

Comprehensive Rider to the Residential Contract For Sale And Purchase

THIS FORM HAS BEEN APPROVED BY THE FLORIDA REALTORS AND THE FLORIDA BAR



If initialed by all parties, the clauses below will be incorporated into the Florida Realtors®/Florida Bar Residential Contract For Sale And Purchase between _____ (SELLER) and _____ (BUYER) concerning the Property described as _____

Buyer's Initials _____

Seller's Initials _____

C. SELLER FINANCING (PURCHASE MONEY MORTGAGE; SECURITY AGREEMENT TO SELLER)

WARNING – PRIOR TO ENTERING INTO THE FINANCING CONTEMPLATED BELOW, SELLER AND BUYER ARE ADVISED TO SEEK THE ADVICE OF LEGAL COUNSEL TO DETERMINE IF THIS FINANCING COMPLIES WITH THE DODD-FRANK WALL STREET REFORM AND CONSUMER PROTECTION ACT (DODD-FRANK) AND OTHER RELEVANT FEDERAL AND STATE REQUIREMENTS.

I. SUMMARY OF SELLER FINANCING UNDER DODD-FRANK – PLEASE READ CAREFULLY

Dodd-Frank has made significant and important changes affecting seller financing on residential properties. Effective January 10, 2014, a seller of residential dwelling(s) who finances buyer's purchase of seller's residential property may be considered a "loan originator" under Dodd-Frank, and required to comply with certain Truth In Lending Act ("TILA") rules and disclosures, unless the seller is entitled to one of the two exclusions set forth in Dodd-Frank:

1. The "one property exclusion" where seller finances only **ONE** property in any 12 month period, and:
 - (a) The seller owns the property and is a natural person, a trust or an estate; and
 - (b) The seller did not construct or act as the contractor for the construction of a residence on the property in the ordinary course of business; and
 - (c) The financing does not result in negative amortization; and
 - (d) The financing has a fixed rate or an adjustable rate that does not adjust for the first 5 years and is subject to reasonable annual and lifetime rate adjustment limits.

OR

2. The "three property exclusion" where seller finances no more than **THREE** properties in any 12 month period, and:
 - (a) The seller owns the property and is a natural person or organization (corporation, LLC, partnership, trust, estate, association, etc.); and
 - (b) The seller did not construct or act as the contractor for the construction of a residence on the property in the ordinary course of business; and
 - (c) The loan is fully amortized, specifically there is no balloon payment or negative amortization; and
 - (d) The financing has a fixed rate or an adjustable rate that does not adjust for the first 5 years and is subject to reasonable annual and lifetime rate adjustment limits; and
 - (e) The seller determines in good faith that the buyer/borrower has the reasonable ability to repay the loan.

A seller who finances the buyer's purchase of seller's residential property and who meets either of the two exclusions outlined above may use this Seller Financing Rider.

A seller who finances the buyer's purchase of seller's residential property and who is not exempt from Dodd-Frank should seek the advice of legal counsel regarding use of this Seller Financing Rider, including modifications or disclosures that may be required by Dodd-Frank, prior to completing this Rider.

II. SELLER FINANCING

Seller agrees to hold a note secured by **(CHECK ONE)**: a first or a second purchase money mortgage, executed by Buyer in the principal amount of \$ _____ at _____ % interest per annum that will be **(CHECK ONE*)**:

- (a) fully amortized for a term of _____ (if left blank, then 30) years; or
- (b) an interest only mortgage loan that complies with the requirements of Dodd-Frank, set forth above, for a term of _____ (if left blank, then 60) months, and requires monthly, quarterly, annual or other periodic interest payments (Permitted for the one property exclusion only); or
- (c) a balloon mortgage that complies with the requirements of Dodd-Frank, set forth above, and initially amortized for a term of _____ (if left blank, then 30) years (Permitted for the one property exclusion only); or
- (d) an adjustable rate mortgage loan for a minimum term of _____ (if left blank, then 30) years, with interest rate adjustments as follows:
- (i) The initial annual interest rate may change after _____ (but no less than 5, which shall be the number if left blank) years, and thereafter every _____ (if left blank, then 1) year(s). Each date on which the interest rate changes is called a "Change Date."
- (ii) The interest rate adjustments shall be based on a widely available index identified in (c) (iii), below. As of each Change Date, the new interest rate will be calculated by adding _____ percentage points (if left blank, then 1) to the then current index; however, the difference between the interest rate paid during the preceding twelve months and the new interest rate shall be limited to a change in the interest rate of _____ percentage points (but no more than 2, which shall be the number if left blank), and the lifetime interest rate change from the initial annual interest rate shall be limited to _____ percentage points (but no more than 6, which shall be the number if left blank).
- (iii) The widely available index to be used to calculate interest rate adjustments shall be the _____ (if left blank, then the index shall be the weekly average yield on United States Treasury securities adjusted to a constant maturity of one year, as made available by the Federal Reserve Board on the date 45 days before each Change Date.)

* PURSUANT TO DODD-FRANK NO OTHER OPTIONS ARE PERMITTED.

Principal plus interest shall be payable (in the event of an adjustable rate mortgage loan, initially) in equal **(CHECK ONE)**: monthly quarterly or annual payments of \$ _____ each, including interest, with the first payment due _____ month(s) after Closing. If a balloon mortgage, the final payment will exceed the periodic payments thereon, and the entire unpaid principal balance plus accrued interest shall be due and payable in _____ (if left blank, then 60) months from date of Closing.

If a second mortgage, the amount of the first mortgage shall not exceed the amount set forth in Paragraph 2(c) of the Contract, and a default in the first mortgage shall, at the option of the holder, constitute a default of the second mortgage.

The purchase money mortgage and mortgage note to Seller shall provide for a 30 day grace period in the event of default if a first mortgage and a 15 day grace period if a second or lesser mortgage; shall provide for right of repayment in whole or in part without penalty; shall permit acceleration in event of transfer of the Real Property; shall require all prior liens and encumbrances to be kept in good standing; shall forbid modifications of, or future advances under, prior mortgage(s); shall require Buyer to maintain policies of insurance containing a standard mortgagee clause covering all improvements located on the Real Property against fire and all perils included within the term "extended coverage endorsements" and such other risks and perils as Seller may reasonably require, in an amount equal to their highest insurable value; and the mortgage, mortgage note and security agreement shall be otherwise in form and content required by Seller, but Seller may only require clauses and coverage customarily found in mortgages, mortgage notes and security agreements generally utilized by state or national banks or other residential lending institutions located in the county where the Real Property is located. All Personal Property and leases being conveyed or assigned shall, at Seller's option, be subject to the lien of a security agreement evidenced by recorded or filed financing statements or certificates of title.