

IN THE CIRCUIT COURT OF THE  
FIFTEENTH JUDICIAL CIRCUIT, IN  
AND FOR PALM BEACH COUNTY,  
FLORIDA

Douglas Elliman Florida LLC d/b/a Douglas  
Elliman Real Estate,

Plaintiff,

v.

Kristina A. McGrath,

Defendant.

Case No.

**COMPLAINT**

Plaintiff Douglas Elliman LLC d/b/a Douglas Elliman Real Estate (“Douglas Elliman” or “Plaintiff”), by and through its attorneys, brings this Complaint against Defendant Kristina A. McGrath (“McGrath” or “Defendant”), for Breach of Contract and Promissory Estoppel, and alleges:

**PRELIMINARY STATEMENT**

1. This action arises from Defendant’s malicious breach of contract related to the sale of her property, located at 800 South Ocean Boulevard, PH6, Boca Raton, Florida 33432 (the “Property”), which has caused Plaintiff hundreds of thousands of dollars in damages for which Defendant is liable.

2. As set forth below, Defendant entered into a valid contract to sell her Property.

3. In reliance on that contract and Defendant’s promises, Plaintiff procured a ready, willing and able buyer who, after placing funds in escrow, arrived at the closing prepared to close at the price negotiated by Plaintiff and agreed to by Defendant, which would have resulted in the payment of a commission to Plaintiff.

4. However, Defendant refused to fulfill her contractual obligations and finalize the closing of the sale of her Property and pay the associated commissions on said closing.

5. For weeks prior to the closing date, and for weeks thereafter, Plaintiff (along with the buyer and Defendant's own broker) urged Defendant to keep her promises, to no avail.

6. Defendant's breaches have caused hundreds of thousands of dollars of damages to Plaintiff in lost commissions and other associated fees and costs, including consequential damages in that Plaintiff was deprived the opportunity to sell the buyer's current home and receive the associated commission from that sale.

7. Plaintiff thus brings this action to recover from Defendant the full amount of its damages, plus costs, interest, and attorneys' fees, and all other relief that the Court deems just and proper.

#### **PARTIES**

8. Plaintiff is a limited liability company authorized to conduct real estate brokerage activities in throughout the state of Florida.

9. Defendant is a resident of Palm Beach County, Florida.

#### **JURISDICTION AND VENUE**

10. This court has subject matter jurisdiction over this case because it is an action for damages in excess of \$50,000.00, exclusive of interest, attorney's fees, and costs.

11. This court has personal jurisdiction over the Defendant because she is a resident of Palm Beach County, Florida.

12. Venue is proper in Palm Beach County, Florida because Plaintiff entered into a contract within Palm Beach County, Florida, and said contract concerned the conveyance of a property located within Palm Beach County, Florida.

## **FACTS**

### **A. Defendant and Coldwell Banker Enter Into the Listing Agreement for the Property**

13. On or about March 17, 2023, Defendant and Coldwell Banker Residential Real Estate LLC d/b/a Coldwell Banker Realty (“Coldwell Banker”) entered into an Exclusive Right of Sale Listing Agreement (the “Listing Agreement”) as to the Property for the term of March 23, 2023 through March 25, 2024. A copy of the Listing Agreement is annexed hereto as **Exhibit A**.

14. Pursuant to the Listing Agreement, Defendant authorized Coldwell Banker to offer the Property for sale at a list price of Ten Million Five Hundred Thousand Dollars (\$10,500,000.00). See **Exhibit A** at ¶ 4.

15. Coldwell Banker did so, and served as the listing broker for the Property.

16. As consideration for the Listing Agreement, Defendant and Coldwell Banker agreed that Coldwell Banker would be entitled to \$345.00 as well as 6% of the total purchase price of the property as commission (the “Commission”). See **Exhibit A** at ¶ 8(a).

17. The Commission would be owed to Coldwell Banker upon the closing of the sale of the Property, or if Defendant were to “default on an executed contract” for the sale of the Property. See **Exhibit A** at ¶ 8(a)(ii).

18. In the Listing Agreement, Coldwell Banker acknowledged that it would “cooperate with and compensate a broker who procures a buyer of the Property and we will offer compensation from the Commission through the [Multiple Listing Service] of 3% of the total purchase price.” See **Exhibit A** at ¶ 8(d). Coldwell Banker’s understanding of the Listing Agreement was reflected in the Multiple Listing Service listing for the Property, created on

March 22, 2023, which acknowledged that a buyer's agent would be entitled to a 3% commission.

19. Defendant and Coldwell Banker intended that the Listing Agreement primarily or directly benefit a broker who procures a buyer of the Property.

**B. Plaintiff Procures a Buyer for the Property**

20. On or about March 22, 2023, Plaintiff, through its agents, Senada Adžem ("Adžem") and Carol Ketover ("Ketover") agreed to represent Martin Feldman ("Buyer") in the purchase of the Property.

21. Plaintiff and Buyer further agreed that once Buyer had a pending contract on the Property, Plaintiff would represent Buyer in the sale of his current home (at 800 South Ocean Boulevard, LPH-3, Boca Raton, Florida 33432), to be listed at \$7,995,000.00, for an anticipated 5% commission of \$399,750.00.

22. Plaintiff procured a ready, willing and able buyer to Defendant—namely, the Buyer—and negotiated the purchase price of the Property with Seller on Buyer's behalf.

23. Following Plaintiff's negotiations, Buyer and Defendant agreed to the sale of the Property for \$8,600,000.00 (the "Final Purchase Price").

**C. Defendant and the Buyer Procured by Plaintiff Enter into the Residential Contract**

24. On or about April 29, 2023, Defendant entered into an "As-Is" Residential Contract for Sale and Purchase (the "Residential Contract"), with respect to her sale of the Property. A copy of the Residential Contract is annexed hereto as **Exhibit B**.

25. Paragraph 2 of the Residential Contract acknowledges that the Final Purchase Price of the Property is \$8,600,000.00.



26. Page 12 of the Residential Contract designates Plaintiff as the cooperating broker in the transaction, and Ketover and Adžem as cooperating sales associates.

27. The Residential Contract specifies that Plaintiff, as the cooperating broker, and Coldwell Banker, as the listing broker, are entitled to the Commission “as specified in separate brokerage agreements with the parties,” *i.e.* the Listing Agreement. *See Exhibit B* at p. 12. Pursuant to paragraphs 8(a) and 8(d) of the Listing Agreement, Plaintiff and Coldwell Banker are each entitled to a commission in an amount to be determined at trial, but no less than \$258,000.00.

28. Defendant, Buyer, and Coldwell Banker intended that the Residential Contract primarily or directly benefit Plaintiff, as the cooperating broker which procured the buyer of the Property.

29. Plaintiff, through Ketover and Adžem, was a third-party beneficiary of both the Residential Contract and the Listing Agreement.

**D. Defendant Breaches the Residential Contract**

30. Pursuant to paragraph 4 of the Residential Contract, the closing date on the property was to be on a date 60 days from the effective date of the Residential Contract, *i.e.* June 28, 2023 (the “Closing Date”).

31. On May 2, 2023, Buyer placed \$400,000.00 in escrow, pursuant to the Residential Contract.

32. Buyer completed all of his pre-closing obligations under the Residential Contract prior to the Closing Date.

33. On June 5, 2023, Defendant’s title agent informed Buyer’s attorneys that he “just received a call from the seller stating that she is not selling the property.”

34. No further explanation was provided to either Buyer or Plaintiff concerning Defendant's sudden decision to repudiate the Residential Contract.

35. Between June 5, 2023 and the Closing Date, both Plaintiff and Buyer attempted to remind Defendant of her obligations under the Residential Contract, and enforce their rights thereunder, to no avail.

36. On the Closing Date, Buyer, through his attorney, tendered to Defendant the funds necessary to close on the sale and purchase of the Property, but the Closing Date transpired with Defendant having failed to close on the sale of the Property, in breach of the Residential Contract.

**E. Plaintiff Is Owed Damages as a Result of Plaintiff's Breach**

37. Plaintiff fulfilled its obligations to procure a ready, willing, and able buyer to Defendant.

38. Since Defendant's willful breach of the Residential Contract, Defendant failed to pay the Commission owed under the Listing Agreement.

39. Due to Defendant's willful breach of the Residential Contract and the Listing Agreement, Plaintiff has not received its share of the Commission, in an amount to be determined at trial, but no less than \$258,000.00.

40. Moreover, Defendant's refusal to close on the sale of the Property has consequentially resulted in Plaintiff being unable to sell Buyer's current home, denying Plaintiff the opportunity to collect a further anticipated commission of \$399,750.00.

**COUNT I – BREACH OF CONTRACT**

41. Plaintiff incorporates and realleges paragraphs 1 through 40 above as if fully set forth herein.

42. Plaintiff entered into a valid contract with Coldwell Banker, *i.e.*, the Listing Agreement, on or about March 17, 2023.

43. Pursuant to the Listing Agreement, Defendant would pay the cooperating broker (*i.e.*, Plaintiff), through Coldwell Banker, half of the Commission based on the sale price of the Property.

44. Plaintiff entered into a valid contract with Buyer, *i.e.*, the Residential Contract, on or about April 29, 2023, which specified that the sale price of the Property would be \$8,600,000.00.

45. Plaintiff is a third-party beneficiary to both the Residential Contract and the Listing Agreement.

46. Defendant and Coldwell Banker intended that both the Residential Contract and the Listing Agreement primarily or directly benefit Plaintiff.

47. After the effective date of the Residential Contract, and despite Buyer having completed all conditions prerequisite to the closing of the Property (including having placed \$400,000.00 in escrow and tendered the necessary funds on the Closing Date), Defendant repudiated and breached the Residential Contract and failed to close on the sale of the Property by the Closing Date.

48. Defendant breached the Listing Agreement by her failure to pay the Commission to either Coldwell Banker or Plaintiff.

49. Due to Defendant's default on the Residential Contract and subsequent breach of the Listing Agreement, Plaintiff has been unable to recover its share of the Commission, in an amount to be determined at trial, but no less than \$258,000.00.

50. Due to Defendant's default on the Residential Contract, Plaintiff has been denied the opportunity to earn an anticipated \$399,750.00 commission for the sale of Buyer's current home.

**WHEREFORE**, Plaintiff demands judgment against Defendant for damages in an amount to be determined at trial, costs and interest, and all other relief that the Court deems just and proper, of no less than \$657,750.00.

**COUNT II – PROMISSORY ESTOPPEL**

51. Plaintiff incorporates and realleges paragraphs 1 through 40 above as if fully set forth herein.

52. On March 17, 2023 and April 29, 2023, Defendant made unambiguous definite and substantial written promises to Plaintiff (as well as Buyer and Coldwell Banker).

53. Specifically, on March 17, 2023, Defendant promised, through the Listing Agreement, that she would pay the Commission to Coldwell Banker, and by extension, Plaintiff, upon the closing of the sale of the Property, or if Defendant were to "default on an executed contract" for the sale of the Property.

54. Further, on April 29, 2023, Defendant promised, through the Residential Contract, that she would close on the sale of the Property within 60 days.

55. Defendant was in a position to fully perform, fulfill, and carry out the terms and conditions of the promises she made to Plaintiff.

56. Plaintiff was a third-party beneficiary to both the Listing Agreement and the Residential Contract, and it was foreseeable that Defendant's promises would cause or induce Plaintiff to act in reasonable reliance on Defendant's promises.

57. In reliance on Defendant's promises, Plaintiff produced a ready, willing, and able buyer for the Property (Buyer), and listed Buyer's own home for sale.

58. Injustice can be avoided only by enforcement of the Defendant's promises.

59. As a result of Plaintiff's reasonable reliance on Defendant's promises, Plaintiff has been harmed in an amount no less than \$657,750.00.

**WHEREFORE**, Plaintiff demands judgment against Defendant for damages in an amount to be determined at trial, costs and interest, and all other relief that the Court deems just and proper, of no less than \$657,750.00.

Dated: September 15, 2023

KASOWITZ BENSON TORRES LLP

By: /s/ Maria H. Ruiz

Maria H. Ruiz

Florida Bar No.: 182923

1441 Brickell Avenue, Suite 1420

Miami, FL 33131

Telephone: 786-587-1044

Facsimile: 305-675-2601

Electronic mail: MRuiz@kasowitz.com

*Attorneys for Plaintiff Douglas Elliman Florida  
LLC d/b/a Douglas Elliman Real Estate*

# EXHIBIT A

NOT A CERTIFIED COPY



**COLDWELL BANKER  
REALTY**

**EXCLUSIVE RIGHT OF SALE  
LISTING AGREEMENT**

**Owner(s):** Kristina McGrath

**Our Commitment to You and Our Communities**

Thank you for the opportunity to assist you in finding a buyer for your home. We realize the prospect of selling your home can be daunting. We are committed to using our wealth of experience and resources to minimize that stress as we successfully guide you through the complexities of the process and help you achieve your home-sale goals. In our ongoing effort to improve the lives of Florida residents and the communities we serve, **Coldwell Banker Realty CARES** has proudly donated millions of dollars and volunteer support to charitable organizations that work to make Florida a better place to live.

**1. The Property.** The property is located at: 800 South Ocean Boulevard, PH6, Boca Raton, FL 33432 and includes all fixtures, major appliances, and the following personal property and furnishings: \_\_\_\_\_ (collectively, the "Property").

**Legal Description:** PRESIDENTIAL PLACE COND UNIT PH6

You represent that you are the sole owner(s) of the Property, have full legal authority to convey marketable title to a buyer, and that no one has any right to purchase or lease the Property or any portion thereof by virtue of any agreement, option or right of first refusal except as expressly disclosed in paragraph 23.

**2. Occupancy.** ☒ (one) The Property is ☐ occupied by you, ☐ vacant, or ☐ leased. If leased, it will be vacant by \_\_\_\_\_.

**3. Term.** Beginning on 03/23/2023 and ending at 11:59 p.m. on 03/25/2024 (one year if left blank) or any later date that is agreed to in writing (the "Termination Date"), we will have the exclusive right to market and sell the Property. If you enter a lease during the term of this agreement, we may, in our discretion, continue or suspend marketing the Property for sale and you agree to tell us in writing upon entering a lease and at the end of the tenancy. If we elect to suspend marketing during the term of the lease, this agreement will automatically extend until the end of the lease term, plus additional time equal to the number of days remaining from the start of the lease term to the Termination Date above.

**4. List Price.** You authorize us to offer the Property for sale for \$ 10,500,000.00

**5. Payment/Financing Options.**

☒ all that apply:

i. ☐ Cash, ☐ Conventional Financing, ☐ VA Financing, ☐ FHA Financing

ii. ☐ Seller Financing: You will offer financing in the form of a purchase money mortgage up to \$ \_\_\_\_\_ upon the following terms: \_\_\_\_\_ % of the purchase price; \_\_\_\_\_ years; \_\_\_\_\_ % interest; other terms: \_\_\_\_\_

iii. ☐ Assumable Mortgage.

**6. Marketing / Multiple Listing Service.** You authorize us to: (a) advertise and promote the Property in our sole discretion in various media (e.g., newspapers, publications, internet, or other media); (b) opt-out of (i) blogging ☐ Yes or ☐ No, and (ii) automated estimated valuation feature ☐ Yes or ☐ No, on virtual office websites; (c) place "For Sale" and "Sold" signs on the Property; (d) use your name in connection with the marketing of the Property; (e) use a lock box system to show and access the Property (you agree to secure or remove valuables as a lock box does not ensure against theft or damage); (f) ☐ withhold verbal offers (if checked), (g) divulge the existence of offers on the Property in response to inquiries from buyers or cooperating brokers, and (h) place the Property and all transaction related information in the multiple listing service (MLS). You agree to hold us harmless from any theft or loss relating to the use of a lock box or from your failure to remove or secure valuables during Open Houses or showings.

**7. Your Obligations.** You agree to: (a) cooperate with us to carry out the purpose of this agreement, including not listing the Property for lease with any other broker and immediately referring all inquiries to us; (b) give us keys and make the Property available to show during reasonable times; (c) promptly inform us in writing if you receive a notice of mortgage default or foreclosure (in which event we may, at our option, terminate this agreement); (d) comply, if applicable, with the Foreign Investment In Real Property Tax Act; (e) consult appropriate professionals for legal, tax, zoning, permitting, square footage, property condition or size, environmental, and other specialized advice (you acknowledge that we are not qualified or authorized to give such advice and, if offered, you will not rely on such advice); (f) make all legally required disclosures, including all facts that may materially affect the Property's value that are not readily observable or known by the buyer (you represent and warrant that you know of no such material facts except those set forth in your Property Disclosure Statement),



and (g) to indemnify and hold us harmless from losses, damages, costs and expenses of any nature, including attorney's fees, and from liability to any person, that we incur because of any personal injury to any person occurring on the Property, or because of your negligence, misrepresentations, or omissions.

#### 8. Compensation.

a) If you enter a contract to sell the Property, you will pay Coldwell Banker (in U.S. currency) \$345.00 and ☐ 7%, ☐ 7½%, ☐ 8%, ☐ 9%, ☐ 10%, or 6 % (7% if left blank) of the total purchase price (the "Commission"). You will not owe the Commission until closing, except if you: (i) during the term of this agreement, transfer the Property or any interest therein, whether by sale, lease, exchange, option, sale of stock, governmental action, foreclosure, agreement for deed, or any other means, regardless of who procured the buyer or transferee; (ii) refuse to cooperate with us in carrying out the purpose of this agreement; (iii) default on an executed contract, agree with a buyer to cancel an executed contract, or refuse to accept an offer at or above the list price and the terms stated in this agreement; (iv) terminate this agreement prior to the Termination Date without the written consent of a Coldwell Banker Branch Manager, or (v) enter into an agreement within 180 days after the Termination Date ("Protection Period"), to sell, transfer, lease, exchange or option the Property or any interest therein to a buyer that you, we, or any real estate licensee communicated with about the Property prior to the Termination Date, and the transaction later closes at any time; provided, however, the Commission will not be due under this subsection 8(a)(v) if you enter into an exclusive listing agreement with another broker after the Termination Date, the Property is sold through that broker, and you pay that broker a commission at least equal to the Commission. If the Commission is owed under subsections (ii), (iii), or (iv) above, the percentage will be calculated on the list price in effect at the time.

b) If you enter a lease while this agreement is in effect, you will pay Coldwell Banker 10 % of the gross lease value (10% if left blank) on the date you enter the lease. If you sell the Property to the tenant (or to any member of the tenant's immediate family or any entity or trust in which the tenant or family member has an interest), whether the closing occurs before or after the Termination Date, you will pay Coldwell Banker the Commission in paragraph 8(a) above.

c) If you retain any deposits in connection with a transaction that does not close for any reason, Coldwell Banker will be entitled to one half (1/2), not to exceed the amount of the Commission had the transaction closed.

d) We will cooperate with and compensate a broker who procures a buyer of the Property and we will offer compensation from the Commission through the MLS of 3 % of the total purchase price. We may increase or decrease the amount of the Commission that we offer but the amount of the Commission you will owe will not change.

9. **Title Insurance.** If, under your sales contract, you are the party who selects the title insurance provider ("Title Provider") for your transaction, you hereby select (INITIAL YOUR SELECTION BELOW):

- A. ☐ ☐ Sunbelt Title Agency (an affiliate of Coldwell Banker Realty); OR,  
B. ☐ ☐ Clear Title Group (an affiliate of Coldwell Banker Realty); OR,  
C. ☐ ☐ TITLE PROVIDER NAME: \_\_\_\_\_

You acknowledge that (a) your chosen Title Provider may act as Escrow Agent for earnest money deposits under your sales contract and as Settlement/Closing Agent for the closing of your transaction, (b) the choice of Title Provider is for you to make in your sole discretion and you are not obligated to select Sunbelt Title Agency or Clear Title Group, and (c) you have been provided with Coldwell Banker's Affiliated Business Arrangement Disclosure Statement. If you selected A or B above, please call 407-949-5990 to receive detailed information about convenient options, including a mobile app, for placing your deposit.

10. **E-Mail Hacks and Fraudulent Wire Instructions.** Criminals/hackers are targeting email accounts of various parties involved in real estate transactions (e.g., lawyers, title agents, mortgage brokers, real estate agents). Among other concerns, this has led to fraudulent wiring instructions being used to divert funds to the criminal's bank account. These emails may look like legitimate emails from the proper party. **We strongly recommend that you, your lawyers and others working on a transaction, refrain from placing any sensitive personal and financial information in an email, directly or through an email attachment. When you need to share Social Security numbers, bank accounts, credit card numbers, wiring instructions or similar sensitive information, we strongly recommend using more secure means, such as providing the information in person, over the phone, or through secure mail or package services, whenever possible. In addition, before you wire any funds to any party (including your lawyer, title agent, mortgage broker, or real estate agent) you should personally call them to confirm that the wire instructions are legitimate (i.e., confirm the ABA routing number or SWIFT code and credit account number). You should call them at a number that you obtain on your own (e.g., the sales contract, their website, etc.) and not call the number in the email in order to be sure that you are contacting a legitimate party.**

11. **Other Service and Settlement Service Providers.** As a courtesy, we may provide you with names of service providers (such as attorneys, title agents (including, but not limited to, the Title Providers identified in paragraph 9 above), home inspectors, engineers, builders, contractors, and repairpersons) but you should not in any way construe that as a recommendation, endorsement, or guarantee of any such service provider or their work, licensure, or insurance. Should you decide to retain a service provider whose name we provided to you, you agree to release and hold us harmless from any claims or losses that in any way arise out of or relate your use of any such service provider. **The final choice of any service or settlement service provider rests solely with you.**

12. **Dangerous Pets/Animals.** During the listing, other brokers, prospective buyers, and other individuals who visit the Property (interior and exterior). It is important that you remove or secure any dangerous pets to ensure no visitors are injured



or harmed in any way and you agree to indemnify us for any claims relating to any personal injuries or losses suffered by any person because of your failure to do so.

**13. Insurance (Periods of Vacancy).** You agree to maintain homeowner's insurance while this agreement is in effect. Many homeowner's insurance policies have an exclusion from coverage if the Property is vacant for longer than a specified time (which may vary by policy). If the Property is or becomes vacant, it is your responsibility to ensure that coverage extends during the vacancy. We are not responsible for the security of the Property or for inspecting the Property.

**14. Audio/Video Recording Devices.** Florida law restricts and/or prohibits the use of audio and/or video recording devices without notice and/or consent of the parties being recorded, viewed, or listened to. If any such devices are in use at the Property at any time during the listing, you will notify us in writing and consult with an attorney regarding your legal obligations to provide notice and/or obtain consent from any visitors. We may disclose the existence of such devices in the MLS but not all visitors will have access to the MLS and therefore any MLS disclosure is not intended to satisfy any legal obligations you may have. You agree to indemnify and hold us harmless from any claims or damages of any kind in any way relating to the use of any such audio/video recording devices.

**15. Automatic Extensions.** If you enter a contract for sale, the term of this agreement will automatically extend through the date of closing. If the closing does not occur for any reason, the Termination Date will automatically extend for the same number of days that the Property was under contract.

**16. Brokerage Relationships.** You acknowledge we are acting in a transaction brokerage capacity pursuant to Florida law. You represent that there are no prior listing or other brokerage relationships affecting the Property or our rights under this agreement that have not been lawfully terminated and you agree to indemnify us from any claim by another broker arising out of your relationship or dealings with that other broker.

**17. Protection of Our Commission.** To help ensure Coldwell Banker is paid the Commission, you authorize it to place a lien on the Property to secure payment and you waive all homestead rights and defenses in any lien foreclosure action.

**18. Governing Law, Venue, Limitation of Liability, and Jury Waiver.** In the event of any dispute arising out of or in any way relating to the Property or the relationship between you and us, (i) Florida law governs, (ii) venue shall be exclusively in the state courts of Broward County, Florida, (iii) your recoverable damages for any claims (including, without limitation, negligence claims against us) shall be limited to 110% of (a) the amount of the Commission actually paid to us if the Property is sold or (b) the amount of the Commission, if not sold, that would have been paid to us had the Property sold at the last active list price, and (iv) **YOU AND WE KNOWINGLY AND VOLUNTARILY WAIVE ANY CLAIM FOR PUNITIVE DAMAGES AND ANY RIGHT TO A JURY TRIAL IN ANY LITIGATION.**

**19. Relocation Assistance.** We have a global network of real estate professionals who would be happy to assist you with your real estate needs if you are relocating to another city or country. If you would like assistance, please tell us your destination:

**20. Fair Housing.** We are proudly and firmly committed to equal and fair housing opportunities for all and we will provide our services without regard to race, color, religion, sex, handicap, familial status, national origin, sexual orientation, or any other status or class protected by law. Due to potential fair housing issues that can arise, you authorize us not to convey to you any personal letters written by or on behalf of any potential buyers wanting to purchase your Property.

**21. Definition of Certain Terms.** The term "buyer" includes buyers, tenants, exchangers, optionees and other categories of potential or actual transferees, and members of their immediate families or any entity or trust in which they have an interest. The terms "we", "us", and "our" used throughout this agreement mean Coldwell Banker and its representatives, and the terms "you" and "your" mean the owner(s) (jointly and severally) signing below.

**22. Provisions that Survive.** Paragraphs 7(g), 8, 11, 12, 14, 16, 17 and 18 will survive the termination or expiration of this agreement.

**23. Additional Terms.** In the event that Jonathan Postma represents both sides of the transaction commission to Coldwell Banker will be 4%

**24. Signatures and Counterparts.** This agreement may be executed electronically, in counterparts and via facsimile.

**25. Entire Agreement.** This agreement, which is binding on the parties' respective heirs, personal representatives, successors and assigns, (a) reflects the entire agreement, (b) can only be modified in writing, and (c) is binding even if paragraph 9 is incomplete. If any part of it is found to be invalid or unenforceable, the remainder will remain valid and enforceable. Time is of the essence for paragraphs 7 and 8. **This is intended to be a binding agreement. If you have any questions, consult an attorney before you sign it.**

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Owner(s) Mailing Address (if not Property address):

<div><div></div><div>Coldwell Banker Realty</div></div>	Date
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# EXHIBIT B

NOT A CERTIFIED COPY

# "AS IS" Residential Contract For Sale And Purchase

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

**PARTIES:** MICHAEL J. MCGRATH AND KRISTINA A MCGRATH ("Seller"),  
and MARTIN FELDMAN AND/OR ASSIGNS ("Buyer"),

agree that Seller shall sell and Buyer shall buy the following described Real Property and Personal Property (collectively "Property") pursuant to the terms and conditions of this AS IS Residential Contract For Sale And Purchase and any riders and addenda ("Contract"):

## 1. PROPERTY DESCRIPTION:

- (a) Street address, city, zip: 800 SOUTH OCEAN BOULEVARD PH6, BOCA RATON, FLORIDA 33432  
(b) Located in: PALM BEACH County, Florida. Property Tax ID #: 06-43-47-28-16-000-7060  
(c) Real Property: The legal description is PRESIDENTIAL PLACE COND UNIT PH6

together with all existing improvements and fixtures, including built-in appliances, built-in furnishings and attached wall-to-wall carpeting and flooring ("Real Property") unless specifically excluded in Paragraph 1(e) or by other terms of this Contract.

- (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), light fixture(s), drapery rods and draperies, blinds, window treatments, smoke detector(s), garage door opener(s), thermostat(s), doorbell(s), television wall mount(s) and television mounting hardware, security gate and other access devices, mailbox keys, and storm shutters/storm protection items and hardware ("Personal Property").

Other Personal Property items included in this purchase are: FULLY FURNISHED - DETAILED INVENTORY LIST TO BE DELIVERED WITHIN 5 DAYS OF EFFECTIVE DATE.

Personal Property is included in the Purchase Price, has no contributory value, and shall be left for the Buyer.

- (e) The following items are excluded from the purchase: ALL PERSONAL BELONGINGS AND SMALL ACCESSORIES EXCLUDED. DETAILED LIST TO BE PROVIDED WITHIN 5 DAYS OF EFFECTIVE DATE.

## PURCHASE PRICE AND CLOSING

**2. PURCHASE PRICE (U.S. currency):** \$ 8,600,000.00

- (a) Initial deposit to be held in escrow in the amount of (checks subject to Collection) \$ 400,000.00  
The initial deposit made payable and delivered to "Escrow Agent" named below  
(CHECK ONE): (i) ☐ accompanies offer or (ii) ☒ is to be made within 3 (if left blank, then 3) days after Effective Date. IF NEITHER BOX IS CHECKED, THEN OPTION (ii) SHALL BE DEEMED SELECTED.

Escrow Agent Name: SACHS SAX CAPLAN, P.L. - Jeffrey A. Levine, Esq

Address: 6111 Broken Sound Parkway NW Suite 200, Boca Raton, FL 33487 Phone: 561.237.6922

Email: jlevine@ssclawfirm.com Fax: 561.994.4985

- (b) Additional deposit to be delivered to Escrow Agent within 0 (if left blank, then 10) days after Effective Date \$ 0

(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) \$ 8,200,000.00

## 3. TIME FOR ACCEPTANCE OF OFFER AND COUNTER-OFFERS; EFFECTIVE DATE:

- (a) If not signed by Buyer and Seller, and an executed copy delivered to all parties on or before April 25, 2023 by 2pm, this offer shall be deemed withdrawn and the Deposit, if any, shall be returned to Buyer. Unless otherwise stated, time for acceptance of any counter-offers shall be within 2 days after the day the counter-offer is delivered.

- (b) The effective date of this Contract shall be the date when the last one of the Buyer and Seller has signed or initialed and delivered this offer or final counter-offer ("Effective Date").

## 4. CLOSING; CLOSING DATE: 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 all closing documents required to be furnished by each party pursuant to this Contract are delivered ("Closing"). Unless modified by other provisions of

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this Contract, the Closing shall occur on 60 DAYS FROM EFFECTIVE DATE ("Closing Date"), at the time established by the Closing Agent.

**5. EXTENSION OF CLOSING DATE:**

- (a) 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 7 days.
- (b) If an event constituting "Force Majeure" causes services essential for Closing to be unavailable, including the unavailability of utilities or issuance of hazard, wind, flood or homeowners' insurance, Closing Date shall be extended as provided in STANDARD G.

**6. OCCUPANCY AND POSSESSION:**

- (a) Unless 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 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 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 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.

- 7. 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.

**FINANCING**

**8. FINANCING:**

- ☒ (a) This is a cash transaction with no financing contingency.
- ☐ (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) mortgage loan for 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, which is sufficient to meet the terms required for lender to provide Financing for Buyer and proceed to Closing ("Appraisal").
- (i) Buyer shall make application for 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 Buyer to sell other real property shall not be considered Loan Approval 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 required by Buyer's mortgage broker and lender and paying for Appraisal and other fees and charges in connection with Buyer's application for Financing.

(ii) Buyer shall, upon written request, keep Seller and Broker fully informed about the status of Buyer's mortgage loan application, loan processing, 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

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and progress and release preliminary and finally executed closing disclosures and settlement statements, as appropriate and allowed, to Seller and Broker.

(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 within Loan Approval Period 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.

(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, Buyer may terminate this Contract by delivering written notice of termination to Seller prior to expiration of the Loan Approval Period; whereupon, provided Buyer is not in default under the terms of this Contract, Buyer shall be refunded the Deposit thereby releasing Buyer and Seller from all further obligations under this Contract.

(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 though Paragraph 8(a), above, had been 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 and, provided Buyer is not in default under the terms of this Contract, Buyer shall be refunded the Deposit thereby releasing Buyer and Seller from all further obligations under this Contract.

(vi) If Buyer has timely provided either written notice provided for in Paragraph 8(b)(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; in which event(s) the Buyer shall be refunded the Deposit, thereby releasing Buyer and Seller from all further obligations under this Contract.

☐ (c) Assumption of existing mortgage (see Rider D for terms).

☐ (d) Purchase money note and mortgage to Seller (see Rider C for terms).

#### CLOSING COSTS, FEES AND CHARGES

#### 9. CLOSING COSTS; TITLE INSURANCE; SURVEY; HOME WARRANTY; SPECIAL ASSESSMENTS:

##### (a) COSTS TO BE PAID BY SELLER:

- Documentary stamp taxes and surtax on deed, if any
- 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: \_\_\_\_\_

If, prior to Closing, Seller is unable to meet the AS IS Maintenance Requirement as required by Paragraph 11, a sum equal to 125% of estimated costs to meet the AS IS Maintenance Requirement shall be escrowed at Closing. If actual costs to meet the AS IS Maintenance Requirement exceed escrowed amount, Seller shall pay such actual costs. Any unused portion of escrowed amount(s) shall be returned to Seller

##### (b) COSTS TO BE PAID BY BUYER:

- Taxes and recording fees on notes and mortgages
- Recording fees for deed and financing statements
- Owner's Policy and Charges (if Paragraph 9(c)(ii) is checked)
- Survey (and elevation certification, if required)
- Lender's title policy and endorsements
- HOA/Condominium Association application/transfer fees
- Municipal lien search (if Paragraph 9(c)(ii) is checked)
- Other: \_\_\_\_\_
- Loan expenses
- Appraisal fees
- Buyer's Inspections
- Buyer's attorneys' fees
- All property related insurance
- Owner's Policy Premium (if Paragraph 9(c)(iii) is checked)

(c) **TITLE EVIDENCE AND INSURANCE:** At least 5 (if left blank, then 15, or if Paragraph 8(a) is checked, then 5) days prior to Closing Date ("Title Evidence Deadline"), a title insurance commitment issued by a Florida licensed title insurer, with legible copies of instruments listed as exceptions attached thereto ("Title Commitment") and, after Closing, an owner's policy of title insurance (see STANDARD A for terms) shall be obtained and delivered to Buyer. If Seller has an owner's policy of title insurance covering the Real Property, Seller shall furnish a copy to Buyer and Closing Agent within 5 days after Effective Date. The owner's title policy premium, title search and closing services (collectively, "Owner's Policy and Charges") shall be paid, as set forth below. The title insurance premium charges for the owner's policy and any lender's policy will be calculated and allocated in accordance with Florida law, but may be reported differently on certain federally mandated closing disclosures and other closing documents. For purposes of this Contract "municipal lien search" means a

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search of records necessary for the owner's policy of title insurance to be issued without exception for unrecorded liens imposed pursuant to Chapters 153, 159 or 170, F.S., in favor of any governmental body, authority or agency.

**(CHECK ONE):**

☒ (i) Seller shall designate Closing Agent and pay for Owner's Policy and Charges, and Buyer shall pay the premium for Buyer's lender's policy and charges for closing services related to the lender's policy, endorsements and loan closing, which amounts shall be paid by Buyer to Closing Agent or such other provider(s) as Buyer may select; or

☐ (ii) Buyer shall designate Closing Agent and pay for Owner's Policy and Charges and charges for closing services related to Buyer's lender's policy, endorsements and loan closing; or

☐ (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.

(d) **SURVEY:** At least 5 days prior to Closing Date, 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.

(e) **HOME WARRANTY:** At Closing, ☐ Buyer ☐ Seller ☒ N/A shall pay for a home warranty plan issued by \_\_\_\_\_ at a cost not to exceed \$\_\_\_\_\_. A home

warranty plan provides for repair or replacement of many of a home's mechanical systems and major built-in appliances in the event of breakdown due to normal wear and tear during the agreement's warranty period.

(f) **SPECIAL ASSESSMENTS:** At Closing, Seller shall pay: (i) the full amount of liens imposed by a public body ("public body" does not include a Condominium or Homeowner's Association) that are certified, confirmed and ratified before Closing; and (ii) the amount of the public body's most recent estimate or assessment for an improvement which is substantially complete as of Effective Date, but that has not resulted in a lien being imposed on the Property before Closing. Buyer shall pay all other assessments. 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, 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 prepayment, OPTION (a) shall be deemed selected for such assessment(s).

IF NEITHER BOX IS CHECKED, THEN OPTION (a) SHALL BE DEEMED SELECTED.

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.

**DISCLOSURES**

**10. DISCLOSURES:**

(a) **RADON GAS:** Radon is a naturally occurring radioactive gas that, when it is accumulated in a building in sufficient quantities, may present health risks to persons who are exposed to it over time. Levels of radon that exceed federal and state guidelines have been found in buildings in Florida. Additional information regarding radon and radon testing may be obtained from your county health department.

(b) **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.

(c) **MOLD:** Mold is naturally occurring and may cause health risks or damage to property. If Buyer is concerned or desires additional information regarding mold, Buyer should contact an appropriate professional.

(d) **FLOOD ZONE; ELEVATION CERTIFICATION:** Buyer is advised to verify by elevation certificate which flood zone the Property is in, whether flood insurance is required by Buyer's lender, and what restrictions apply to improving the Property and rebuilding in the event of casualty. If Property is in a "Special Flood Hazard Area"

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or "Coastal Barrier Resources Act" designated area or otherwise protected area identified by the U.S. Fish and Wildlife Service under the Coastal Barrier Resources Act and the lowest floor elevation for the building(s) and/or flood insurance rating purposes is below minimum flood elevation or is ineligible for flood insurance coverage through the National Flood Insurance Program or private flood insurance as defined in 42 U.S.C. §4012a, Buyer may terminate this Contract by delivering written notice to Seller within 20 (if left blank, then 20) days after Effective Date, and Buyer shall be refunded the Deposit thereby releasing Buyer and Seller from all further obligations under this Contract, failing which Buyer accepts existing elevation of buildings and flood zone designation of Property.

- (e) **ENERGY BROCHURE:** Buyer acknowledges receipt of Florida Energy-Efficiency Rating Information Brochure required by Section 553.996, F.S.
- (f) **LEAD-BASED PAINT:** If Property includes pre-1978 residential housing, a lead-based paint disclosure is mandatory.
- (g) **HOMEOWNERS' ASSOCIATION/COMMUNITY DISCLOSURE: BUYER SHOULD NOT EXECUTE THIS CONTRACT UNTIL BUYER HAS RECEIVED AND READ THE HOMEOWNERS' ASSOCIATION/COMMUNITY DISCLOSURE, IF APPLICABLE.**
- (h) **PROPERTY TAX DISCLOSURE SUMMARY:** BUYER SHOULD NOT RELY ON THE SELLER'S CURRENT PROPERTY TAXES AS THE AMOUNT OF PROPERTY TAXES THAT THE BUYER MAY BE OBLIGATED TO PAY IN THE YEAR SUBSEQUENT TO PURCHASE. A CHANGE OF OWNERSHIP OR PROPERTY IMPROVEMENTS TRIGGERS REASSESSMENTS OF THE PROPERTY THAT COULD RESULT IN HIGHER PROPERTY TAXES. IF YOU HAVE ANY QUESTIONS CONCERNING VALUATION, CONTACT THE COUNTY PROPERTY APPRAISER'S OFFICE FOR INFORMATION.
- (i) **FOREIGN INVESTMENT IN REAL PROPERTY TAX ACT ("FIRPTA"):** Seller shall inform Buyer in writing if Seller is a "foreign person" as defined by the Foreign Investment in Real Property Tax Act ("FIRPTA"). Buyer and Seller shall comply with FIRPTA, which may require Seller to provide additional cash at Closing. If Seller is not a "foreign person", Seller can provide Buyer, at or prior to Closing, a certification of non-foreign status, under penalties of perjury, to inform Buyer and Closing Agent that no withholding is required. See STANDARD V for further information pertaining to FIRPTA. Buyer and Seller are advised to seek legal counsel and tax advice regarding their respective rights, obligations, reporting and withholding requirements pursuant to FIRPTA.
- (j) **SELLER DISCLOSURE:** Seller knows of no facts materially affecting the value of the Real Property which are not readily observable and which have not been disclosed to Buyer. Except as provided for in the preceding sentence, Seller extends and intends no warranty and makes no representation of any type, either express or implied, as to the physical condition or history of the Property. Except as otherwise disclosed in writing Seller has received no written or verbal notice from any governmental entity or agency as to a currently uncorrected building, environmental or safety code violation.

#### PROPERTY MAINTENANCE, CONDITION, INSPECTIONS AND EXAMINATIONS

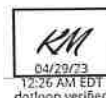
**11. PROPERTY MAINTENANCE:** Except for ordinary wear and tear and Casualty Loss, Seller shall maintain the Property, including, but not limited to, lawn, shrubbery, and pool, in the condition existing as of Effective Date ("AS IS Maintenance Requirement"). See Paragraph 9(a) for escrow procedures,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

#### 12. PROPERTY INSPECTION; RIGHT TO CANCEL:

- (a) **PROPERTY INSPECTIONS AND RIGHT TO CANCEL:** Buyer shall have 7 (if left blank, then 15) days after Effective Date ("Inspection Period") within which to have such inspections of the Property performed as Buyer shall desire during the Inspection Period. 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 of such election to Seller prior to expiration of Inspection Period. If Buyer timely terminates this Contract, the Deposit paid shall be returned to Buyer, thereupon, Buyer and Seller shall be released of all further obligations under this Contract; however, Buyer shall be responsible for prompt payment for such inspections, for repair of damage to, and restoration of, the Property resulting from such inspections, and shall provide Seller with paid receipts for all work done on the Property (the preceding provision shall survive termination of this Contract). Unless Buyer exercises the right to terminate granted herein, Buyer accepts the physical condition of the Property and any violation of governmental, building, environmental, and safety codes, restrictions, or requirements, but subject to Seller's continuing AS IS Maintenance Requirement, and Buyer shall be responsible for any and all repairs and improvements required by Buyer's lender.

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- (b) **WALK-THROUGH INSPECTION/RE-INSPECTION:** On the day prior to Closing Date, or on Closing Date prior to time of Closing, as specified by Buyer, Buyer or Buyer's representative may perform a walk-through (and follow-up walk-through, if necessary) inspection of the Property solely to confirm that all items of Personal Property are on the Property and to verify that Seller has maintained the Property as required by the AS IS Maintenance Requirement and has met all other contractual obligations.
- (c) **SELLER ASSISTANCE AND COOPERATION IN CLOSE-OUT OF BUILDING PERMITS:** If Buyer's inspection of the Property identifies open or needed building permits, 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 or needed permits, and shall promptly cooperate in good faith with Buyer's efforts to obtain estimates of repairs or other work necessary to resolve such permit issues. Seller's obligation to cooperate shall include Seller's execution of necessary authorizations, consents, or other documents necessary for Buyer to conduct inspections and have estimates of such repairs or work prepared, but in fulfilling such obligation, Seller shall not be required to expend, or become obligated to expend, any money.
- (d) **ASSIGNMENT OF REPAIR AND TREATMENT CONTRACTS AND WARRANTIES:** At Buyer's option and cost, Seller will, at Closing, assign all assignable repair, treatment and maintenance contracts and warranties to Buyer.

#### ESCROW AGENT AND BROKER

- 13. ESCROW AGENT:** Any Closing Agent or Escrow Agent (collectively "Agent") receiving the Deposit, other funds and other items is authorized, and agrees by acceptance of them, to deposit them promptly, hold same in escrow within the State of Florida and, subject to Collection, disburse them in accordance with terms and conditions of this Contract. Failure of funds to become Collected shall not excuse Buyer's performance. When conflicting demands for the Deposit are received, or Agent has a good faith doubt as to entitlement to the Deposit, Agent may take such actions permitted by this Paragraph 13, as Agent deems advisable. If in doubt as to Agent's duties or liabilities under this Contract, Agent may, at Agent's option, continue to hold the subject matter of the escrow until the parties agree to its disbursement or until a final judgment of a court of competent jurisdiction shall determine the rights of the parties, or Agent may deposit same with the clerk of the circuit court having jurisdiction of the dispute. An attorney who represents a party and also acts as Agent may represent such party in such action. Upon notifying all parties concerned of such action, all liability on the part of Agent shall fully terminate, except to the extent of accounting for any items previously delivered out of escrow. If a licensed real estate broker, Agent will comply with provisions of Chapter 475, F.S., as amended and FREC rules to timely resolve escrow disputes through mediation, arbitration, interpleader or an escrow disbursement order.
- In any proceeding between Buyer and Seller wherein Agent is made a party because of acting as Agent hereunder, or in any proceeding where Agent interpleads the subject matter of the escrow, Agent shall recover reasonable attorney's fees and costs incurred, to be paid pursuant to court order out of the escrowed funds or equivalent. Agent shall not be liable to any party or person for mis-delivery of any escrowed items, unless such mis-delivery is due to Agent's willful breach of this Contract or Agent's gross negligence. This Paragraph 13 shall survive Closing or termination of this Contract.
- 14. PROFESSIONAL ADVICE; BROKER LIABILITY:** Broker advises Buyer and Seller to verify Property condition, square footage, and all other facts and representations made pursuant to this Contract and to consult appropriate professionals for legal, tax, environmental, and other specialized advice concerning matters affecting the Property and the transaction contemplated by this Contract. Broker represents to Buyer that Broker does not reside on the Property and that all representations (oral, written or otherwise) by Broker are based on Seller representations or public records. **BUYER AGREES TO RELY SOLELY ON SELLER, PROFESSIONAL INSPECTORS AND GOVERNMENTAL AGENCIES FOR VERIFICATION OF PROPERTY CONDITION, SQUARE FOOTAGE AND FACTS THAT MATERIALLY AFFECT PROPERTY VALUE AND NOT ON THE REPRESENTATIONS (ORAL, WRITTEN OR OTHERWISE) OF BROKER.** Buyer and Seller (individually, the "Indemnifying Party") each individually indemnifies, holds harmless, and releases Broker and Broker's officers, directors, agents and employees from all liability for loss or damage, including all costs and expenses, and reasonable attorney's fees at all levels, suffered or incurred by Broker and Broker's officers, directors, agents and employees in connection with or arising from claims, demands or causes of action instituted by Buyer or Seller based on: (i) inaccuracy of information provided by the Indemnifying Party or from public records; (ii) Indemnifying Party's misstatement(s) or failure to perform contractual obligations; (iii) Broker's performance, at Indemnifying Party's request, of any task beyond the scope of services regulated by Chapter 475, F.S., as amended, including Broker's referral, recommendation or retention of any vendor for, or on behalf of, Indemnifying Party; (iv) products or services provided by any such vendor for, or on behalf of, Indemnifying Party; and (v) expenses incurred by any such vendor

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Buyer and Seller each assumes full responsibility for selecting and compensating their respective vendors and paying their other costs under this Contract whether or not this transaction closes. This Paragraph 14 will not relieve Broker of statutory obligations under Chapter 475, F.S., as amended. For purposes of this Paragraph 14, Broker will be treated as a party to this Contract. This Paragraph 14 shall survive Closing or termination of this Contract.

## DEFAULT AND DISPUTE RESOLUTION

### 15. DEFAULT:

(a) **BUYER DEFAULT:** If Buyer fails, neglects or refuses to perform Buyer's obligations under this Contract, including payment of the Deposit, within the time(s) specified, Seller may elect to recover and retain the Deposit for the account of Seller as agreed upon liquidated damages, consideration for execution of this Contract, and in full settlement of any claims, whereupon Buyer and Seller shall be relieved from all further obligations under this Contract, or Seller, at Seller's option, may, pursuant to Paragraph 16, proceed in equity to enforce Seller's rights under this Contract. The portion of the Deposit, if any, paid to Listing Broker upon default by Buyer, shall be split equally between Listing Broker and Cooperating Broker; provided however, Cooperating Broker's share shall not be greater than the commission amount Listing Broker had agreed to pay to Cooperating Broker.

(b) **SELLER DEFAULT:** If for any reason other than failure of Seller to make Seller's title marketable after reasonable diligent effort, Seller fails, neglects or refuses to perform Seller's obligations under this Contract, Buyer may elect to receive return of Buyer's Deposit without thereby waiving any action for damages resulting from Seller's breach, and, pursuant to Paragraph 16, may seek to recover such damages or seek specific performance.

This Paragraph 15 shall survive Closing or termination of this Contract.

### 16. DISPUTE RESOLUTION: Unresolved controversies, claims and other matters in question between Buyer and Seller arising out of, or relating to, this Contract or its breach, enforcement or interpretation ("Dispute") will be settled as follows:

(a) Buyer and Seller will have 10 days after the date conflicting demands for the Deposit are made to attempt to resolve such Dispute, failing which, Buyer and Seller shall submit such Dispute to mediation under Paragraph 16(b).

(b) Buyer and Seller shall attempt to settle Disputes in an amicable manner through mediation pursuant to Florida Rules for Certified and Court-Appointed Mediators and Chapter 44, F.S., as amended (the "Mediation Rules"). The mediator must be certified or must have experience in the real estate industry. Injunctive relief may be sought without first complying with this Paragraph 16(b). Disputes not settled pursuant to this Paragraph 16 may be resolved by instituting action in the appropriate court having jurisdiction of the matter. This Paragraph 16 shall survive Closing or termination of this Contract.

### 17. ATTORNEY'S FEES; COSTS: The parties will split equally any mediation fee incurred in any mediation permitted by this Contract, and each party will pay their own costs, expenses and fees, including attorney's fees, incurred in conducting the mediation. In any litigation permitted by this Contract, the prevailing party shall be entitled to recover from the non-prevailing party costs and fees, including reasonable attorney's fees, incurred in conducting the litigation. This Paragraph 17 shall survive Closing or termination of this Contract.

## STANDARDS FOR REAL ESTATE TRANSACTIONS ("STANDARDS")

### 18. STANDARDS:

#### A. TITLE:

(i) **TITLE EVIDENCE; RESTRICTIONS; EASEMENTS; LIMITATIONS:** Within the time period provided in Paragraph 9(c), the Title Commitment, with legible copies of instruments listed as exceptions attached thereto, shall be issued and delivered to Buyer. The Title Commitment shall set forth those matters to be discharged by Seller at or before Closing and shall provide that, upon recording of the deed to Buyer, an owner's policy of title insurance in the amount of the Purchase Price, shall be issued to Buyer insuring Buyer's marketable title to the Real Property, subject only to the following matters: (a) comprehensive land use plans, zoning, and other land use restrictions, prohibitions and requirements imposed by governmental authority; (b) restrictions and matters appearing on the Plat or otherwise common to the subdivision; (c) outstanding oil, gas and mineral rights of record without right of entry; (d) unplatted public utility easements of record (located contiguous to real property lines and not more than 10 feet in width as to rear or front lines and 7 1/2 feet in width as to side lines); (e) taxes for year of Closing and subsequent years; and (f) assumed mortgages and purchase money mortgages, if any (if additional items, attach addendum); provided, that, none prevent use of Property for **RESIDENTIAL PURPOSES**. If there exists at Closing any violation of items identified in (b) – (f) above, then the same shall be deemed a title defect. Marketable title shall be determined according to applicable Title Standards adopted by authority of The Florida Bar and in accordance with law.

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## STANDARDS FOR REAL ESTATE TRANSACTIONS ("STANDARDS") CONTINUED

(ii) **TITLE EXAMINATION:** Buyer shall have 5 days after receipt of Title Commitment to examine it and notify Seller in writing specifying defect(s), if any, that render title unmarketable. If Seller provides Title Commitment and it is delivered to Buyer less than 5 days prior to Closing Date, Buyer may extend Closing for up to 5 days after date of receipt to examine same in accordance with this STANDARD A. Seller shall have 30 days ("Cure Period") after receipt of Buyer's notice to take reasonable diligent efforts to remove defects. If Buyer fails to so notify Seller, Buyer shall be deemed to have accepted title as it then is. If Seller cures defects within Cure Period, Seller will deliver written notice to Buyer (with proof of cure acceptable to Buyer and Buyer's attorney) and the parties will close this Contract on Closing Date (or if Closing Date has passed, within 10 days after Buyer's receipt of Seller's notice). If Seller is unable to cure defects within Cure Period, then Buyer may, within 5 days after expiration of Cure Period, deliver written notice to Seller: (a) extending Cure Period for a specified period not to exceed 120 days within which Seller shall continue to use reasonable diligent effort to remove or cure the defects ("Extended Cure Period"); or (b) electing to accept title with existing defects and close this Contract on Closing Date (or if Closing Date has passed, within the earlier of 10 days after end of Extended Cure Period or Buyer's receipt of Seller's notice), or (c) electing to terminate this Contract and receive a refund of the Deposit, thereby releasing Buyer and Seller from all further obligations under this Contract. If after reasonable diligent effort, Seller is unable to timely cure defects, and Buyer does not waive the defects, this Contract shall terminate, and Buyer shall receive a refund of the Deposit, thereby releasing Buyer and Seller from all further obligations under this Contract.

**B. SURVEY:** If Survey discloses encroachments on the Real Property or that improvements located thereon encroach on setback lines, easements, or lands of others, or violate any restrictions, covenants, or applicable governmental regulations described in STANDARD A (i)(a), (b) or (d) above, Buyer shall deliver written notice of such matters, together with a copy of Survey, to Seller within 5 days after Buyer's receipt of Survey, but no later than Closing. If Buyer timely delivers such notice and Survey to Seller, such matters identified in the notice and Survey shall constitute a title defect, subject to cure obligations of STANDARD A above. If Seller has delivered a prior survey, Seller shall, at Buyer's request, execute an affidavit of "no change" to the Real Property since the preparation of such prior survey, to the extent the affirmations therein are true and correct.

**C. INGRESS AND EGRESS:** Seller represents that there is ingress and egress to the Real Property and title to the Real Property is insurable in accordance with STANDARD A without exception for lack of legal right of access.

**D. LEASE INFORMATION:** Seller shall, at least 10 days prior to Closing, furnish to Buyer estoppel letters from tenant(s)/occupant(s) specifying nature and duration of occupancy, rental rates, advanced rent and security deposits paid by tenant(s) or occupant(s) ("Estoppel Letter(s)"). If Seller is unable to obtain such Estoppel Letter(s) the same information shall be furnished by Seller to Buyer within that time period in the form of a Seller's affidavit and Buyer may thereafter contact tenant(s) or occupant(s) to confirm such information. If Estoppel Letter(s) or Seller's affidavit, if any, differ materially from Seller's representations and lease(s) provided pursuant to Paragraph 6, or if tenant(s)/occupant(s) fail or refuse to confirm Seller's affidavit, Buyer may deliver written notice to Seller within 5 days after receipt of such information, but no later than 5 days prior to Closing Date, terminating this Contract and receive a refund of the Deposit, thereby releasing Buyer and Seller from all further obligations under this Contract. Seller shall, at Closing, deliver and assign all leases to Buyer who shall assume Seller's obligations thereunder.

**E. LIENS:** Seller shall furnish to Buyer at Closing an affidavit attesting (i) to the absence of any financing statement, claims of lien or potential lienors known to Seller and (ii) that there have been no improvements or repairs to the Real Property for 90 days immediately preceding Closing Date. If the Real Property has been improved or repaired within that time, Seller shall deliver releases or waivers of construction liens executed by all general contractors, subcontractors, suppliers and materialmen in addition to Seller's lien affidavit setting forth names of all such general contractors, subcontractors, suppliers and materialmen, further affirming that all charges for improvements or repairs which could serve as a basis for a construction lien or a claim for damages have been paid or will be paid at Closing.

**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. 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, national legal public holiday (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 the next calendar day which is not a Saturday, Sunday, national legal public holiday, or a day on which a national legal public holiday is observed.

**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,

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Seller's Initials



**STANDARDS FOR REAL ESTATE TRANSACTIONS ("STANDARDS") CONTINUED**

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.

**H. CONVEYANCE:** Seller shall convey marketable title to the Real Property by statutory warranty, trustee's, personal representative's, or guardian's deed, as appropriate to the status of Seller, subject only to matters described in STANDARD A and those accepted by Buyer. Personal Property shall, at request of Buyer, be transferred by absolute bill of sale with warranty of title, subject only to such matters as may be provided for in this Contract.

**I. CLOSING LOCATION; DOCUMENTS; AND PROCEDURE:**

(i) **LOCATION:** Closing will be conducted by the attorney or other closing agent ("Closing Agent") designated by the party paying for the owner's policy of title insurance and will take place in the county where the Real Property is located at the office of the Closing Agent, or at such other location agreed to by the parties. If there is no title insurance, Seller will designate Closing Agent. Closing may be conducted by mail, overnight courier, or electronic means.

(ii) **CLOSING DOCUMENTS:** Seller shall at or prior to Closing, execute and deliver, as applicable, deed, bill of sale, certificate(s) of title or other documents necessary to transfer title to the Property, construction lien affidavit(s), owner's possession and no lien affidavit(s), and assignment(s) of leases. Seller shall provide Buyer with paid receipts for all work done on the Property pursuant to this Contract. Buyer shall furnish and pay for, as applicable, the survey, flood elevation certification, and documents required by Buyer's lender.

(iii) **FinCEN GTO REPORTING OBLIGATION.** If Closing Agent is required to comply with a U.S. Treasury Department's Financial Crimes Enforcement Network ("FinCEN") Geographic Targeting Order ("GTO"), then Buyer shall provide Closing Agent with essential information and documentation related to Buyer and its Beneficial Owners, including photo identification, and related to the transaction contemplated by this Contract which are required to complete mandatory reporting, including the Currency Transaction Report; and Buyer consents to Closing Agent's collection and report of said information to IRS.

(iv) **PROCEDURE:** The deed shall be recorded upon Collection of all closing funds. If the Title Commitment provides insurance against adverse matters pursuant to Section 627.7841, F.S., as amended, the escrow closing procedure required by STANDARD J shall be waived, and Closing Agent shall, **subject to Collection of all closing funds**, disburse at Closing the brokerage fees to Broker and the net sale proceeds to Seller.

**J. ESCROW CLOSING PROCEDURE:** If Title Commitment issued pursuant to Paragraph 9(c) does not provide for insurance against adverse matters as permitted under Section 627.7841, F.S., as amended, the following escrow and closing procedures shall apply: (1) all Closing proceeds shall be held in escrow by the Closing Agent for a period of not more than 10 days after Closing; (2) if Seller's title is rendered unmarketable, through no fault of Buyer, Buyer shall, within the 10 day period, notify Seller in writing of the defect and Seller shall have 30 days from date of receipt of such notification to cure the defect; (3) if Seller fails to timely cure the defect, the Deposit and all Closing funds paid by Buyer shall, within 5 days after written demand by Buyer, be refunded to Buyer and, simultaneously with such repayment, Buyer shall return the Personal Property, vacate the Real Property and re-convey the Property to Seller by special warranty deed and bill of sale; and (4) if Buyer fails to make timely demand for refund of the Deposit, Buyer shall take title as is, waiving all rights against Seller as to any intervening defect except as may be available to Buyer by virtue of warranties contained in the deed or bill of sale.

**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

Buyer's Initials

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Seller's Initials





## STANDARDS FOR REAL ESTATE TRANSACTIONS ("STANDARDS") CONTINUED

(IRS) unless an exemption to the required withholding applies or the seller has obtained a Withholding Certificate from the IRS authorizing a reduced amount of withholding.

(i) No withholding is required under Section 1445 of the Code if the Seller is not a "foreign person". Seller can provide proof of non-foreign status to Buyer by delivery of written certification signed under penalties of perjury, stating that Seller is not a foreign person and containing Seller's name, U.S. taxpayer identification number and home address (or office address, in the case of an entity), as provided for in 26 CFR 1.1445-2(b). Otherwise, Buyer shall withhold the applicable percentage of the amount realized by Seller on the transfer and timely remit said funds to the IRS.

(ii) If Seller is a foreign person and has received a Withholding Certificate from the IRS which provides for reduced or eliminated withholding in this transaction and provides same to Buyer by Closing, then Buyer shall withhold the reduced sum required, if any, and timely remit said funds to the IRS.

(iii) If prior to Closing Seller has submitted a completed application to the IRS for a Withholding Certificate and has provided to Buyer the notice required by 26 CFR 1.1445-1(c) (2)(i)(B) but no Withholding Certificate has been received as of Closing, Buyer shall, at Closing, withhold the applicable percentage of the amount realized by Seller on the transfer and, at Buyer's option, either (a) timely remit the withheld funds to the IRS or (b) place the funds in escrow, at Seller's expense, with an escrow agent selected by Buyer and pursuant to terms negotiated by the parties, to be subsequently disbursed in accordance with the Withholding Certificate issued by the IRS or remitted directly to the IRS if the Seller's application is rejected or upon terms set forth in the escrow agreement.

(iv) In the event the net proceeds due Seller are not sufficient to meet the withholding requirement(s) in this transaction, Seller shall deliver to Buyer, at Closing, the additional Collected funds necessary to satisfy the applicable requirement and thereafter Buyer shall timely remit said funds to the IRS or escrow the funds for disbursement in accordance with the final determination of the IRS, as applicable.

(v) Upon remitting funds to the IRS pursuant to this STANDARD, Buyer shall provide Seller copies of IRS Forms 8288 and 8288-A, as filed.

### W. RESERVED

**X. BUYER WAIVER OF CLAIMS:** *To the extent permitted by law, Buyer waives any claims against Seller and against any real estate licensee involved in the negotiation of this Contract for any damage or defects pertaining to the physical condition of the Property that may exist at Closing of this Contract and be subsequently discovered by the Buyer or anyone claiming by, through, under or against the Buyer. This provision does not relieve Seller's obligation to comply with Paragraph 10(j). This Standard X shall survive Closing.*

## ADDENDA AND ADDITIONAL TERMS

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

- ☒ A. Condominium Rider
- ☐ B. Homeowners' Assn.
- ☐ C. Seller Financing
- ☐ D. Mortgage Assumption
- ☐ E. FHA/VA Financing
- ☐ F. Appraisal Contingency
- ☐ G. Short Sale
- ☐ H. Homeowners/Flood Ins.
- ☐ I. RESERVED
- ☐ J. Interest-Bearing Acct
- ☐ K. RESERVED
- ☐ L. RESERVED

- ☐ M. Defective Drywall
- ☐ N. Coastal Construction Control Line
- ☐ O. Insulation Disclosure
- ☐ P. Lead Paint Disclosure (Pre-1978)
- ☐ Q. Housing for Older Persons
- ☐ R. Rezoning
- ☐ S. Lease Purchase/ Lease Option
- ☐ T. Pre-Closing Occupancy
- ☐ U. Post-Closing Occupancy
- ☐ V. Sale of Buyer's Property
- ☐ W. Back-up Contract

- ☐ X. Kick-out Clause
- ☐ Y. Seller's Attorney Approval
- ☒ Z. Buyer's Attorney Approval
- ☐ AA. Licensee Property Interest
- ☐ BB. Binding Arbitration
- ☐ CC. Miami-Dade County Special Taxing District Disclosure
- ☐ DD. Seasonal/Vacation Rentals
- ☐ EE. PACE Disclosure
- ☒ Other:

ADDENDUM TO CONTRACT

Buyer's Initials

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Seller's Initials





**20. ADDITIONAL TERMS:**

Notwithstanding any term or provision contained in the Contract to the contrary, Seller, at Seller's sole cost and expense, shall be obligated to perform a municipal lien search (including an open/expired/inactive permit search) as it relates to the Property, and shall deliver the results of such search to Buyer or Buyer's counsel at least seven (7) days prior to the closing. Seller, at Seller's sole cost and expense, shall be obligated to satisfy any code violations and pay any outstanding county and/or municipal liens, assessments, and utility charges concerning the Property prior to the closing. Further, Seller, at Seller's sole cost and expense, shall be obligated to close out any and all open/expired/inactive permits affecting the Property prior to the closing, or permit and have properly inspected any unpermitted work affecting the Property prior to the closing.

**COUNTER-OFFER**

☐ Seller counters Buyer's offer.

**THIS IS INTENDED TO BE A LEGALLY BINDING CONTRACT. IF NOT FULLY UNDERSTOOD, SEEK THE ADVICE OF AN ATTORNEY PRIOR TO SIGNING.**

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

Approval of this form by the Florida Realtors and The Florida Bar does not constitute an opinion that any of the terms and conditions in this Contract should be accepted by the parties in a particular transaction. Terms and conditions should be negotiated based upon the respective interests, objectives and bargaining positions of all interested persons.

AN ASTERISK (\*) FOLLOWING A LINE NUMBER IN THE MARGIN INDICATES THE LINE CONTAINS A BLANK TO BE COMPLETED.

Buyer: \_\_\_\_\_ Date: 4/22/23  
 Buyer: \_\_\_\_\_ Date: \_\_\_\_\_  
 Seller: \_\_\_\_\_ Date: \_\_\_\_\_  
 Seller: Kristina McGrath \_\_\_\_\_ Date: \_\_\_\_\_

dotloop verified  
 04/29/23 12:26 AM  
 EDT  
 PKVY-CF4C-FB8Y-L2ID

Buyer's address for purposes of notice

Seller's address for purposes of notice

**BROKER:** Listing and Cooperating Brokers, if any, named below (collectively, "Broker"), are the only Brokers entitled to compensation in connection with this Contract. Instruction to Closing Agent: Seller and Buyer direct Closing Agent to disburse at Closing the full amount of the brokerage fees as specified in separate brokerage agreements with the parties and cooperative agreements between the Brokers, except to the extent Broker has retained such fees from the escrowed funds. This Contract shall not modify any MLS or other offer of compensation made by Seller or Listing Broker to Cooperating Brokers.

CAROL KETOVER AND SENADA ADZEM PA  
 Cooperating Sales Associate, if any

JONATHAN POSTMA  
 Listing Sales Associate

DOUGLAS ELLIMAN  
 Cooperating Broker, if any

COLDWELL BANKER  
 Listing Broker

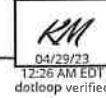
# Comprehensive Rider to the Residential Contract For Sale And Purchase

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 MICHAEL J. MCGRATH AND KRISTINA A MCGRATH (SELLER) and MARTIN FELDMAN AND/OR ASSIGNS (BUYER) concerning the Property described as 800 SOUTH OCEAN BOULEVARD PH6, BOCA RATON, FLORIDA 33432

Buyer's Initials

Seller's Initials



## A. CONDOMINIUM RIDER

### 1. CONDOMINIUM ASSOCIATION APPROVAL:

The Association's approval of Buyer (CHECK ONE): ☒ is ☐ is not required. If approval is required, this Contract is contingent upon Buyer being approved by the Association no later than 5 (if left blank, then 5) days prior to Closing. Within 5 (if left blank, then 5) days after Effective Date Seller shall initiate the approval process with the Association and Buyer shall apply for such approval. Buyer and Seller shall sign and deliver any documents required by the Association in order to complete the transfer of the Property and each shall use diligent effort to obtain such approval, including making personal appearances if required. If Buyer is not approved within the stated time period, this Contract shall terminate and Buyer shall be refunded the Deposit, thereby releasing Buyer and Seller from all further obligations under this Contract.

### 2. RIGHT OF FIRST REFUSAL:

- (a) The Association (CHECK ONE): ☐ has ☒ does not have a right of first refusal ("Right"). If the Association has a Right, this Contract is contingent upon the Association, within the time permitted for the exercise of such Right, either providing written confirmation to Buyer that the Association is not exercising that Right, or failing to timely exercise such Right pursuant to the terms of the Declaration of Condominium ("Declaration", which reference includes all amendments thereto).
- (b) The members of the Association (CHECK ONE): ☐ have ☒ do not have a Right. If the members do have a Right, this Contract is contingent upon the members, within the time permitted for the exercise of such Right, either providing written confirmation to Buyer that the members are not exercising that Right, or failing to timely exercise such Right pursuant to the terms of the Declaration.
- (c) Buyer and Seller shall, within 5 (if left blank, then 5) days after Effective Date, sign and deliver any documents required as a condition precedent to the exercise of the Right, and shall use diligent effort to submit and process the matter with the Association and members, including personal appearances, if required.
- (d) If, within the stated time period, the Association, the members of the Association, or both, fail to provide the written confirmation or the Right has not otherwise expired, then this Contract shall terminate and the Deposit shall be refunded to the Buyer, thereby releasing Buyer and Seller from all further obligations under this Contract.
- (e) If the Association or a member timely exercises its or their Right, this Contract shall terminate and the Deposit shall be refunded to Buyer (unless this Contract provides otherwise), thereby releasing Buyer and Seller from all further obligations under this Contract, and Seller shall pay to Broker the full commission at Closing in recognition that Broker procured the sale.

### 3. FEES; ASSESSMENTS; PRORATIONS; LITIGATION:

- (a) Condominium Association assessment(s) and Rents: Seller represents that the current Association assessment(s) installments is/are

\$ 6,175.00 payable (CHECK ONE): ☒ monthly ☐ quarterly ☐ semi-annually ☐ annually

and if more than one Association assessment

\$ \_\_\_\_\_ payable (CHECK ONE): ☐ monthly ☐ quarterly ☐ semi-annually ☐ annually

and the current rent on recreation areas, if any, is

\$ \_\_\_\_\_ payable (CHECK ONE): ☐ monthly ☐ quarterly ☐ semi-annually ☐ annually

**A. CONDOMINIUM RIDER (CONTINUED)**

All annual assessments levied by the Association and rent on recreational areas, if any, shall be made current by Seller at Closing, and Buyer shall reimburse Seller for prepayments.

- (b) Fees: Seller shall, at Closing, pay all fines imposed against the Unit by the Condominium Association as of Closing Date and any fees the Association charges to provide information about the Property, assessment(s) and fees.

***If Property is part of a Homeowners' Association, see Rider B. HOMEOWNERS' ASSOCIATION/COMMUNITY DISCLOSURE for further information including additional assessments and fees.***

- (c) Special Assessments and Prorations:

- (i) Seller represents that Seller is not aware of any special or other assessment that has been levied by the Association or that has been an item on the agenda, or reported in the minutes, of the Association within twelve (12) months prior to Effective Date, ("pending") except as follows: \_\_\_\_\_

- (ii) If special assessments levied or pending exist as of the Effective Date are disclosed above by Seller and may be paid in installments (**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.**

- (iii) If special assessments levied or pending exist as of the Effective Date and have not been disclosed above by Seller, then Seller shall pay such assessments in full at the time of Closing.

- (iv) If, after Effective Date, the Association imposes a special assessment for improvements, work or services, which was not pending as of the Effective Date, then Seller shall pay all amounts due before Closing Date and Buyer shall pay all amounts due after Closing Date.

- (v) A special assessment shall be deemed levied for purposes of this paragraph on the date when the assessment has been approved as required for enforcement pursuant to Florida law and the condominium documents listed in Paragraph 5.

- (vi) Association assets and liabilities, including Association reserve accounts, shall not be prorated.

- (d) Litigation: Seller represents that Seller is not aware of pending or anticipated litigation affecting the Property or the common elements, if any, except as follows: \_\_\_\_\_

**4. SPRINKLER SYSTEM RETROFIT:**

If, pursuant to Sections 718.112(2)(n), F.S., the Association has voted to forego retrofitting its fire sprinkler system or handrails and guardrails for the condominium units, then prior to Closing Seller shall furnish to Buyer the written notice of Association's vote to forego such retrofitting.

**5. NON-DEVELOPER DISCLOSURE:  
(CHECK ONE):**

☐ (a) THE BUYER HEREBY ACKNOWLEDGES THAT BUYER HAS BEEN PROVIDED A CURRENT COPY OF THE DECLARATION OF CONDOMINIUM, ARTICLES OF INCORPORATION OF THE ASSOCIATION, BYLAWS AND RULES OF THE ASSOCIATION, AND A COPY OF THE MOST RECENT YEAR-END FINANCIAL INFORMATION AND FREQUENTLY ASKED QUESTIONS AND ANSWERS DOCUMENT MORE THAN 3 DAYS, EXCLUDING SATURDAYS, SUNDAYS, AND LEGAL HOLIDAYS, PRIOR TO EXECUTION OF THIS CONTRACT.

☒ (b) THIS AGREEMENT IS VOIDABLE BY BUYER BY DELIVERING WRITTEN NOTICE OF THE BUYER'S INTENTION TO CANCEL WITHIN 3 DAYS, EXCLUDING SATURDAYS, SUNDAYS, AND LEGAL HOLIDAYS, AFTER THE DATE OF EXECUTION OF THIS AGREEMENT BY THE BUYER AND RECEIPT BY BUYER OF A CURRENT COPY OF THE DECLARATION OF CONDOMINIUM, ARTICLES OF INCORPORATION, BYLAWS AND RULES OF THE ASSOCIATION, AND A COPY OF THE MOST RECENT YEAR-END FINANCIAL INFORMATION AND FREQUENTLY ASKED QUESTIONS AND ANSWERS DOCUMENT IF SO REQUESTED IN WRITING. ANY PURPORTED WAIVER OF THESE VOIDABILITY RIGHTS SHALL BE OF NO EFFECT. BUYER MAY EXTEND THE TIME FOR CLOSING FOR A PERIOD OF NOT MORE THAN 3 DAYS, EXCLUDING SATURDAYS, SUNDAYS, AND



LEGAL HOLIDAYS, AFTER THE BUYER RECEIVES THE DECLARATION, ARTICLES OF INCORPORATION, BYLAWS AND RULES OF THE ASSOCIATION, AND A COPY OF THE MOST RECENT YEAR-END FINANCIAL INFORMATION AND FREQUENTLY ASKED QUESTIONS AND ANSWERS DOCUMENT IF REQUESTED IN WRITING. BUYER'S RIGHT TO VOID THIS AGREEMENT SHALL TERMINATE AT CLOSING.

**6. BUYER'S REQUEST FOR DOCUMENTS:**

Buyer is entitled, at Seller's expense, to current copies of the condominium documents specified in Paragraph 5, above. Buyer (CHECK ONE): ☒ requests ☐ does not request a current copy of the documents specified in Paragraph 5, above. If this Contract does not close, Buyer shall immediately return the documents to Seller or reimburse Seller for the cost of the documents.

**7. BUYER'S RECEIPT OF DOCUMENTS:**

(COMPLETE AND CHECK ONLY IF CORRECT) ☐ Buyer received the documents described in Paragraph 5, above, on \_\_\_\_\_

**8. COMMON ELEMENTS; PARKING:**

The Property includes the unit being purchased and an undivided interest in the common elements and appurtenant limited common elements of the condominium, as specified in the Declaration. Seller's right and interest in or to the use of the following parking space(s), garage, and other areas are included in the sale of the Property and shall be assigned to Buyer at Closing, subject to the Declaration:

Parking Space(s) # \_\_\_\_\_ Garage # \_\_\_\_\_ Other: CABANA #, PARKING SPACES, STORAGE # TO BE PROVIDED

**9. INSPECTIONS AND REPAIRS:**

The rights and obligations arising under Paragraphs 11 and 12 of this Contract to maintain, repair, replace or treat are limited to Seller's individual condominium unit and unless Seller is otherwise responsible do not extend to common elements, limited common elements, or any other part of the condominium property.

**10. GOVERNANCE FORM; MILESTONE INSPECTION REPORT; STRUCTURAL INTEGRITY RESERVE STUDY:**

(a) GOVERNANCE FORM: Pursuant to Chapter 718, F.S., Buyer is entitled to receive from Seller a copy of the governance form in the format provided by the Division of Florida Condominiums, Timeshares and Mobile Homes of the Department of Business and Professional Regulation, summarizing governance of condominium associations.

(b) MILESTONE INSPECTION REPORT SUMMARY: Pursuant to Section 718.503(2)(a)5, F.S., Buyer who has entered into this Contract is entitled, at Seller's expense, to receive from Seller, before the sale of the Property, a copy of the inspector-prepared summary of the milestone inspection report, as described in Sections 553.899 and 718.301(4)(p), Florida Statutes, if (1) applicable and (2) the summary has been submitted to the Association.

(c) STRUCTURAL INTEGRITY RESERVE STUDY: Pursuant to Section 718.503(2)(a)6, F.S., Buyer who has entered into this Contract is entitled, at Seller's expense, to receive from Seller, before the sale of the Property, a copy of the Association's most recent structural integrity reserve study or a statement that the Association has not completed a structural integrity reserve study

# 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** MICHAEL J. MCGRATH AND KRISTINA A MCGRATH **(SELLER)**  
**and** MARTIN FELDMAN AND/OR ASSIGNS **(BUYER)**  
**concerning the Property described as** 800 SOUTH OCEAN BOULEVARD PH6, BOCA RATON, FLORIDA 33432

**Buyer's Initials**

**Seller's Initials**

**KM**  
04/29/23  
12:26 AM EDT  
dotloop verified

## Z. BUYER'S ATTORNEY APPROVAL

This Contract is contingent upon Buyer's attorney approving this Contract. If Buyer's attorney disapproves this Contract, then Buyer may terminate this Contract by delivering written notice to Seller on or before 48 HOURS FROM E/D, and Buyer shall be refunded the Deposit, thereby releasing Buyer and Seller from all further obligations under this Contract.