

FORM 2104 - Purchase Agreement: REDUCED FROM 16 TO 15 PAGES!

1. **PARA. 3 AND 4: – OFF MARKET/TIME OFF MARKET (TOM) FEE** (previously Para. 3), has been broken into two Paragraphs. And the following language was added *“Notwithstanding the foregoing, if the Property was marketed through the MLS, the listing is subject to MLS Rules.”*
RATIONALE: The Property is “Off the Market” even if no TOM Fee is paid, so that explanation was separated from the TOM Fee Paragraph. The additional language was added to clarify that despite any agreement the parties have with regards to the marketing of the property, such agreement is subject to MLS marketing rules (such as when the status of the property must be changed from: “active” to “pending”).
2. **PARA. 6(C) – OTHER RIGHTS:** Language made more concise, no change in the meaning.
3. **PARA. 6(D) – FIXTURES, APPLIANCES AND PERSONAL PROPERTY:** Language added: *“Items not otherwise addressed below are governed by the definitions of “Fixture” and “Personal Property” in Para. 34.”*
 - A. **FIXTURES:**
 - i. Under attached window covering, language added: *“NOT including curtains, unless otherwise indicated below”;*
 - ii. Under Built-In Murphey Bed, language added *“Including mattress”;*
 - ii. Under TV Wall Mounts, language added: *“NOT including TVs, unless otherwise indicated below”.*
 - B. **PERSONAL PROPERTY:** Language below “Other” was moved to beginning of section (unchanged) and the following language was added: ***“PERSONAL PROPERTY LISTED IN THE MLS LISTING IS NOT INCLUDED IN THIS PURCHASE AGREEMENT UNLESS INCORPORATED BELOW.”***
4. **PARA. 7 - FINANCED OR CASH PURCHASE:**
 - A. **Heading:** language added: ***“IMPORTANT NOTICE TO SELLER: BROKER IS NOT RESPONSIBLE FOR VERIFYING AUTHENTICITY/VERACITY OF PRE-QUALIFICATION OR PROOF-OF-FUNDS LETTERS OR FOR DETERMINING BUYER’S CREDITWORTHINESS UNDER ANY SELLER FINANCING INSTRUMENT. _____ Seller(s) Initials”***
 - B. **PARA. 7(A) – LOANS:** Added “☐ NMMFA”
 - C. **PARA. 7(A)(ii):** Language ***“PRE-QUALIFICATION LETTER MUST STIPULATE THE FOLLOWING:”*** was bolded and capitalized to emphasize the importance of the Pre-Qualification Letter meeting the included criteria. Failure of the Pre-Qualification Letter to meet these criteria [arguably] constitutes a breach of the contract by the Buyer. Buyer may need to specifically request that the Pre-Qualification Letter contain these elements.
 - D. **PARA. 7(A)(v):** language modified: *“In the event the lender determines Buyer does not qualify for the loan, **unless otherwise indicated below**, Buyer shall deliver to Seller a written rejection letter from the Buyer’s lender prior to 11:59 p.m. **three (3) days** before the Settlement/Signing Date OR Buyer shall deliver to Seller a written rejection letter from the Buyer’s lender prior to 11:59 p.m. _____ days before the Settlement/Signing Date.”*
5. **PARA. 9(B) - APPRAISAL ORDER DATE:** Appraisal Order Date was removed. **RATIONALE:** The intent when it was added was to motivate the Buyer to order the appraisal in time for a timely Closing, but it gave the Seller the right to terminate the Agreement if the appraisal was not ordered by that date **EVEN IF** the delay would cause NO delay in Closing. It was removed because sellers were abusing this right to terminate. Further, a court may not enforce the failure to timely order the appraisal if failure to do so did not delay the Closing.

6. **PARA. 12 – IRS 1031 TAX-DEFERRED EXCHANGE:** Language added: *“Notwithstanding any other provision of this Agreement, in the event of a 1031 Exchange, this Agreement shall be assignable to a Qualified Intermediary.”*
7. **PARA. 14:** is now **ASSESSMENTS**, **PARA. 15:** is now **EXAMINATION OF TITLE; LIENS; DEED** and **PARA. 16** is now **COST TO BE PAID**. These paragraphs did NOT change substantively; they were moved around for formatting reasons.
8. **PARA. 20 – DISCLOSURES AND DOCUMENTS:**
 - A. **RE-FORMATTED** to condense this entire section. Now each subsection begins with a box that should only be checked if the Disclosure or Document applies.
 - B. **NEW PARA. 20(G) - TENANT(S) OCCUPYING PROPERTY AFTER CLOSING:** Provides tenant security deposits will be credited to Buyer at Closing and allows the parties to elect whether a Tenant-Estoppel Certificate (NMAR Form 6103) will be provided. Form 6103 has been in the NMAR Forms Library for a number of years, but without reference to in the Purchase Agreement, it has not been used as often as intended. [CLICK HERE FOR FORM 6103](#)
 - C. **NEW PARA. 20(H) - SOLAR PANELS:** Allows Buyer to indicate if he will or will not assume Solar Panel Lease or Loan and references Solar Panel Contingency Form, NMAR 5125, which has been in the Forms Library for a couple of years. [CLICK HERE FOR FORM 5125](#)
 - D. **PARA. 20(I) – DOCUMENTS:** In “Solar Panel Documents” indicates the section is not to be completed if NMAR Form 5125 will be attached, because Form 5125 has its own deadlines. Also, creates a division in the grid for Manufactured Housing.
9. **PARA. 21 – BUYER’S INVESTIGATION OF SURROUNDING AREA:**
 - A. Retitled to bring attention to the fact that Buyer is to investigate the surrounding area;
 - B. Language Added to clarify that issues in the area/neighborhood will NOT give Buyer the right to terminate the contract and initials added: *“By entering into this Agreement, Buyer represents he is satisfied with the neighborhood and surrounding areas and agrees that any issue regarding the surrounding area will NOT serve as grounds for termination of this Agreement. _____ / _____ Buyer(s) Initials.”*
10. **PARA. 23 – INSPECTIONS: BROKERS PLEASE REVIEW THIS SECTION!**
 - A. **Para. 23(C)** – Language amended slightly to clarify that unless otherwise agreed to in writing (such as in the ORW), neither Buyer nor Seller is required to bring the property “up to Code”.
 - B. **PARA. 23(F) – DELIVERY DEADLINE:** Language regarding the Delivery Deadline that was further down in this section was moved up because it pertains to the Delivery Deadline. No new language was added.
 - C. **PARA. 23(H) – OBJECTIONS/RESOLUTION/TERMINATION:** Entire section was reworded and reformatted to further clarify the Objection/Resolution/Termination process, as it continues to be a source of confusion. **SPECIAL ATTENTION SHOULD BE GIVEN TO LANGUAGE IN BLUE.**
11. **PARA. 29 – PRE-CLOSING WALK-THROUGH:** Language added: *“Notwithstanding the foregoing, if the Property is not in the same condition as Date of Acceptance due to fire or other causality, See Para. 30.”*
12. **PARA. 30 – RISK OF LOSS:** New language that substantially changes the way the Paragraph works. Prior version required Buyer to make a very hurried decision as to whether to proceed to Closing after a loss due to fire or other casualty – even before Buyer knew if there were insurance proceeds available to cover loss, and if Buyer didn’t respond in this limited time, it was assumed Buyer was going to Closing and accepting an assignment of insurance proceeds (if any were available).
13. **BOTTOM OF PAGE 14/15:**

- A. Wire Fraud Language in box modified to bring more attention to the box.
- B. The following language is now in a box: ***"ATTENTION BUYERS AND SELLERS THE OBLIGATIONS/RESPONSIBILITIES SET FORTH IN THE PURCHASE AGREEMENT ARE THOSE OF THE PARTIES TO THE PURCHASE AGREEMENT AND NOT OF THE BROKERS."***

14. SIGNATURE PAGE: Buyer and Seller contact information removed. An additional signature line added for both Buyer and Seller.