable energy, or wind resistance, and is not based on the value of property. You are encouraged to contact the county property appraiser's office to learn more about this and other assessments that may be provided by law.

### **Explanation of new Rider EE.**

This is a disclosure the seller must provide the buyer before buyer executes a contract for sale, when there is an assessment levied on the property resulting from PACE financing for certain types of energy efficient improvements, and there is an unpaid balance.

Payment for this type of financing is made over years and is collected when the owner pays their annual tax bill. The debt will remain with the property until it is paid off, even if the ownership of the property changes.

Note: Sometimes the assessment does not appear on the tax bill until the year after the financing was provided. The delay in the assessment appearing on the tax bill is tied to the timing of the financing. Because of this, it is best that the buyer inquire whether the seller has obtained PACE financing for improvements made on the property.

The rider also specifies that most lenders will not provide financing for the purchase of a property unless the PACE loan is paid off. This impacts both parties; the seller is alerted that the PACE loan will need to be paid off prior to closing and the buyer is alerted that the payoff is necessary in order to finance the purchase.