



EARLY OCCUPANCY AGREEMENT CONTRACT
Hawaii Association of REALTORS® Standard Form
Revised 1/12 (NC) For Release 11/15 through 3/1/17
subcommittee meeting



COPYRIGHT AND TRADEMARK NOTICE: This copyrighted Hawaii Association of REALTORS® Standard Form is licensed for use by the entire real estate industry on condition that there shall be no alteration of the printed portions, pagination, or paragraph numbers or breaks.

Early Occupancy Contract Agreement 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 Buyer's Initials Seller's Initials Seller's Initials

Buyer and Seller agree to the following:

1. BUYER'S RISK OF LOSS PASSES TO BUYER AND BUYER'S INDEMNIFICATION PURSUANT TO PARAGRAPH F-10 OF THE PURCHASE CONTRACT.

Buyer shall be solely responsible for any and all claims and damages relating to the Property during the period of early occupancy. Buyer agrees to defend, indemnify and hold Seller harmless from any claims for damages arising from and/or related to Buyer's occupancy or possession. Seller shall have the right to recover from Buyer any damages and violations of any applicable governmental or association rules and regulations occurring during Buyer's early occupancy. If all or any part of the Property is destroyed through no fault of the Seller, Buyer is not relieved from the obligation to purchase the Property, and Buyer is not entitled to recover any portion of the purchase price deposits made to date. Buyer does hereby release and discharge Seller, absolutely and forever, Seller 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.

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

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

42. EARLY OCCUPANCY FEE COMPENSATION. 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 through the Scheduled Closing Date. The initial cost compensation for total fee for early occupancy will shall be \$ _____, which shall be paid to Seller through Escrow prior to occupancy upon execution of this contract agreement by cash or certified check. 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. In the event of an extension of the Scheduled Closing Date, Buyer shall pay Seller through Escrow such additional early occupancy fee the compensation computed on a daily basis estimated for that such extended period upon any extension of the Scheduled Closing Date, but not including, the day of closing. Funds shall be deposited into Escrow prior to occupancy and paid to Seller through Escrow at closing.

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 as security for payment of or any additional occupancy charges. In addition, and 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 except for any agreed upon alterations between Buyer and Seller. Any Early Occupancy Deposit not utilized at Closing or upon termination of the Purchase Contract shall be returned to Buyer.

43. ACCEPTANCE OF PROPERTY. On the date of occupancy, all contingencies including Paragraph J-3 shall be deemed waived or released, except for _____.

6. ALTERATIONS TO THE PROPERTY. Buyer shall not make any alterations to the Property before Escrow is closed, without written consent of Seller.

54. RISK OF LOSS PASSES TO BUYER PURSUANT TO PARAGRAPH F-10 OF THE PURCHASE CONTRACT.

Buyer agrees to hold Seller harmless from any claims for damages arising from and/or related to Buyer's occupancy or possession. Seller shall have the right to recover from Buyer any damages caused by Buyer.

BUYER'S INITIALS & DATE

SELLER'S INITIALS & DATE



765. FAILURE TO PERFORM CLOSE.

- (a) In addition to those remedies provided for in the Purchase Contract, if Buyer fails to close or to perform all 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 42 above;
 - (3) Pay all fees and costs incurred by Seller, including reasonable attorney's fees to enforce the terms of this Contract Agreement.
- (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 42 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 Seller's written demand; 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 Agreement Contract.
- ~~(c) Should Seller consent to any alterations and this purchase transaction be canceled or should Escrow fail to close for any reason, any improvements performed by Buyer shall inure to the benefit of Seller. Buyer shall restore the Property to its condition as of the date of occupancy at no cost or expense to Seller.~~
- (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 herein in this eContract, 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. Escrow from Buyer's deposits, and 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 authorize release such disbursement deposits.

BUYER'S INITIALS & DATE

SELLER'S INITIALS & DATE

Signature

Title

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, AS AMENDED. 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).

DRAFT

BUYER'S INITIALS & DATE

SELLER'S INITIALS & DATE