ROSS LAW
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NABOR FINANCING CONTINGENCY

THE ONE THING

The financing contingency does not simply expire. If the buyer has not waived it by the stated deadline, the seller may gain a termination right. Waiving it shifts risk to the buyer and should be the buyer's informed decision.

START WITH THE RIGHT BOX

Cash / financing without contingency

The buyer may still obtain a loan, but failure to obtain that loan is not a contractual reason to terminate and recover the deposit.

Financing contingency

This gives the buyer a path to seek financing and, if the contractual requirements are satisfied, potentially terminate and recover the deposit.

VA or FHA financing

Checking the financing box is not enough. Attach the applicable NABOR VA/FHA financing addendum.

Seller financing

Attach the seller-financing addendum and complete the principal amount, interest rate and other required terms.

FILL IN THE TERMS

- State whether the loan will have a fixed or variable rate.
- If the maximum interest rate matters to the buyer, put a percentage in the contract rather than leaving the line blank.
- Make sure the buyer applies promptly and cooperates with lender requests; a failure to make a good-faith effort can create a deposit dispute.

WAIVE IT OR PROTECT IT?

- The buyer is not automatically required to waive the contingency.
- If it remains unwaived after the deadline, the seller may have the right to terminate the contract.
- If the buyer waives it and the loan later fails, the buyer's deposit may be at risk unless another contractual right applies.
- The decision depends on the buyer's loan status, backup funds, deposit amount, the property's demand and the buyer's risk tolerance.
- A listing agent may request a waiver, and a seller may negotiate for one in exchange for a repair, extension or other concession.

REALTOR CHECKLIST

- ☐ Was the correct payment method selected?
- ☐ Are the loan type, amount and maximum rate complete?
- ☐ Is a VA/FHA or seller-financing addendum required?
- ☐ Has the buyer applied and responded to underwriting?
- ☐ Has the waiver deadline been calendared?
- ☐ Does the buyer understand deal risk versus deposit risk?

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