

2022

Foundations for Success Series

FR / BAR

"AS IS" CONTRACT

*Understanding the FR / BAR
For the Real Estate Professional*



Skills Training for the Real Estate Professional

This course consists of a section by section, clause by clause hands on look at what the FR / BAR "AS IS" contract says and how to prepare it. This includes a detailed look at how to fill out every blank of the contract with the proper information and format.

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A Real Estate Education Firm



FR / BAR

“AS IS” CONTRACT

Preparation and Understanding
For the Real Estate Professional



Presented By:
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A Real Estate Education Firm

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Be Productive

Productive: Having the quality or power of producing; yielding or furnishing results; as, productive enterprises; productive labor, that which increases the number or amount of products.

For the real estate professional, being productive means working with a person or persons who have the desire and ability to sell, buy, rent or lease real estate TODAY!

Each and every day, your goal is to find a person who is ready and able to take action.



It is not enough to be busy...The question is: what are we busy about?
Henry David Thoreau

It's Your Business

Remember you don't have a job and you do not have a career. What you do have is a business and you are the president and chief executive officer. The success of your business depends upon the business decisions you make each and every day. No one is going to hand it to you or hold your hand; you will have to build your own business. You will get out of it what you put in it, **If you don't make it happen, it won't happen, it's as simple as that.**



I'm a great believer in luck, and I find the harder I work the more I have of it.

Thomas Jefferson

Forms Program

The forms program **Forms Simplicity or Dot Loop** allows us to provide clear, precise and professionally prepared real estate forms. On very rare occasions, you may be forced to write a contract on the hood of your car, but by and large those days are long gone. Today, all of our real estate forms are prepared at the computer and sent via e-mail or fax to all of the interested parties. Not only can you prepare and send all of your real estate forms directly from the forms program, you can store them as well in Forms Simplicity and Dot Loop for later use and revisions if required.

With the total access to technology today, there really is no excuse for handwriting a contract. You will be judged by the contracts you write. Do you want to be thought of as a true professional, or something far less, the decision is yours.

Must have training Offered by the Miami Association Technical Training in Computer Lab

- **Forms Simplicity**
- **Dot Loop**



FR / BAR “AS IS” CONTRACT



For newer agents, it is very likely your first client will be a buyer; which means one of the first things you may be required to do is write a contract. It is somewhat ironic that one of the first things you may be asked to do, write a contract; is one of the most important and difficult. After all, no matter how hard we work, no matter how much money you invest in your business, it doesn't mean a thing if you can't write a contract, and get that contract to closing.

- **FR / BAR “AS IS” Contract**
- **How to fill it out**
- **Things to look for**

The preparation of the FR / BAR Contract is one of the most important things that an agent can do. The preparation of a contract for another person is practicing law, so I cannot overstate the importance of being proficient in the preparation of your contract. The responsibility of preparation falls upon the agent. If the purchase and sale contract is prepared properly at time of sale, you will have fewer problems and will be far more likely to get your transaction to closing.

This workbook is designed to aid you in the general considerations in the preparation and understanding of the FR / BAR “AS IS” Contract. We will be discussing each paragraph of the contract, and how to prepare it along with its meaning.

I have provided some general considerations for the preparation of the FR / BAR “AS IS” Contract.

- ✓ Must be in writing and signed by the parties under Statute of Frauds
- ✓ Fill in all blanks, using “N/A” or “-0-” if necessary.
- ✓ Check at least one box where a choice is given if possible.
- ✓ If a particular sentence or clause does not apply to the transaction, either cross it out or state in the addendum that the particular clause has been deleted.

✓

NOTES:

It takes less time to do a thing right, than it does to explain why you did it wrong.

Henry Wadsworth Longfellow

INTRODUCTION

These forms are ideally suited for transactions involving the purchase and sale of improved residential properties. The provisions of the contract presume that there are residential improvements on the property. With some revision and adaptation, the form can be used as a contract for the purchase of vacant residential property. Use of the forms for non-residential properties e.g., the purchase of a commercial building is not recommended. Agents are encouraged to seek legal advice and assistance in such transactions.

Two Forms Available

The contract provides a choice between two basic forms - the Residential contract for Sale and Purchase ("Standard Form") and the "As-Is" Residential contract for Sale and Purchase the ("As-Is Form").

1. The Standard Form imposes an obligation on the seller to pay the cost of remediating certain deficiencies discovered through inspections conducted by the buyer; the As- Is Form does not impose such an obligation and, with some limitations, requires the buyer to accept the property in as-is condition.
2. **The As-Is Form permits the buyer to inspect the property and, within the Inspection Period, cancel the contract for any reason (or no reason at all), essentially providing an option to cancel. The Standard Form contains no option to cancel.**

Buyers often find the As-Is Form preferable because of this cancellation option. In a buyer's market, the option to cancel enables a buyer to make simultaneous offers on multiple properties without the risk of being bound on any particular contract.

Preparation

Improperly prepared real estate contracts containing errors, omissions or ambiguities can produce headaches for the parties to the transaction and liabilities for the broker and sales associate ("agent"). If the buyer and seller are motivated to complete the transaction, such problems with the contract are frequently overcome. However, a remorseful buyer or seller seeking to avoid his/her obligations will first look to the contract itself for drafting defects that might provide an exit.

The contract is the single most important document involved in real estate transactions. It formalizes negotiations, defines the rights and obligations of the parties and provides a framework for closing the deal.

Deadlines

The contract provides that **"Time is of the essence in this contract."** These legal words of art mean that deadlines and time periods expressed in the contract are strict, and, except as otherwise provided, cannot be unilaterally extended. Failure to perform within the applicable deadline can serve as a basis for a claim of default on the part of the non-performing party resulting in possible rescission of the contract and/or a claim for damages.

NOTES: _____



Preparing the Contract

The Parties: Lines 1 through 5

Sellers: Enter the seller's name as it appears on the deed. This can be found in the tax rolls, public records, and deed or title policy on **line 1**.

Make sure you note the marital status of the sellers, "*John Doe and Mary Doe a married couple*" if it applies, or "*John Doe a single man*" "*Mary Doe a single woman*"

If the property is a residence and only one name appears on the records as the owner and you know they are married, make sure the contract is signed by the spouse even if their name does not appear in the records.

Homestead/Joint Ownership: Residential property owned in the individual name of a married person and occupied as a principal residence is likely subject to the Florida homestead laws which require the spouse in a deed conveying the property. Therefore, the spouse should be added as a party to the contract. If the property is held by spouses as tenants by the entirety, both must sign. If owned by two or more individuals as joint tenants or tenants in common, all co-owners must sign the contract.

Corporations: If owned by a corporation, enter the exact name of the corporation and indicate whether it is a Florida corporation or a corporation of another state. Require execution by the president or vice president of the corporation. A determination should be made that the corporation is in good standing. Corporate status of Florida entities and registration of foreign entities can be obtained by a record search on the Florida Department of State, Division of Corporations web site - www.cfccorp.dos.state.fl.us, or www.sunbiz.org.

Foreign Seller: If the seller is not a U.S. citizen or entity, the provisions of the Foreign Investment in Real Property Tax Act (FIRPTA) may require withholding of a portion of the sales proceeds for payment of taxes

NOTES: _____



Buyers: Enter the buyer's names exactly as they wish to hold title at closing on line 2.
Do not put and or assigns on the buyer line.

The buyer should be identified in the same manner as the buyer would be described on the deed. Typically, a married couple purchasing a principal residence will want to hold title as husband and wife; thus, both should sign the contract.

Other Entities. The inquiries and determinations recommended for the seller above also apply with respect to partnerships, trust and entities purchasing real property. Keeping in mind that the primary objective is to create a clear and unambiguous contract which is binding on the buyer and seller, the agent should exercise reasonable due diligence to ensure that the person executing the contract on behalf of a partnership, trust or other entity is authorized to do so.

Never give legal advice to the buyer as to how they should hold title, even if asked by the buyer. Always refer them to an attorney.

NOTES: _____



1: Property Description

Property Description Lines 6 through 23

Enter the complete address of the property including the street address, city, state and zip code on line 7.

Enter the county in which the property is located on line 8 along with the Tax ID #.

Enter the complete legal description of the property as it appears in the public records, deed or title policy. If additional space is needed, put “*see attached*” and attach an addendum with the complete legal description on lines 9, 10 and 11.

The contract defaults to all existing appliances, fixtures and window treatments being included in the contract lines 12 through 20.

If any other personal property is to be included in the sale it must be entered on the contract on lines 21 and 22.

Example: *Washer, dryer, pool equipment, swing set, pool furniture*

No Contributory Value. The contract assumes that personal property has no intrinsic value separate and apart from the value of the real property, improvements and fixtures. If that is not the case and a specific value is to be assigned to personal property items, a special provision or addendum should be added.

If any items such as appliances, fixtures or window treatments are not to be included in the sale, they should be excluded on lines 24 and 25.

Example: *chandelier*

Remember, “When in doubt, write it out”

NOTES: _____

2: Purchase Price

Purchase Price: Lines 26 through 42

Enter the purchase in U.S. Dollars on **line 27**.

Enter initial deposit amount on **line 28**.

Line 30 Check boxes to indicate that the original deposit is to be made with the offer / upon acceptance (Effective Date) or within specified number of days after Effective Date, defaults to 3 days. ***(do not leave blank)***

Enter the escrow agents name and complete address, street address, city, state and zip code along with the correct phone number, e-mail and fax number on **lines 33 through 35**.

If any additional escrow deposit is to be made, enter the time period in which the deposit is required along with the amount on **line 36 through 37**.

If financing is to be used, enter the loan amount on **line 39**. If no financing is used but "0".

If any other form of payment is to used or included (*car, boat, jewelry*) enter the amount on **line 40**. An addendum should be attached disclosing the items and value agreed upon.

Enter the amount of cash necessary to close on **line 42**.

Lines 27 through 42 should equal the purchase price on **line 27**.

NOTES: _____



Escrow Deposit

FREC RULE 61j2-14.008

When a deposit is placed or to be placed with a title company or an attorney, the licensee who prepared or presented the sales contract (Licensee), shall indicate on that contract the name, address and telephone number of such title company or attorney. Within ten (10) business days after each deposit is due under the sales contract, the Licensee's broker shall make written request to the title company or attorney to provide written verification of receipt of the deposit.

Within ten (10) business days of the date the Licensee's broker made the written request for verification of the deposit, the Licensee's broker shall provide Seller's broker with either a copy of written verification, or, if no verification is received by Licensee's broker, written notice that Licensee's broker did not receive verification of the deposit. If Seller is not represented by a broker, then Licensee's broker shall notify the Seller directly in the same manner indicated herein.

Although the Broker is responsible, it is also the responsibility of the Sales Associate to monitor this issue as well.



3: Time for Acceptance

Time for Acceptance of offers: Lines 43 through 49

When writing the offer, enter the date for acceptance on line 45.
This is a hard date (drop dead date) does not roll over.

The contract defaults to a 2 day time for acceptance of any and all counteroffers. If another time period is desired it must be stated in the contract.

The effective date of the contract will be the date the last party signed the contract and delivered to the other party including all addendums. Delivery to their agent is considered delivery.

Acceptance requires that all parties sign the offer and that an executed copy be delivered to all parties. It is not sufficient to send written notice that all parties have signed, instead of delivering the executed contract.

Remember, all time periods are CALENDER DAYS

4: Closing Date

Closing Date Lines 50 through 52

Place the closing date on line 53 (make sure it is in line with the time frame given for the mortgage commitment on line 89.) I would suggest 40 days. ***Do not put "On or Before"***

In case of "Force Majeure" the transaction will close in a reasonable time after the closing date but not more than 7 days after Force Majeure no longer prevents performance; if Force Majeure last more than 30 days either party may cancel. See STANDARDS, section G line 425 to 435

NOTES: _____

CAUTION: Always have both Buyer's and Seller's initial the bottom of all pages. The purpose is to authenticate and document the party's acceptance of all pages of the contract. Care should be taken to ensure that the parties initial each page of the contract.

5: Extension of Closing Date

Extension of Closing Date Lines 55 through 63

Provision specifies that Closing can be delayed if required by the Consumer Financial Protection Bureau "CFPB" requirements. The delay may not exceed 7 days.

In the event of force majeure (which is defined in Standard G), Closing Date may be extended as provided in STANDARD G.

NOTES: _____

6: Occupancy and Possession

Occupancy: Lines 64 through 71

Seller will allow buyer to take occupancy at closing unless otherwise stated in **6 (b), line 72** of the contract.

Seller to remove personal items and trash from the Property and deliver keys, garage door openers and access devices and codes to Buyer.

If Buyer occupies the Property prior to Closing, the property condition is accepted by the Buyer in its existing condition. Buyer assumes RISK of LOSS to the property from date of occupancy.

CAUTION: Never let buyer take occupancy prior to closing.

Insurance: A buyer's pre-closing occupancy or a seller's post-closing occupancy raises insurance issues. Special care should be taken to make sure that proper fire, casualty and liability insurance is obtained. When the property is used for rental purposes, existing insurance may no longer afford appropriate coverage.

NOTES: _____

6(b): Check if Property is Subject to Lease (s) or Occupancy after Closing

Occupancy: Lines 72 through 82

If Property is subject to a lease(s) 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.

If Property is intended to be occupied by Seller after Closing, see **Rider U. POST-CLOSING OCCUPANCY BY SELLER.**

NOTES: _____

7: Assignability

Assignability: Lines 83 through 85

Check whichever box may apply, can be assigned or may not assign.
If no box is checked then contract cannot be assigned

NOTES: _____



8: Financing

Financing: Lines 87 through 133

If it is a cash transaction check the box on line 88.

Buyer may obtain a loan but there is no financing contingency to Buyer's obligation to close.

If the buyer will obtain financing, check the box on line 89 along with the box for the appropriate type of financing lines 90 and 91.

Place the time permitted for obtaining a loan approval in the blank on line 87. If left blank the contract defaults to 30 days. DO NOT leave it blank, if 30 days is acceptable then put 30 in the blank.

Check appropriate box for financing on line 88.

Enter maximum interest for the financing on line 92. *(I suggest prevailing rate)*

Enter the term of the financing in the blank on line 93. Put 30 don't leave blank.

In addition, enter the time period for the buyer to make application for the financing in the blank on line 97. If left blank the contract defaults to 5 days; DO NOT leave it blank, if 5 days is acceptable then put 5 in the blank. The time period is measured from the effective date.

All time periods in this contract are based on CALENDAR DAYS

Line 97 through 101. The buyer must use diligence in obtaining the financing within the allotted time period and notify the seller in writing of such approval within the required time period. The buyer allows all lenders and mortgage brokers to release information concerning the loan process to the seller and their agents.

Line 102 through 105. Failure of the buyer to use diligence in trying to obtain a loan commitment will be considered default by the buyer and could result in the loss of their deposit.

line 106 – 110 Financing: Written Request Upon written request the buyer will keep seller and broker fully informed about the status of buyer's loan application, loan processing, appraisal and property related conditions. Buyer authorizes mortgage broker, lender, and closing agent to disclose such status

Lines 111 – 114 If buyer denied financing, buyer must notify seller in writing, buyer may: Waive loan approval and contract will continue as if loan approval has been obtained

Line 115 – 119 If buyer is unable to obtain loan approval within the loan approval period Buyer may terminate the contract by delivering written notice to seller within the loan approval period. Buyer shall be refunded the deposit thereby releasing Buyer and Seller from all further obligations under the contract

Lines 120 – 125 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), (cash transaction line

88) had been checked as of the Effective Date; provided

Lines 120 – 125 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

Lines 126 – 130 If Buyer has timely provided either written notice provided for in Paragraph 8b(iii), above, and Buyer Thereafter fails to close this Contract, the Deposit shall be paid to Seller unless failure to close is due to: Seller's default or inability to satisfy other contingencies of this Contract; or Property related conditions of the Loan

Lines 126 – 130 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.

Any extension of the time for approval should be but in writing as an addendum to the contract.

Lines 132 and 133.

Line 132 Check box for assumption of mortgage

Use Rider D for terms

Line 133 Check box for Purchase Money mortgage

Use Rider C for terms

NOTES:

9: Closing Cost; Title Insurance; Survey; Home Warranty; Special Assessments

Closing Cost; Title Insurance; Survey; Home Warranty; Special Assessments
Lines 135 through 154

Cost to Be Paid By Seller: Lines 136 to 145

Includes HOA/Condo association estoppel fees to be paid by Seller

Provides for escrowing 125% of Seller's Maintenance requirement if work not completed prior to Closing

Other: to be used to add or delete any charges

Cost to Be Paid By Buyer: Line 146 to 154

HOA /Condo application fees and transfer fees to be paid by Buyer

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Other: to be used to add or delete any charges

Title Evidence and Insurance: Lines 155 through 173

On **line 155** fill in the blank for the time for title insurance commitment, it defaults to 15 days if left blank but never leave it blank. **5 days if cash transaction**

On **line 168** check box if **SELLER** will pay for title insurance specifies that Buyer is to pay charges for closing services related to Buyer's lender's policy, endorsements and Loan Closing.

On **line 172** check box if **BUYER** will pay for title insurance

line 174 - 180 check **box line 174** if **SELLER** will pay to update tile and **BUYER** will pay for title insurance. Seller to provide title evidence (prior owner's policy or other) and update of the evidence. Seller is to pay for the tax and lien search at a cost not to exceed a negotiated amount **line 179 (\$200 if left blank)** and Buyer to pay post-closing title evidence update and premium for Buyer's owner's policy. ***Should be used in DADE and BROWARD counties.***

NOTES: _____

Survey: Lines 181 through 183

Survey may be obtained by Buyer at Buyers expense five days prior to Closing. If Seller has a survey covering the property a copy should be furnished to Buyer and Closing Agent within 5 days after Effective Date.

Home Warranty: Lines 184 through 187

Check whichever box applies on **line 184** If seller or buyer is checked fill-in name of insurer and amount of the policy on **line 185** otherwise place N/A on the blanks.

Special Assessments: Lines 188 through 202

Special assessments (by public bodies, not condo or HOA special assessments) that are certified, confirmed and ratified or where improvements are substantially completed are to be paid by Seller.

Line 194 Option A check box if SELLER will pay installments due prior to closing and BUYER will pay installments due after closing.

Line 196 Option B if SELLER will pay assessment in full prior to closing.

Any assessment not allowed by public body Option A will be deemed selected SELLER will pay installments due prior to closing and BUYER will pay installments due after closing.

10: Disclosures

Disclosures: Lines 204 through 255

Includes your standard disclosures for: Radon, Mold, Energy-Efficiency, Lead Base Paint, Property Taxes.

Radon Gas: Lines 205 to 208

Seller must disclose RADON but does not have pay for testing. Buyer must pay if they do RADON inspection.

Permits: Lines 209 through 215

Provides that a Seller does not know of permits on the Property which were not properly closed out or any improvements made to the Property without required permits unless disclosed to **Buyer in a written disclosure.**

Mold: Line 216 and 217 Discloses that mold may have health risks. Tells buyers that if they have concerns, they should do a mold inspection.

Flood Zone; Elevation Certification: Lines 218 through 228

Provides that Buyer may obtain a flood elevation certificate. Buyer may cancel by written notice within 20 days after Effective Date if the Property is in a special flood hazard area or coastal high hazard area and the finished floor elevation is below the minimum flood elevation.

Energy Brochure: Lines 229 and 230

Buyer acknowledges receipt of required Energy-Efficiency Brochure

Lead-Based Paint: Lines 231 and 232

If built prior to 1978 requires a mandatory Lead Paint disclosure.

Homeowners Association: Lines 233 to 235

Tells BUYER not to execute contract until they receive the disclosure.

Property Tax Disclosure: Lines 236 through 241

Tells buyers not to rely on taxes paid by the seller and that property taxes may increase due reassessment following sale.

Foreign Investment In Real Property Tax Act (FIRPTA): Lines 242 through 249

States BUYER and SELLER will comply with **FIRPTA** if applicable

Seller Disclosure: Lines 250 through 255

Seller warrants they have disclosed all material defects not visible to buyer

Seller states they have not received any notice of code violations.

Seller makes no warranty as to the condition of the property.

NOTES: _____

11: Property Maintenance

Property Maintenance: Lines 257 through 259

Seller's is to maintain the property in its condition as of Effective Date. (Maintenance requirement)

12: Property Inspection; Right to Cancel

Property Inspection; Right to Cancel: Lines 260 through 274

Enter time for inspections on line 261, defaults to 15 days. *(do not leave blank)*

I would suggest putting 10 days

Seller must provide access to the property for inspections

Seller must provide utilities for the buyer's inspections.

Buyer may cancel contract by delivering written notice to seller within inspection period.

If not canceled by buyer, buyer accepts property in its present physical condition.

Walk-Through Inspection / RE-Inspection: Lines 275 through 279

Walk through inspection is to occur on the day prior to Closing Date or on the Closing Date as designated by the Buyer or Buyer's representative. Buyer or Buyer's representative can conduct the walk-through and a follow up walk through if one is necessary.

Seller Assistance and Cooperation In Close-Out of Building Permits:

Lines 280 – 288 If permit remedies are necessary, Seller is to assist and cooperate in obtaining remedies, including signing consents, authorizations and providing documentation if there is any. However, Seller is not required to expend sums to remedy permit problems.

Assignment of Repair and Treatment Contracts and Warranties: Lines 289 through 291

At Buyer's option and cost, Seller will assign all repair, treatment warranties or contracts at Closing.

13: Escrow Agent

Escrow Agent: Lines 293 through 312

Funds will be disbursed by Escrow or Closing Agent subject to Collection.

States if funds are held by Broker and dispute will be settled under 475, FS by mediation, arbitration, interpleader or escrow disbursement order.

Broker may recover cost.

NOTES: _____

14: Professional Advice; Broker Liability

Professional Advice; Broker Liability: Lines 313 through 334

Parties should obtain expert advice from qualified professionals and should verify information they receive about the Property. Limited indemnity and hold harmless provision for Broker under certain specified circumstances. Specifies broker does not reside on the Property (*alter if necessary*) Parties to pay their vendors whether the transaction closes or not

15: Default

BUYER Default Lines 336 - 344

If BUYER defaults SELLER my claim deposits as liquidated damages or proceed to equity under the contract to enforce SELLERS right under the contract.

If a portion of the Deposit is paid to Listing Broker upon default by Buyer, it will be divided equally between the Listing and Cooperating Broker provided the Cooperating Broker's portion shall not exceed the commission the Cooperating Broker would have received had the sale occurred.

SELLER Default Lines 345 - 350

Buyer may elect to have all deposits returned, or my elect to pursue specific performance or seek actual damages.

16: Dispute Resolution

Dispute Resolution: Lines 351 through 362

Dispute is a defined contract term. Deposit Dispute: Buyer and Seller will have 10 days after date of conflicting demands over the Deposit to resolve the Dispute, failing which, they will mediate pursuant to the Florida Rules for Certified and Court-Appointed Mediators with a mediator who is certified or has real estate industry experience. Other disputes: Buyer and Seller must mediate all non-deposit disputes in the same manner as Deposit disputes except there is no 10 day time-period to resolve these disputes before submitting the dispute to mediation. Litigation will resolve all disputes not resolved by mediation

17: Attorney's Fees; Costs

Attorney's Fees; Costs: Lines 363 through 367

The parties will split mediator's fee but each pay their own costs, expenses and attorney's fee in mediation. In litigation, the prevailing party will be entitled to attorney's fees.

18: Standards

A: Title Insurance / Title Examination

Assumes a title insurance commitment to prove clear title
Buyer does not have to accept anything but clear title
Seller must provide title evidence within required time period or default
If seller does not provide title evidence in time buyer may cancel
If there is problem with title, seller has 30 days to cure it

NOTES: _____

B: Survey

Buyer has the right to a survey at their expense
Encroachments are considered title defects
BUYER must deliver notice of defects to SELLER within 5 days of receipt of survey

NOTES: _____

C: Ingress and Egress

Seller warrants that buyer will have ingress and egress (*get on and off the property*)

NOTES: _____

D: Lease Information

Seller shall furnish to Buyer at least 10 days prior to closing estoppel letters from tenants specifying lease information rents and deposits. If unable to provide estoppel letters seller may provide same information in form of an affidavit and buyer will have the right to contact tenants to verify information. If this differs materially from what was represented by Seller, Buyer has 5 days after receipt to terminate the contract, but not later than 5 days prior to Closing

NOTES: _____

E: Liens

Seller will provide affidavit certifying no improvements or repairs within 90 days of closing
If repairs, seller must provide proof of payment to the buyer

NOTES: _____

F: Time

Time is based on calendar days

Except time for acceptance in paragraph 3

A time period ending on a weekend or holiday will extend to 5:00 PM next business day

NOTES: _____

G: Force Majeure

Allows for delay of performance of obligations in the event of force majeure for the time the force majeure exists. Force Majeure will include natural disasters, and some manmade disasters and causes not reasonably within the control of the Buyer or Seller. All time periods will be extended up to 7 days after Force Majeure no longer exist. If Force Majeure exist more than 30 days beyond the closing date then either party can terminate contract.

Force Majeure begins on the first day the effect of Force Majeure prevents performance



H: Conveyance

States types of deeds permissible for transfer of title

Must have a Bill of Sale for personal property being transferred if requested by buyer

NOTES: _____

I: Closing Location; Documents; and Procedure

Close in the county where the property is located
If no title insurance Seller will designate closing agent
Closing may be conducted by mail, or electronic means
Both buyer and seller must provide required documents for closing

NOTES: _____

J: Escrow Closing Procedure

Title is unmarketable, SELLER will have 30 days to cure title.
If unable to cure title buyer may request refund of deposits within 5 days
If buyer does not request refund within time period, buyer accepts property "AS IS"

NOTES: _____

K: Prorations; Credits

Day of closing belongs to the buyer
Includes special benefit tax assessments imposed by a CDD as an item to be prorated.

NOTES: _____

L: Access to Property to Conduct Appraisals, Inspections and Walk-Through

Seller must allow access and utilities for inspections and walk-through

NOTES: _____

M: Risk of loss

The risk of loss is the seller's.
Seller must repair damage up to 1.5% of purchase, if more buyers may cancel
Tree loss limited to pruning and removal of damaged trees. If restoration isn't complete as of Closing Date, 125% of the estimate will be escrowed at closing not to exceed 150% of sales price

If cost exceed 150% buyer may elect to take property "AS-IS" together with the 150% or receive a full refund

NOTES: _____

N: 1031 Exchange

Both buyer and seller must cooperate with each other concerning a 1031 Exchange

NOTES: _____

O: Contract Not Recordable; Persons Bound; Notice; Copies

The contract is not recordable in the public records
All notices must be in writing
Delivery to parties' attorney, broker or broker's licensee is considered delivery
Faxes and electronically transmitted copies (*emails, scans*) are same as originals
Contract may be executed by electronic signatures. **CAN NOT use TEXT or SOCIAL MEDIA**

NOTES: _____

P: Integration; Modification

This is the full and complete agreement of Buyer and Seller and there are no prior agreements or representations. Any modifications or changes must be in writing and executed by the parties.

NOTES: _____

Q: Waiver

Failure of Buyer or Seller to insist on compliance with, or performance of any provision of this contract will not constitute a waiver of other provisions or rights.

R: Riders, Addenda, Typewritten or Handwritten Provisions

Riders, Addenda, Typewritten or Handwritten Provisions will supersede all preprinted provisions of this contract it is in conflict with.

S: Collection or Collected

Checks must have become actually and finally collected in the Escrow Agent or Closing Agent’s account. Closing may be delayed and disbursement of funds delayed by Closing Agent until such amounts have been collected.

T: Reserved

U: Applicable Law and Venue

Contract specifies that Florida law applies
Any contract interpretation or disputes, the county in which the property is located is the place to resolve any disputes that arise.

V: FIRPTA Tax Withholding

If FIRPTA applies buyer must withhold 15% of the amount realized by the seller
If sellers net proceeds are not sufficient to meet withholding requirements seller will deliver to buyer all additional funds at closing

X: Buyer Waiver of Claims

Buyer will not file claims against seller or real estate licensee for damage or defects existing at closing or discovered after closing

NOTES: _____

19: Addenda

Addenda: Lines 589 and 590

Check the box of all addenda that are incorporated into the contract.

They include appraisal contingency, Short Sale, Arbitration, Defective Drywall, Housing for Older Persons, Licensee-Personal interest in Property, Lease Purchase/Lease option, Homeowner’s Insurance .

Some new addenda contained in the list which were added October 2021

DD. Seasonal/Vacation Rentals

EE. PACE Disclosure

(Note: Riders L and K are purposefully omitted because they are not needed for an AS-IS sale.)

20: Additional Terms

Additional Terms: Lines 591 through 608

Enter any additional clauses or agreements here.

Counter-Offer / Rejection

Counter-Offer : Line 610 Check box if SELLER counters buyer's offer.

Legally Binding Contract Lines 611 and 612

Tells Buyer and Seller this is a legally binding contract
They should seek legal advice of an attorney if not fully understood

Signed by the Parties

Lines 620 through 623

Have both the buyers and sellers sign and date the contract. All parties must sign the contract.

Lines 624 through 627

You should enter the address of both the buyer and seller here (*IT IS NOT REQUIRED*)

Broker

Broker: Lines 628 through 633

Defines Broker as the Listing and Cooperating Broker. Provides instruction to the Closing Agent to disburse at Closing the full amount of the brokerage fees as specified in a cooperative brokerage agreement or separate brokerage agreement except that amount retained by Broker from the escrowed funds. **States the contract shall not be used to modify the MLS offer of compensation.**

Lines 634 through 637

Enter the name and company of the brokers involved and entitled to be paid under this contract.

NOTES: _____

Always remember, the buyer wants to buy, and the seller wants to sell, your job is to do your very best to make it happen. Don't be a part of the problem, be a part of the solution.



**Based on the FR / BAR "AS IS" Contract
Revised November 2021**

**This workbook is for training purposes only and is not to be considered legal advice.
For legal advice concerning this or any other contract, consult an attorney**

Contract Questions

Call the Florida
REALTORS Legal Hotline
407-438-1409



Foundations for Success Series

Other courses in the series you may want to consider:

- Building and Presenting the Listing Presentation
- Prospecting and Farming for Listings and Buyers
- Servicing the Listing and Working with Buyers
- Understanding and Writing FR / BAR “AS-IS” Contract
- Exclusive Right of Sale Listing Agreement
- Understanding the ADA act
- Understanding the Fair Housing Act Title VIII
- Understanding Florida Real Estate Disclosure Laws
- Stop Working for Free / Protect Yourself with Buyers
- Becoming a Broker / The Start-Up
- Creating An Office Policy Manual
- Broker Specialties Series / Daily Operations
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About The Author



Richard H. Burch is the founder of Burch & Associates International LLC, a real estate education company and Director of The South Florida Real Estate School. He is the past Chairman of the Board for the Miami Association Realtors. Rick was named Realtor of the Year for 2004 and educator of the year in 2010. He is an award winning real estate professional; with over 31 years of experience in the real estate industry. He is a past member of the Board of Directors for the National Association of Realtors, and Board of Directors for Florida Realtors. Rick has been named to the Florida Realtors Honor Society. In addition, Rick Burch is a licensed real estate instructor and professional speaker. He has authored numerous real estate education courses and seminars including the 17 course Foundations for Success Series and co-authored a new 14 Hour CE and 45 Hour Post Licensing textbook for real estate professionals.

Professional Designations

"**CRB**" Certified Real Estate Brokerage Manager

"**CRS**" Certified Residential Specialist

"**GRI**" Graduate Realtor Institute

"**e-PRO**" Certified Internet Technology Professional

"**TRC**" Transnational Referral Certified

"**AHWD**" At Home With Diversity



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