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2011 TREC FORM CHANGES

(Including Form Changes Made by the Commissioners on Feb. 14, 2011, eff. March 1st)

TREC NO. 20-10 ONE TO FOUR FAMILY RESIDENTIAL CONTRACT (RESALE):

Paragraph 2 B is amended to incorporate into the definition of "permanently installed and built-in items" the "mounts and brackets for televisions and speakers." The buyer may exclude such items yet require repairs to the walls in the Property Condition section (paragraph 7 D). If the buyer wants to include the TVs and speakers, these items should be addressed with the Non-Realty Items Addendum (TREC No. OP-M).

Paragraph 4 A (1) provides further clarity as to the items considered to be lender underwriting requirements. This paragraph also makes the termination of the contract a buyer's right to exercise rather than automatic.

Paragraph 4 A (2) changes the term "Financing Approval" to "Credit Approval."

Paragraph 6 C (1) specifically references the T-47 Survey Affidavit as the affidavit format to be used. This paragraph was also rearranged to reinforce a seller's obligation to provide the existing survey or affidavit within the time period specified in the contract or the buyer is authorized to obtain a new survey at the seller's expense.

Paragraph 6 E (2) recognizes that there may be multiple property owner associations and instructs the parties to use a separate TREC 36-6 Addendum for each association.

Paragraph 7 D (2) advises against the use of general open-ended phrases when describing repairs that need to be made. A "Notice to Buyer and Seller" is added stating that the buyer's acceptance of the property condition under paragraph 7 D (1) or (2) can be renegotiated upon further inspection of the subject property.

Paragraph 9 B (5) is added to set forth the items the seller must provide to the buyer if the subject property is subject to a lease: 1) a copy of the lease; 2) a copy of the move-in condition form; and 3) transfer any security deposits to the buyer. The paragraph goes on to require that the buyer send written notice to the tenant(s) that they are now in possession of and responsible for the security deposit(s).

Paragraph 12 A (2) is revised by deleting the term "Loan Fees" and adding "Adjusted Origination Charges." This paragraph now includes the charges for PMI and MIP which were previously set out separately in paragraph 12 B.

Paragraph 15 B – at the Commissioner's meeting on February 14, 2011, new subparagraph 15 B was removed from all contract forms. This subparagraph was originally added to the contract forms in Nov. 2010 to require a seller or buyer to file an action for specific performance within 45 days of closing date. The Feb. 14th revision resulted in new form numbers for the contract forms and the date 2-14-2011 should appear in the upper right corner of the contract pages.

Paragraph 18 B clarifies the right of the escrow agent to deduct expenses incurred on behalf of a party prior to release of the earnest money when a contract is terminated or expires.

Paragraph 22 is updated to include all current promulgated residential property addenda.

Paragraph 23 is amended to define the termination deadline for a buyer to terminate the contract as the "Option Period."

Paragraph 24 was re-worded to emphasize the TREC prohibition on non-attorney licensed realtors giving legal advice.

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The top portion of the final page is now entitled “Broker Information” and is used for informational purposes to reflect the commission split between co-brokers.

Corresponding changes have also been made to the other TREC contract forms, including the Unimproved Property Contract, New Home Contract (Incomplete Construction), New Home Contract (Completed Construction), Farm and Ranch Contract and the Residential Condominium Contract (Resale). Form changes that are unique to the other contract forms include the TREC 30-9 Residential Condominium Contract (Resale), which has a revision to paragraphs 2B(2) and 2C(2) to clarify a buyer’s right to receive a refund of earnest money, and the TREC 25-8 Farm and Ranch Contract, which contains an amendment to paragraph 2F to delete the words “mineral” and “royalty” since those terms are covered in the Addendum for Reservation of Oil, Gas and Other Minerals.

TREC 40-4 THIRD PARTY FINANCING ADDENDUM FOR CREDIT APPROVAL:

This form was revised to make the contingencies for financing mirror the terminology of the new Good Faith Estimate disclosures by replacing the term “Loan Fees” with “Adjusted Origination Charges as shown on Buyer’s Good Faith Estimate for the loan.”

TREC 36-6 ADDENDUM FOR PROPERTY SUBJECT TO MANDATORY MEMBERSHIP IN A PROPERTY OWNERS ASSOCIATION:

Paragraph A 2 adds language to allow for updates to Subdivision Information and the time frame during which the seller must provide the buyer with an updated resale certificate at buyer’s expense.

Paragraph C has been added to the Addendum to obligate the buyer to pay any deposits for reserves required by the Association at closing.

TREC RSC 1 DISCLOSURE OF RELATIONSHIP WITH RESIDENTIAL SERVICE COMPANY:

This form explains the purpose of a Residential Service Contract and that the purchase of the contract is optional. The form also discloses the relationship between a broker or salesperson and the Residential Service Company and whether the broker or salesperson will receive compensation from the purchase of the contract.

NON-REALTY ITEMS ADDENDUM:

If this addendum is used, it should be reflected in paragraph 22 of the contract under the “Other” category.

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