

PRE-CLOSING OCCUPANCY LICENSE AGREEMENT

Version 20260101

jointly



Preamble

1 This Pre-Closing Occupancy License Agreement ("Agreement") is made part of the Purchase Contract dated
2 _____ ("Contract") between _____
3 ("Licensee" or "Buyer") and _____ ("Licensor" or "Seller"), concerning
4 the Property located at _____ ("Property")
5 and the following terms and conditions are included as part of the Contract.
6 In the event of any conflict or ambiguity between the terms of the Contract and this Agreement, the terms of this
7 Agreement shall govern concerning the pre-closing occupancy.

Nature of Occupancy

8 **Legal Relationship (License):** The parties explicitly intend that this Agreement does not create a Landlord-
9 Tenant relationship. This Agreement grants the Licensee a temporary, conditional, revocable, and non-assignable
10 privilege (a "License") to occupy the Property prior to the Close of Escrow ("COE").
11 **No Leasehold Interest:** The Licensee acquires no leasehold estate, exclusive possession rights, or other interest
12 in the Property by virtue of this Agreement. Licensor retains legal title, control, and the right of possession of the
13 Property, subject only to the limited use permitted by this License.
14 **ARLTA Exclusion:** This Agreement and the occupancy under this Agreement are intended to be excluded from
15 the Arizona Residential Landlord and Tenant Act (ARLTA), A.R.S. Title 33, Chapter 10. Thus, this Agreement
16 is intended only to give Licensor the right of possession, and is not intended to establish a Landlord-Tenant
17 relationship. The parties intend and agree that the ARLTA does not apply, including A.R.S. § 33-1324 regarding a
18 Landlord's duty to maintain a fit premises with proper electrical, plumbing, and heating and cooling.

Term and Termination

19 **Term of Occupancy:** The term of this License ("Term") commences on _____ ("Commencement
20 Date"), provided Licensee has paid the License Fee and Deposit and provided proof of insurance as required in
21 this Agreement.
22 **Termination:** The Term shall automatically terminate upon the earliest of the following (the "Termination Date"):
23 (a) The successful COE of the sale of the Property;
24 (b) _____ (Arizona Time) on _____ (The scheduled Close of Escrow); or
25 (c) The date the Contract is canceled or terminated for any reason.
26 **Immediate Revocation and Duty to Vacate:** If the Contract is terminated or canceled for any reason, this
27 License is automatically and immediately revoked. Licensee shall completely vacate the Property within **24 hours**
28 following such revocation.

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Buyer Initials _____

Seller Initials _____

Financial Terms

License Fee: Licensee shall pay Licenser a fee for the privilege of occupying the Property (the "License Fee") at the rate of \$ _____ per day. The full License Fee for the period from the Commencement Date through the scheduled Close of Escrow, totaling \$ _____, shall be ☐ paid directly to the Licenser ☐ deposited with Escrow Agent prior to the Commencement Date.

Non-Refundable: The License Fee compensates the Licenser for the use of the Property and the inherent risks of pre-closing occupancy. The License Fee is non-refundable once paid, even if the Licensee vacates early or the COE occurs sooner than anticipated, except in the event the Contract is terminated due to the sole, documented default of the Licenser.

Occupancy Deposit: Licensee shall deposit the sum of \$ _____ ("Deposit") with the Escrow Agent prior to the Commencement Date. This Deposit is to secure Licensee's performance of this Agreement, compensate Licenser for any damages, and guarantee the timely surrender of the Property if the Contract fails to close.

Disposition of Deposit:

(i) If COE Occurs: The Deposit shall be released to the Licensee (or credited toward Licensee's closing costs) at COE.

(ii) If COE Does Not Occur: Licenser may utilize the Deposit to satisfy Licensee's obligations under this Agreement, including damages to the Property, costs of cleaning, unpaid fees, or liquidated damages. The Escrow Agent shall disburse the Deposit (or the remainder thereof) according to the joint written direction of the Licenser and Licensee, or as directed by a court of competent jurisdiction.

Property Condition, Maintenance, and Repairs

Acceptance of Condition for Occupancy: Licensee acknowledges they have inspected the Property and accepts the Property in its current "AS-IS" condition for the purposes of this occupancy and will promptly close the purchase of the Property as provided in the Contract. Licenser disclaims, and Licensee waives, all Licenser's representations and warranties stated in the Contract, along with all other Seller representations and warranties made that concern Seller's maintenance of the Property between the Acceptance Date and COE. As such, Seller's warranties to Buyer are only those stated in the Contract that expressly survive COE.

Licenser and Licenser's inspector have had the opportunity to conduct a walkthrough prior to the Commencement Date, confirming that the Property is in substantially the same condition as of the date of acceptance of the Contract. If Licensee did not conduct such walkthrough(s), Licensee releases Licenser and Licenser's Agent and Broker from liability for any defects that could have been discovered.

Licensee's Maintenance Responsibility: To further evidence that this is not a tenancy and that ARLTA does not apply, Licensee shall be solely responsible, at Licensee's expense, for all routine maintenance, cleaning, yard care, and pool service (if applicable) during the Term.

Repairs: Licensee shall be responsible for the cost to repair any damage to the Property caused directly or indirectly by any act or omission of the Licensee or Licensee's invitees during the Term. Furthermore, Licensee accepts responsibility for minor repairs during the term (i.e., clogged drains, malfunctioning small appliances). Licenser shall remain responsible for the repair or replacement of major essential systems (i.e., HVAC, main electrical panel, roof failure), provided the failure was not caused by the Licensee's negligence, misuse, or willful

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65 act. Licensee must immediately notify Licensor of any such major system failure.

66 **HOA Assessments and Other Prorations:** All assessments and fees that are not a lien as of the

67 Commencement Date, including homeowner's association fees, rents, irrigation fees, and if assumed, insurance

68 premiums, interest on assessments, interest on encumbrances, and service contracts, shall be prorated as of the

69 Commencement Date.

Property Use and Restrictions

70 **Utilities and Services:** Licensee shall transfer all utilities and services into Licensee's name effective as of the

71 Commencement Date and shall be responsible for all associated costs during the Term.

72 **Use Restrictions and Assignment:** Licensee shall use the Property solely for residential purposes. Licensee

73 may not assign this Agreement, sublet the Property, or grant any license to use the Property to any other person.

74 Only Licensee and members of Licensee's immediate family may occupy the Property without Licensor's prior

75 written consent. Smoking is not permitted inside the Property without Licensor's prior written consent.

76 **Crime-Free Covenant:** Licensor, occupants, family, invitees, or other persons under Licensor's control shall

77 not engage in or facilitate: (i) any acts involving imminent or actual serious property damage as defined by law;

78 (ii) any criminal activity, including drug-related criminal activity, any act of violence or threats of violence, other

79 illegal activity, including prostitution, criminal street gang activity, threatening or intimidating, unlawful discharge of

80 firearms, or assault; (iii) jeopardize the health, safety and welfare of guests, Seller or its representatives, agents or

81 others. VIOLATION OF THIS PROVISION SHALL CONSTITUTE A MATERIAL AND IRREPARABLE VIOLATION

82 OF THIS AGREEMENT AND GOOD CAUSE FOR IMMEDIATE CANCELLATION OF THIS AGREEMENT AND

83 SURRENDER OF POSSESSION.

84 **Marijuana:** Despite state law that may authorize limited possession or use of Marijuana in specific and limited

85 circumstances, the federal Controlled Substance Act (the "CSA") categorizes marijuana as a Schedule 1

86 Substance and the possession of marijuana is a federal criminal offense. 21 U.S.C. § 801, et seq. The possession

87 of marijuana, even for medical purposes, may expose Licensor to liability and interfere with the health, safety,

88 welfare, and right to peaceful enjoyment of others. As such, Licensor hereby informs and reminds Licensee and

89 all guests that they agree to the Crime Free provision in this Agreement and, pursuant to that provision and the

90 supporting federal laws, any possession or use of marijuana (medical or otherwise) by Licensor, their family, or

91 invitees, will result in the immediate cancellation of this Agreement and immediate surrender of possession.

92 **Pets:** Licensee may not keep pets on the Property except: _____

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94 **Compliance:** Licensee shall comply with all applicable laws, restrictions, ordinances, and the rules of any

95 applicable condominium or homeowner's association.

96 **Alterations Strictly Prohibited:** Licensee shall make absolutely no alterations, improvements, modifications,

97 painting, landscaping, or installation of fixtures prior to COE. Any unauthorized alterations constitute a material

98 breach of this Agreement, and any items installed become the property of the Licensor.

[Remainder of page intentionally left blank.]

Buyer Initials _____

Seller Initials _____

Access by Licenser

99 **Right of Access:** As this is a License and Licenser retains control of the Property, Licenser, or Licenser's agents,
100 shall have the right to enter the Property during the Term. Access may be required for purposes including but not
101 limited to: verifying compliance with this Agreement, performing necessary repairs, facilitating requirements of the
102 Contract (i.e., appraisals, contractor access), or addressing an emergency. Licenser shall endeavor to provide
103 reasonable notice (**24 hours** is presumed reasonable) prior to entry, except in an emergency.

Liability and Insurance

104 **Licenser's Insurance:** Licenser shall maintain their existing hazard insurance coverage on the structure(s) of the
105 Property until COE. This policy does not cover Licensee's personal property or liability.

106 **Licensee's Required Insurance (Additional Insured):** Prior to the Commencement Date, Licensee shall obtain
107 and maintain during the Term: (i) Insurance coverage for Licensee's personal property; and (ii) comprehensive
108 personal liability insurance (i.e., renter's insurance or early homeowner's policy) with minimum limits of
109 \$ _____ per occurrence. The liability policy MUST name the Licenser as an "Additional Insured" (not
110 merely an "interested party"). Licensee must provide evidence of this coverage (Declaration Page and Additional
111 Insured endorsement) before occupancy.

112 **Indemnification:** To the fullest extent permitted by law, Licensee shall defend, indemnify, and hold harmless
113 the Licenser, Licenser's agents, and any brokers involved ("Indemnified Parties") from and against any and all
114 liability, claims, damages, losses, costs, and expenses (including reasonable attorneys' fees) arising out of or in
115 connection with any injury, death, or property damage occurring on or about the Property during the Term of this
116 License, excepting only events caused by the gross negligence or willful misconduct of the Licenser.

117 **Buyer's Contingencies and Conditions:** Licensee agrees to waive all contingencies and conditions to the
118 Contract, including but not limited to: financing contingencies, appraisal contingencies, and due diligence.

119 **Risk of Loss:** Should the Property be damaged or destroyed by fire or other casualty during the Term, the risk of
120 loss to the structure(s) shall be governed by the terms of the Contract. Licensee bears all risk of loss for
121 their personal property.

Default and Remedies

122 If the Contract becomes null and void for any reason, Licenser will, within two days thereafter, vacate the Property
123 and return sole possession to the Licenser. For all the purposes of this Agreement, even though Licensee may
124 vacate the Property, Licensee shall be deemed to remain in possession until (i) Licensee delivers the Property
125 in substantially the same condition as the Commencement Date, (ii) delivers all keys to the Licenser, and (iii)
126 removes all personal property of the Licensee from the Property.

127 If Licensee vacates the Property without completing the purchase of the same, Licensee shall return the Property
128 in substantially the same condition in which it was delivered to Licensee by Licenser. Licensee shall be liable for
129 any damages or repairs caused by Licensee during the Term.

130 **Liability:** Licenser shall not be responsible or liable for any loss, theft, or damage to the Licensee's personal
131 property or the Property, or injury, or death of Licensee, or any person on or about the Property.

Buyer Initials _____

Seller Initials _____

132 **Default:** Licensee shall be in default if: (i) Licensee fails to timely Close Escrow as required by the Contract; (ii)
133 The Contract is canceled due to Licensee's breach; (iii) Licensee fails to vacate the Property within **24 hours**
134 following revocation of the License; or (iv) Licensee breaches any other material provision of this Agreement.

135 **Remedies upon Default:** Upon Licensee's default, this License is immediately revoked without further notice.
136 Licensors shall be entitled to utilize the Deposit to compensate for damages.

137 **Status upon Revocation (Trespass):** If Licensee fails to timely vacate the Property after the License is revoked,
138 Licensee shall be deemed a trespasser. Because no tenancy exists and ARLTA does not apply, Licensors are NOT
139 required to initiate a Forcible Entry and Detainer (FED) or Special Detainer action. Licensors shall be entitled
140 to immediately pursue all remedies available under Arizona law to remove a trespasser, including actions for
141 Ejectment or Trespass. Licensors shall not engage in unlawful measures (such as changing locks or terminating
142 utilities without legal process) to remove Licensee.

143 **Liquidated Damages for Failure to Vacate:** If the Contract is canceled and Licensee fails to timely vacate,
144 Licensee shall pay \$ _____ per day during the period of unauthorized occupancy (trespass) as
145 liquidated damages. The parties acknowledge that: (i) this amount represents a reasonable estimate of Licensors's
146 potential damages in connection with a breach of this Agreement, considering factors such as changing market
147 conditions, actual costs to be incurred, and lost profit; and (ii) that Licensors's potential damages in connection with
148 a breach of this Agreement would be difficult to quantify, as of the Commencement Date.

149 If Licensee breached this Agreement, Licensors may retain the security deposit described in the Contract.

150 **Attorney's Fees:** The prevailing party in any legal proceeding brought under or relating to this Agreement shall be
151 entitled to recovery of all reasonable attorney fees and costs.

152 **Vacating Procedures (If COE Does Not Occur):**
153 If the COE does not occur and the License is terminated, Licensee shall immediately:
154 (i) Vacate the Property and remove all personal property and debris, leaving it broom-clean.
155 (ii) Surrender the Property in the same condition as it existed on the Commencement Date, normal wear and tear
156 excepted.
157 (iii) Deliver all keys, access codes, and openers to Licensors.

Miscellaneous

158 **Governing Law:** This Agreement shall be governed by the laws of the State of Arizona.

159 **Entire Agreement and Modification:** This Agreement constitutes the entire agreement and cannot be changed
160 except by written agreement signed by the parties.

161 **Notices:** All notices referenced in this Agreement shall be in writing and deemed delivered and received when:
162 (i) hand-delivered, or (ii) sent via electronic mail to the addresses specified in the Contract, provided receipt is
163 confirmed.

164 **Electronic Execution and Counterparts:** A fully executed facsimile or electronic copy of this Agreement shall be
165 treated as an original. This Agreement may be executed in any number of counterparts.

166 **Successors and Assigns:** This Agreement is binding on and inures to the benefit of each party and their
167 successors and permitted assigns.

Buyer Initials _____

Seller Initials _____

168 **No Third-Party Beneficiaries:** The terms of this Agreement are intended solely for the benefit of the parties, and
169 the parties do not intend to confer third-party beneficiary rights upon any other person.

170 **Assignment:** Neither Party may assign its rights or delegate performance of its obligations under this Agreement
171 without the prior written consent of the other party. Any attempt to make any assignment or delegation not in
172 compliance with this Agreement is void. Unless expressly agreed otherwise, no assignment shall release the
173 assigning Party from its obligations hereunder.

174 **Severability:** In the event that any provision of this Agreement shall be held to be invalid or unenforceable, such
175 ruling shall not affect the validity or enforceability of the remainder of the Agreement.

176 **Binding Effect:** This Agreement shall inure to the benefit of the parties hereto and bind their respective heirs,
177 successors, and assigns, subject to the restrictions on assignment in this Agreement.

178 **Survival:** The indemnifications and remedies of this Agreement shall survive the termination of this Agreement.

179 **Waiver of Broker Liability:** Licensor and Licensee acknowledge that the real estate brokers involved (the
180 "Brokers") recommended obtaining legal counsel regarding the significant risks of pre-closing occupancy. The
181 parties waive any and all claims against the Brokers arising out of or related to this Agreement.

Additional Terms and Conditions

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Buyer Initials _____

Seller Initials _____

Signatures

205 **CONSULT AN ATTORNEY BEFORE SIGNING:** Real estate brokers and agents are not qualified to provide
206 **financial, legal, or tax advice regarding this real estate transaction. READ THIS FORM CAREFULLY.**

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Licensee (Buyer) Signature Date Licensee (Buyer) Signature Date

208 _____
Licensee (Buyer) Signature Date Licensee (Buyer) Signature Date

209 _____
Licensor (Seller) Signature Date Licensor (Seller) Signature Date

210 _____
Licensor (Seller) Signature Date Licensor (Seller) Signature Date