

Hawaii Coast Realty, LLC - Clause Library

Additional Language for the Purchase Contract

Backups, Multiple Offers

Backup Offers

1. Buyer and Seller are aware and agree that this offer is accepted as a back-up offer only [in _____ position]. Buyer's obligation to buy and Seller's obligation to sell are contingent upon the cancellation of an existing escrow [and any offers in higher position] on the subject property by no later than [] days following acceptance of this offer as a back-up offer. If the existing escrow [and any offers in higher position] is cancelled within said time period this offer shall become the primary offer.

Any deposit checks shall be held un-cashed by broker assisting Buyer until escrow is opened. Escrow shall be opened the next business day after written notification of escrow cancellation to the Buyer. Thereafter, all parties will proceed to close as specified herein.

If the existing escrow is not cancelled within said time period, this contract shall be considered to be terminated. Buyer and Seller shall each be responsible for any respective costs they may have incurred. Thereafter, neither Buyer nor Seller shall have any further rights or obligations under this Purchase Contract.

2. Buyer may elect to cancel this contract by delivering written notice to Seller at any time prior to written notification of cancellation of the existing escrow.

***** THE FOLLOWING PARAGRAPH IS A COMMON EXAMPLE OF HOW TO TREAT TIME FRAMES IN A BACKUP SITUATION; HOWEVER, IT DOES NOT APPLY TO ALL SITUATIONS. PLEASE READ THIS SECTION CAREFULLY. Consider which time frames should run from "Acceptance" and which time frames should run from "opening of escrow". Take close note of the following paragraphs (under "normal" conditions highlighted paragraphs will likely need to be timed from opening of escrow) B-1, F-1, G-2, H-3, H-4, J-1, M-1. It may be advantageous to all parties to have some dates such as disclosure and condo docs approved early on in the transaction whereas the inspection period is more likely to run from opening of escrow. Also remember that hard dates are arguably NOT time frames. DO NOT just paste in the following paragraph without considering each paragraph separately and how it should be handled.*****

*****Here are some sample extensions of Dates (remove brackets or items as appropriate):

3. The dates or time frames found in paragraphs H-1, H-2, H-3 and H-4 (conditional loan commitment only), J-1, J-3 shall be extended by the number of days between the acceptance date and opening of escrow.

4. Buyer has another accepted back-up offer on another property. This offer is contingent on successful cancellation of this other back-up offer within 24 hours of acceptance of this Purchase Contract.

Multiple Counter Offers

The Seller has submitted multiple counter offers. The acceptance of this counter-offer is contingent on delivery of Seller's written acknowledgement of Buyer's Acceptance of this counter-offer within _____ of receipt of Buyer's acceptance. Should Seller not deliver written acknowledgement to Buyer for any reason within this time frame this Purchase Contract shall be null & void. Neither Seller nor Buyer shall have any further rights or obligations under this Purchase Contract.

[Discuss the use of the separate "Multiple Offer Letter" with your BIC prior to responding to multiple offers]

Multiple Offers

The Buyer has submitted offers on multiple properties. The acceptance of this offer is contingent on delivery of Buyer's written acknowledgement of Seller's Acceptance of this offer within _____ of Buyer's receipt of Seller's acceptance. Should Buyer not deliver written acknowledgement to Seller for any reason within this time frame this offer shall be null & void. Neither Seller nor Buyer shall have any further rights or obligations under this Purchase Contract.

MULTIPLE OFFER LETTER

Date:

Property Reference:

To Whom It May Concern:

This notice is neither an acceptance nor a rejection of your existing offer.

In an effort to remain fair to all parties, the Seller wishes to inform all parties that they have received multiple offers. The Seller hereby notifies all prospective Buyers that they may wish to make sure that they have submitted their best offer by _____.

In a separate cover letter you may wish to separately list those items on the contract where you may have some flexibility with (i.e. closing date, etc.) or those which could be a deal breaker.

The Seller will respond to all offers by _____.

Sincerely,

Seller's Signature

Contingencies

72 Hour

Seller reserves the right to continue to market the property and to accept back-up offers. Buyer agrees that if Seller accepts a back-up offer [on or before _____], Buyer shall have 72 hours from receipt of written notice to Buyer to waive [all contingencies *** or name specific contingency] in the contract.

Seller's obligation to sell is contingent upon Buyer waiving these contingencies. Should Buyer fail to waive the contingencies within the time period specified, Seller shall have the right to terminate this Purchase Contract and the termination provisions of Paragraph O-3 shall apply.

[Should Buyer elect to waive the specified contingencies and continue with the escrow, Buyer will deposit an additional _____ into escrow within _____.]

Early Occupancy

Buyer's obligation to purchase [and Seller's obligation to sell] is contingent on Seller and Buyer completing an Early Occupancy Agreement within [] days of acceptance. Should Seller and Buyer fail to reach agreement within the specified time frames Buyer [or Seller] may elect to terminate this agreement by providing written notice PRIOR to expiration of this deadline and the Termination Provision (O-3) shall apply.

Rent Back

Seller's obligation to sell [and Buyer's obligation to buy] is contingent on Seller and Buyer completing a rental agreement within [] days of acceptance. Said terms to include:

_____. Should Seller and Buyer fail to reach agreement within the specified time frames Seller [or Buyer] may elect to terminate this agreement by providing written notice PRIOR to expiration of this deadline and Termination Provision (O-2) shall apply.

Buyer and Seller acknowledge and agree that Hawaii Coast Realty, LLC and its agents are not an agent for, and owe no duties to anyone covered under the Rental Agreement.

{consider what items in the Purchase Contract should be moved to the Rental Agreement such as expenses, cleaning fees, deposits, and etc.}

Vacating Tenant

Seller's obligation to sell is contingent on Seller's good faith efforts to have tenants vacate the subject property in a timely manner. Seller to deliver effective notice to vacate to tenants no later than _____.

Should tenants fail to vacate no later than _____ days prior to scheduled closing Buyers may opt to close with tenants in possession and agree to assume all responsibilities with rent proration being adjusted and rental deposits being transferred to Buyer. Alternately, Seller and Buyer agree to extend closing until _____. Should tenant not vacate by this date either Seller or Buyer may elect to cancel and Paragraph O-2 shall apply.

Sale of Property

Buyer's obligation to buy the Property is contingent upon Buyer's receipt of proceeds from the sale of Buyer's property located at _____. Buyer to have placed said property into escrow no later than _____. If Buyer is not in receipt of said proceeds, or is unable to satisfy any other terms of this paragraph within the specified time frames, Buyer may elect to terminate the

Purchase Contract and Termination Provision (O-2) shall apply. Buyer may waive this contingency and purchase the Property on an all cash basis or increase the amount of non-contingent CASH FUNDS to thereby satisfy the requirements of this paragraph. If Buyer elects either of these two options, Buyer shall promptly provide written notice of such election to Seller, together with evidence of Buyer's ability to perform PRIOR to expiration of the time periods contained within this paragraph.

[Buyer hereby agrees to provide the necessary contact information and authorizes Seller to independently contact Buyer's Listing Agent to verify the status of the Buyer's Sale.]

Financing

Basic

a new conventional first mortgage.

FHA VA add on

a new [FHA / VA] mortgage. Seller agrees to pay only those fees not permitted to be charged to Buyer.

Mortgage with Caps

a new [conventional, FHA, VA, Hula Mae] [fixed rate, adjustable rate] first mortgage at a lending institution of Buyer's choice for a term of no less than [] years; interest rate not to exceed []%; loan fee of no more than []%; and no more than [] points. [If a VA /FHA mortgage Seller agrees to pay only those fees not permitted to be charged to Buyer.]

PMM

a Purchase Money [first, second] mortgage for a term of [] years on terms and conditions contained in the Purchase Money Mortgage Addendum attached and made a part of this Purchase Contract.

Seller Credit to Buyer

Seller to credit buyer [\$] at closing for closing costs.

General Provisions

1031 clause

[Buyer / Seller] agrees to cooperate in [Seller's / Buyer's] 1031 tax deferred exchange at no cost or liability to the [Buyer / Seller]. This cooperation may include amendments to this contract for the sole purpose of accommodating this exchange and does not include the right to extend any deadlines imposed by the Purchase Contract.

{Both the Buyer and Seller should be made aware of the potential serious risk of loss should the various contractual and IRS deadlines not be met for any reason, including either party's breach or failure to perform to the terms of the contract in a timely manner. Both parties to the contract should be advised to consult an attorney in this regard.}

Sight Unseen

Buyer and Seller understand and accept that the Buyer is purchasing this property without having physically visited the property. Buyer has been advised to conduct inspections as described in paragraph J-1, "General Inspection of Property Contingency", of the Purchase Contract, to satisfy themselves that the property will be acceptable for the Buyer's intended use and its physical condition. Material provided by Hawaii Coast Realty, LLC or its agents is not warranted to provide a complete or true picture of the subject property.

Buyer hereby acknowledges that they have not relied on any representations by Hawaii Coast Realty, LLC its agents or the Seller in the purchase of this property and have independently satisfied themselves that the property is acceptable in all respects. Further Buyer agrees that Hawaii Coast Realty, LLC, its agents and the Seller, shall be held harmless and released from all liability in regard to any and all claims resulting from the Buyer not having physically visited the property or having failed to conduct any of the inspections provided for under paragraph J-1.

Confidentiality / Buyers right to market

Buyer and Seller agree that the terms of this offer shall remain confidential until there is a successful closing on the property by the Seller. Buyer and Seller further agree that Buyer will not attempt to market or resell the subject property until after a successful closing.

{This term is only effective if both parties have successfully executed the Purchase Contract. If confidentiality must be maintained during the marketing and negotiation period a separate Confidentiality Agreement should be prepared by the Seller's attorney.}

Early Occupancy

Buyer and Seller agree that Buyer shall be allowed to occupy the subject property prior to close of escrow subject to the Early Occupancy Agreement attached. [Buyer further agrees that on the specified "OCCUPANCY DATE", [all or name specific] Buyer contingencies within this Purchase Contract shall be deemed to be waived and released.]

Inventory

Inventory describe in E-3 to be conveyed and paid for by way of a separate Bill of Sale for a total value of \$

Or

Inventory valued at \$ _____ is included in the Sales Price as part of this Purchase Contract

Rent Back to Seller

Upon closing, Buyer agrees to rent back property to Seller subject to the attached separate Rental Agreement. With respect to this Rental Agreement only; Buyer and Seller acknowledge and agree that Hawaii Coast Realty, LLC and its agents are not an agent for, and owe no duties to anyone covered under the Rental Agreement.

{consider what items in the Purchase Contract should be moved to the Rental Agreement such as expenses, cleaning fees, deposits, and etc.}

SSPP

The subject parcel is a part of a SSPP (Special Subdivision Program Provision). Seller to provide pertinent information as part of the Seller's Disclosure Statement. The remaining amounts owed for these obligations are to be [paid by (Seller / Buyer)] OR [prorated as of recordation].

K-1 Staking Amendment (Buyer to pay)

Paragraph K-1 (Staking): The first sentence is amended to read "...Buyer shall, at Buyer's sole cost and expense...". The second and third sentences of this paragraph are deleted. Seller will not pay for staking. Hawaii Coast Realty, LLC and its agents recommend Surveys be completed. Hawaii Coast Realty, LLC does not warrant the accuracy of any existing stakes. Hawaii Coast Realty, LLC also makes no warranty that encroachments do not exist. Buyer agrees they have not relied on any Real Estate Agent to identify or locate any pins or stakes. [Seller indicates that all Surveyor's pins / marks are visible.] [Property was staked on _____ by _____.]

K-2 Survey Amendment (Buyer to pay)

The first sentence is amended to read "...Buyer shall, at Buyer's sole cost and expense..."

K-2 Survey Amendment (setback clarification)

Paragraph K-2 (Survey): The last sentence shall be replaced with, "This survey and map shall address whether improvements on the Property are in compliance with County setback requirements [and subdivision covenants, conditions, and restrictions].
Or / And

K-2 Survey (Recent Survey)

Seller to provide existing copy of Survey Report completed _____ by _____. [Seller indicates that all surveyor's pins / marks are visible.] Hawaii Coast Realty, LLC and its agents recommend Surveys be completed and does not warrant the accuracy of any existing Surveyor's pins / marks, nor that encroachments do not exist. Buyer may have a registered land surveyor verify the accuracy of the location of the surveyor's pins / marks prior to closing. Seller shall reimburse Buyer for the cost of this verification [***at closing***] ONLY if the location of the original stakes proves to be inaccurate or additional encroachments or setback violations are discovered as a result of the surveyors verification. Buyer agrees they have not relied on any Real Estate Agent to identify or locate any pins or stakes.

K-1, K-2 Survey – Staking – None

[Seller indicates that all surveyor's pins / marks are visible.] Hawaii Coast Realty, LLC and its agents recommend that Surveys be completed in conjunction with the transaction. Buyer and Seller understand

that without a new survey or re-staking of the property by a licensed surveyor it is not possible to verify that the existing pins / marks are accurate nor whether there our encroachments or setback violations.

Hawaii Coast Realty, LLC and its agents have made no representations as to the accuracy of the existing surveyor's pins / marks that may have been made visible by the Seller, Agents, or any other person, nor have they made any representations regarding possible encroachments, setback violations or anything else a professional surveyor would be qualified to address. Buyer agrees they have not relied on any Real Estate Agent to identify or locate any pins or stakes. Buyer and Seller have been advised to seek professional advice in this matter and agree to hold Hawaii Coast Realty, LLC and its agents harmless from any liability which may occur due to the parties' decision in this regard.

L-2 Termite Inspection Contingency – None

Hawaii Coast Realty, LLC and its agents recommend that a termite inspection be completed in conjunction with the transaction. Buyer and Seller understand that only a licensed pest control operator is qualified to locate any termite infestations and determine the need for appropriate termite treatment.

Buyer further agrees that they have not relied on any Real Estate Agent to make any such determination or election to decline a termite inspection and hereby agree to hold Hawaii Coast Realty, LLC and its agents harmless from any liability which may occur due the party's decision in this regard.

REO (bank owned)

This is the sale of property obtained by lenders in foreclosure. The title to be conveyed will be insurable title; however, it may not be conveyed by a general warranty deed. Further, seller will not be providing a disclosure statement and property will be conveyed in its "as is" condition. Buyer agrees to conduct all necessary due diligence within the inspection time frame and agrees they have not relied on Sellers to provide any property disclosures.

Association Documents (not provided)

{Add in the following paragraph only if Seller affirmatively refuses to provide association documents. All sellers (short sales included) (excepting REOs and court ordered transactions of residential properties that are part of a "planned community" are required by the Disclosure Law to provide "planned community" and association documents and should NOT use the following paragraph.}

Seller will not provide Association Documents. Buyer is advised that these documents contain material facts that are most likely pertinent to the transaction and the value of the property. Buyers have been advised to obtain these documents at their own expense prior to proceeding with the sale. Should buyers elect to not obtain these documents at their own expense; Buyers hereby agree to hold Hawaii Coast Realty, LLC and its agents harmless from any liability which may occur due to their decision in this regard.

MARS Disclosure when listing (short sale)

Regarding the provision of "Mortgage Assistance Relief Services (MARS)" (Excluding Real Estate Services)

Hawaii Coast Realty, LLC does not offer MARS services as part of its real estate services. However, certain actions as defined under the MARS rules may be deemed to be subject to MARS rules. We do not charge any fee for these types of services. Seller agrees that we have not held ourselves out as qualified or experts in this field. Further, in this regard, Hawaii Coast Realty, LLC has specifically advised the Seller to

seek legal and other professional counsel. Hawaii Coast Realty, LLC and its agents have not recommended any specific MARS service provider as competent in this area nor will Hawaii Coast Realty, LLC receive any fee from any such servicer.

Regarding MARS Services Only (not any other Real Estate services covered in this contract):

IMPORTANT NOTICE: You may stop doing business with us at any time. You may accept or reject the offer of mortgage assistance we obtain from your lender or servicer. If you reject the offer, you do not have to pay us. If you accept the offer, you will have to pay us 0.00 Dollars for our services. Hawaii Coast Realty, LLC is not associated with the government, and our service is not approved by the government or your lender. Even if you accept this offer and use our service, your lender may not agree to change your loan. If you stop paying your mortgage, you could lose your home and damage your credit rating.

MARS Disclosure when presenting any lender offer of Mortgage Relief (short sale approval). The following disclosure must be part of a separate letter delivered to Seller whenever a lender delivers an approval of a short sale.

Hawaii Coast Realty, LLC does not offer MARS services as part of its real estate services. However, certain actions as defined under the MARS rules may be deemed to be subject to MARS rules. We do not charge any fee for these types of services. Seller agrees that we have not held ourselves out as qualified or experts in this field. Further, in this regard, Hawaii Coast Realty, LLC has specifically advised the Seller to seek legal and other professional counsel. Hawaii Coast Realty, LLC or its agents have not recommended any specific MARS service provider as competent in this area nor will we receive any fee from any such servicer.

The following notice is pursuant to the MARS regulations and may have been provided to you separately if you received your short sale approval directly from the lender.

IMPORTANT NOTICE: Before buying this service, consider the following information. This is an offer of mortgage assistance we obtained from your lender or servicer. You may accept or reject the offer. If you reject the offer, you do not have to pay us. If you accept the offer, you will have to pay us 0.00 dollars for our MARS services (this does not affect our normal listing commissions) for our services. If you stop paying your mortgage, you could lose your home and damage your credit rating.

Property Description

Condo

All that certain [fee simple, Leasehold] interest in the [] bedroom, [] bath apartment #[] of the [] Condominium, together with [] [assigned, unassigned, deeded] parking spaces, [storage locker #[]], and an appurtenant undivided interest in the common elements.

Single Family Condo

All that certain [fee simple, leasehold] interest in a [] bedroom, [] bath, single family condominium with an [attached, detached] [garage, carport], unit [] of the [] Condominium, together with a Limited Common Element Land Area of [] sq. ft., more or less and any existing improvements thereon, and an appurtenant undivided interest in the common elements.

Single Family Residential

All that certain [Fee Simple, Leasehold] interest in approximately [] sq. ft. of land more or less together with all improvements thereon, including a [] bedroom, [] bathroom house, with [attached, detached] [garage, carport].

Vacant Land

All that certain [fee simple, leasehold] property consisting of approximately [] square feet of vacant land, more or less, [being lot #[], unit/increment []] of the [] subdivision, together with any existing improvements thereon.

Vacant Land - Condo

All that certain [fee simple, leasehold] interest in a condominium unit with no living area of the [] Condominium, together with a Limited Common Element Land Area of [] sq. ft., more or less and any existing improvements thereon, and an appurtenant undivided interest in the common elements.