



EARLY OCCUPANCY CONTRACT
Hawaii Association of REALTORS® Standard Form
Revised For Release through 3/1/17 subcommittee meeting



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Early Occupancy Contract is made a part of Purchase Contract:

Purchase Contract Reference Date: _____

Property Reference or Address: _____

Tax Map Key: Div. _____/Zone _____/Sec. _____/Plat _____/Parcel _____/CPR _____ (if applicable).

BUYER IS NOT A TENANT UNDER THE HAWAII LANDLORD-TENANT CODE 521-7 (8). BUYER MAY OCCUPY THE PREMISES ON A DAY-TO-DAY BASIS, SUBJECT TO THE FOLLOWING TERMS. The undersigned acknowledge they have read, understand and agree to the terms and conditions of this CONTRACT and have not relied upon advice from Licensees and/or Brokerage Firms involved in this transaction. **IT IS STRONGLY RECOMMENDED THAT THE PARTIES SEEK THE ADVICE OF LEGAL COUNSEL AND A TAX ADVISOR PRIOR TO SIGNING THIS CONTRACT.**

Buyer's Initials _____ Seller's Initials _____

Buyer and Seller agree to the following:

1. BUYER'S RISK OF LOSS AND BUYER'S INDEMNIFICATION.

Buyer does hereby release and discharge Seller, absolutely and forever, from any and all claims, demands or rights of action or suits which Buyer now has or may have against Seller arising out of or to arise out of, or relating to or connected in any way with, directly or indirectly, whether asserted or unasserted to date, and whether known or unknown, the activities of Buyer, or Buyer's licensees or other representatives relating to Buyer's early occupancy of the Property. Buyer will indemnify, hold harmless and defend Seller from any and all liability, claims, losses, damages (including foreseeable and unforeseeable consequential damages), costs and expenses, including attorneys' fees, directly or indirectly arising out of or attributable to the activities of Buyer, or Buyer's licensees or other representatives relating to Buyer's early occupancy of the Property.

2. OCCUPANCY DATE. Buyer shall occupy the Property on _____ Time: _____ [] a.m. [] p.m.

3. ACCEPTANCE OF THE PROPERTY. On the date of occupancy, all contingencies under the Purchase Contract shall be deemed satisfied, waived, or released, except for _____.

4. EARLY OCCUPANCY FEE. Buyer shall pay Seller \$ _____ per day of early occupancy. It is estimated that the early occupancy period will be from date of occupancy up to the Scheduled Closing Date. The total fee for early occupancy shall be \$ _____, which shall be paid to Seller through Escrow prior to occupancy. Should the Scheduled Closing Date be extended, Buyer shall pay the additional Early Occupancy Fee, computed on a daily basis for such extended period, from the Early Occupancy Deposit held by Escrow.

5. EARLY OCCUPANCY DEPOSIT, ADDITIONAL OCCUPANCY CHARGE, DAMAGE AND/OR REPAIR. Prior to occupancy, Buyer shall deposit with Escrow the sum of \$ _____ (Early Occupancy Deposit), to be used for any additional occupancy charges. In addition, any and all sums to which Seller may be entitled relating to any damage or restoration costs during Buyer's occupancy will be deducted from the Early Occupancy Deposit. Any Early Occupancy Deposit not utilized at Closing or upon termination of the Purchase Contract shall be returned to Buyer.

6. ALTERATIONS TO THE PROPERTY. Buyer shall not make any alterations to the Property before Escrow is closed.

7. FAILURE TO CLOSE.

(a) In addition to those remedies provided for in the Purchase Contract, if Buyer fails to close or perform any of Buyer's obligations pursuant to the Purchase Contract (Seller not being in default), Buyer shall:

- (1) Vacate the Property within _____ () days after receipt of Seller's written demand;
- (2) Pay Seller \$ _____ for each day of occupancy, in addition to the occupancy fee charged under Paragraph 4 above;
- (3) Pay all fees and costs incurred by Seller, including reasonable attorney's fees to enforce the terms of this Contract.

(b) In addition to remedies provided for in the Purchase Contract, if Seller fails to perform Seller's obligations (Buyer not being in default), Seller shall:

- (1) Reduce the occupancy fee charged under Paragraph 4 above to \$ _____ per day from the date of Buyer's occupancy through the date Buyer vacates the Property;
- (2) Allow Buyer to vacate the Property within _____ () days after receipt of written notice from Seller to vacate;
- (3) Pay all fees and costs incurred by Buyer, including reasonable attorney's fees to enforce the terms of this Contract.

(c) Should this purchase be canceled or should Escrow fail to close for any reason, Buyer shall restore the Property to its condition as of the date of occupancy at no cost or expense to Seller. In the event Buyer fails to restore the Property to its condition as provided for in this Contract, any restoration costs shall be first paid through the Early Occupancy Deposit, and if insufficient, then paid from Buyer's deposits under the Purchase Contract. Buyer and Seller hereby irrevocably instruct Escrow to disburse such funds to Seller. Buyer and Seller further agree to execute and deliver all documents required by Escrow to release such deposits.

BUYER'S INITIALS & DATE

SELLER'S INITIALS & DATE



8. **RESPONSIBILITIES OF SELLER AND BUYER.**

(a) From date of occupancy, Buyer shall maintain the condition of the Property, and shall be responsible for the maintenance, repair and payment for the following utilities and services:

- alarm service septic tank pumping water
- cesspool pumping sewer yard
- electricity solar/photovoltaic systems other: _____
- gas telephone
- pool service television/internet cable

- (b) Buyer shall abide by all laws, government regulations, leasehold provisions, and homeowner's association rules, if applicable, relating to the use or occupancy of the Property.
- (c) No pets may occupy the Property without written consent of Seller.
- (d) Buyer shall allow Seller or Seller's authorized agent access to the Property during reasonable hours with one (1) day prior notice for the purpose of inspecting the Property until Escrow is closed to ensure that Buyer is abiding by the terms and conditions of this Contract.
- (e) Seller shall maintain an insurance policy for fire and extended coverage, and liability on the Property through close of Escrow. Seller should be aware that this Early Occupancy Contract may compromise or possibly negate coverage under Seller's homeowner's insurance policy and should consult with Seller's insurance agent prior to signing this Contract.
- (f) Buyer shall obtain liability insurance in the minimum amount of \$_____. Buyer shall also obtain homeowner's insurance coverage equivalent to coverage currently in place, or an amount equivalent to the replacement cost of the Property. Buyer shall deliver to Seller within two (2) days prior to the occupancy the Certificate of Insurance identifying Seller and Brokerage Firms as additional insureds, subject to Seller's review and approval within twenty four (24) hours of receipt.
- (g) Seller and/or Seller's insurance shall not be responsible for damage or loss to Buyer's personal property.
- (h) Buyer and Seller agree to hold Brokerage Firms and their licensees harmless from any and all liability or claims for damage to the Property or injury to Buyer or others arising out of this Contract.

9. **PERMITTED OCCUPANTS.** The following persons are authorized to occupy the Property prior to close of Escrow. No additional occupants are permitted without written consent of Seller:

10. **ADDITIONAL TERMS AND CONDITIONS.** _____

CONFLICT IN TERMS. In the event there is a conflict between the terms and conditions of the Purchase Contract and this Early Occupancy Contract, the terms of this Early Occupancy Contract shall prevail. All capitalized terms appearing in this Contract that are not defined shall have the definitions given to such terms set forth in the Purchase Contract.

Date _____
Buyer's Name _____
Signature _____
Title _____

Date _____
Seller's Name _____
Signature _____
Title _____

Date _____
Buyer's Name _____
Signature _____
Title _____

Date _____
Seller's Name _____
Signature _____
Title _____

NOTE: THERE IS NO WARRANTY ON PLAIN LANGUAGE. An effort has been made to put this agreement into plain language. But there is no promise that it is in plain language. In legal terms, THERE IS NO WARRANTY, EXPRESSED OR IMPLIED, THAT THIS AGREEMENT COMPLIES WITH CHAPTER 487A OF THE HAWAII REVISED STATUTES. This means that the Hawaii Association of REALTORS® is not liable to any Buyer, Seller, or other person who uses this form for any damages or penalty because of any violation of Chapter 487A. People are cautioned to see their own attorneys about Chapter 487A (and other laws that may apply).