



ESCALATION CLAUSE



Regarding the Agreement of Sale for _____(Property)

between _____(Seller)

and _____(Buyer),

Buyer does hereby offer the following Purchase Price Escalation terms:

1. If, prior to ratification of the Agreement of Sale, Seller receives one or more additional bona fide written offers to purchase the property from other qualified buyers with terms acceptable to the Seller ("Other Offers") but which result in Net Proceeds of Sale payable to the Seller equal to or greater than the Net Proceeds of Sale payable to the Seller under this Offer, then the Purchase Price stated in this Offer shall automatically increase to an amount which generates Net Proceeds of Sale to the Seller equal to _____(Escalation Factor), above the highest net proceeds of sale generated in such Other Offers. This Clause does not assume the "Other Offers" are comparable in every respect, nonetheless the final Purchase Price shall be based solely upon the Net Proceeds of Sale to Seller, and does not reflect other factors that the seller may consider such as earnest deposit, settlement and occupancy dates, financing terms, financial qualifications, etc. Furthermore, the Seller is not under any obligation to accept the highest price offered. Buyer should not offer more than they are willing to pay for the Property.
2. The Purchase Price under this Offer shall not exceed _____ ("Cap").
3. If Other Offer(s) cause the escalation of the Purchase Price in this offer, the Seller will provide the Buyer with a copy of the Other Offer(s), and any supporting documentation as necessary, to justify the Purchase Price increase. Buyer's personal information such as name and address may be omitted but not any other terms and/or conditions of the Other Offer(s). Buyer acknowledges that a copy of this Offer (personal information redacted) including the Escalation Clause may be provided to the parties of the Other Offer(s).
4. The Buyer acknowledges that the Escalation Factor of this Offer and the Escalation Factor of Other Offers may result in multiple escalations and potentially escalation to the Cap.

The term Net Proceeds of Sale means the Purchase Price, plus any commission savings resulting from a variable rate commission agreement and/or payment of transfer taxes or any other Seller expenses paid by Buyer, and less all seller concessions (such as settlement help, seller credits, etc.).

Should Seller agree to accept a Purchase Price within the terms of this Offer and pursuant to the terms of this Escalation Clause, the Seller will submit to the Buyer a signed copy of this Offer with the Purchase Price and financing terms adjusted accordingly and initialed (Counteroffer).

Acceptance of the Counteroffer, and subsequent Agreement of Sale ratification, will occur upon the Buyer's initialing of the modified terms of this Offer and delivery of same to Seller or Seller's Designated Agent.

If this Offer is contingent upon the Buyer obtaining financing and this Escalation Clause causes an increase in the Purchase Price of this Offer, the following language shall be incorporated into the Agreement of Sale as appropriate:

FINANCING: (Check One)

- The loan amount provided for in this Offer shall remain the same and the Buyer shall pay any increase in cash at the time of settlement.
- The down payment amount provided for in this Offer shall remain the same and any increase shall be added to the loan amount.
- The loan amount provided for in this Offer shall increase to ____ % of the new Purchase Price and the Buyer shall pay any remaining additional amounts needed as a result of the increased Purchase Price in the form of cash at the time of settlement.

APPRAISAL: (Check One)

Option #1 – Waives Appraisal Valuation (not applicable if VA or FHA financing is used) – If the lender’s appraisal is less than the Purchase Price, Buyer agrees to proceed to Settlement without regard to the amount of the lender’s appraisal. Buyer agrees to pay the Purchase Price from: (i) loan proceeds provided by lender based on such appraisal, and (ii) any required excess amount in cash from a source acceptable to the lender. If Settlement does not occur due to Buyer’s failure to comply with the terms of this paragraph, Buyer shall be in default.

Option #2 – Retains Appraisal – Any appraisal contingency or loan to value language from the above referenced Agreement shall remain in full force and effect.

DISCLAIMER: Buyer acknowledges that this Offer and Escalation Clause have been made of their own volition and at their own discretion and Buyer agrees to hold harmless agents and their Brokers with regard to negotiation of the Purchase Price.

The terms contained herein are for the use and purpose of obtaining a mutually agreeable Purchase Price and shall not be part of the ratified Agreement of Sale for the above referenced property.

BUYER DATE

BUYER DATE