

# THE LEVERAGE FORMULA

NOVEMBER 2022 BONUS ARTICLE



## Breaking Down TREC Contract Changes

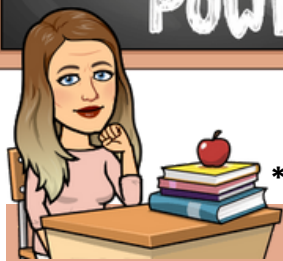
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### \*\*One to Four Family Contract

Effective February 1, 2023

\*\*\*PLEASE NOTE\*\*\* The changes listed below **APPLY TO ALL CONTRACTS** unless specified otherwise. Paragraph numbers referenced are from the **One to Four Family Residential Contract (Resale)**.

- The term "Escrow Agent" is capitalized throughout the contract to reflect its status as a defined term.
- Paragraph 3 is amended to add a definition of "cash portion of the sales price."
- A new "required notices" section is added to Paragraph 6, which provides a location where MUD, PID, or other similar notices that have been given or are attached to the contract can be listed.
- Paragraph 7F is revised to require that the seller: (i) provide the buyer with copies of documentation from the repair person that shows both the scope of work and payment for the work completed; and (ii) transfer, at seller's expense, any transferable warranties at closing.
- Paragraph 7H is amended to replace the term "residential service company" with the terminology used by the Texas Department of Licensing and Regulation, which as of September 1, 2021, regulates residential service companies.
- Paragraph 9B(3) is amended to add the transfer of any warranties to correspond with the change in Paragraph 7F. New paragraph 9B(5) provides that private transfer fees will be the obligation of the seller, unless otherwise provided in this contract and that transfer fees assessed by a property owner's association are governed by the Addendum for Property Subject to Mandatory Membership in a Property Owners Association. A similar sentence is added to the Residential Condominium Contract.
- Paragraph 11 is amended to further clarify the intent of the paragraph by replacing the terms "factual statements" and "business details" with "informational items," which is now defined, and adding that real estate brokers cannot practice law and are prohibited from adding to, deleting, or modifying the contract unless drafted by a party to the contract or a party's attorney. Lines have also been inserted into the blank.
- Paragraph 13 is amended to clarify what amounts will be prorated through the closing date.
- Paragraph 18B is amended to add that if no closing occurs, the escrow agent may require a written release of liability before releasing the earnest money.
- Paragraph 21 is amended to add a line for a copy to the buyer's and seller's agent respectively.



In the Unimproved Property Contract, the Farm and Ranch Contract, the New Home Contract (Incomplete Construction), and the New Home Contract (Complete Construction), the Seller's Disclosures paragraph has been amended to: (i) add checkboxes to each disclosure item to indicate whether the seller is or is not aware; and (ii) add two additional disclosures relating to whether the property is located in a floodplain or if any tree located on the property has oak wilt.

\*\*Reference: Taken from <https://www.trec.texas.gov/article/trec-form-changes-effective-february-1-2023>

## \*\*Amendment and Addendum Adopted Changes

### \*\*Adopted Changes to the Amendment to Contract Form

The Amendment to Contract is amended to add a notice to consult an attorney and to add a reference to Paragraph 7 of the contracts in Paragraph 2 of the Amendment dealing with repairs. The form is also amended to replace the parenthetical following Paragraph 9, Other Modifications, with a statement that real estate brokers and sales agents are prohibited from practicing law. Lines have also been inserted into the blank.

### \*\*Adopted Changes to the Seller Financing Addendum Form

The Seller Financing Addendum contains the following amendments:

- A notice encouraging consultation with an attorney and a financial professional and informing parties of the complicated nature of these transactions is added to the top of the form.
- Paragraph B is amended to modify the time period within which the seller may terminate.
- A new instructional parenthetical is added in Paragraph C. Additionally, the interest is modified to reflect a per annum interest rate.
- Paragraph D2(a) and (b) are amended to clarify the casualty insurance requirements and new Paragraph D2 is added to address casualty insurance.
- Paragraph D2(b) is further amended to add a requirement that the seller provide the buyer with an annual accounting of the escrow account, use escrow deposits to pay taxes and insurance premiums in a timely manner in certain circumstances, and hold the escrow deposit in a separate account. Language is also added to specify whether the escrow account will or will not be serviced by a third-party servicer at either the buyer's or seller's expense.

### \*\*Adopted Changes to the Addendum for Property Subject to Mandatory Membership in a Property Owners Association Form

The Addendum for Property Subject to Mandatory Membership in a Property Owners Association is amended to except regular periodic maintenance fees, assessments, or dues (including prepaid items) that are prorated under Paragraph 13 from the parties' obligation to pay under this section, as well as costs and fees provided by Paragraphs A and D.

### \*\*Adopted Changes to the Third Party Financing Addendum Form

The Third Party Financing Addendum is amended to add an "other financing" box in Paragraph 1. Paragraph 3 is amended to add that a note must be secured by vendor's and deed of trust liens only if required by the buyer's lender. Finally, the phrase "provided in relation to the closing of this sale" is struck from Paragraph 5B to streamline the paragraph.

### \*\*Adopted Changes to the Addendum Regarding Residential Leases and Addendum Regarding Fixture Leases Forms

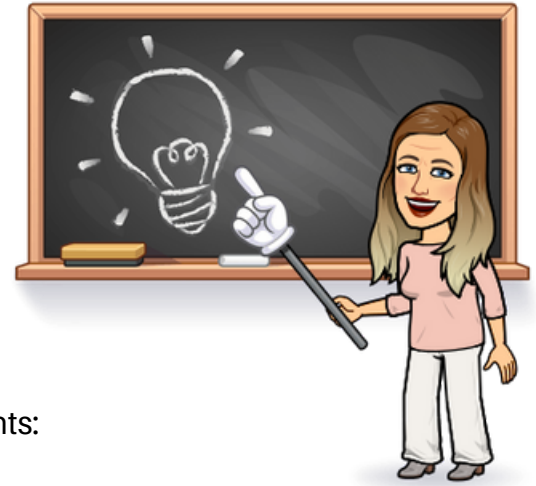
Both the Addendum Regarding Residential Leases and the Addendum Regarding Fixture Leases are amended to add a checkbox in Paragraph B1 related to notice of oral leases. Additionally, the Addendum for Disclosure of Fixture Leases is amended to modify Paragraph A1 to include checkboxes, in lieu of a blank line, so that the parties can specifically indicate what types of fixture leases will be assumed and assigned.



## Addendum Adopted Changes Cont.

### \*\*Adopted Changes to the Notice to Prospective Buyer Form

The Notice to Prospective Buyer form—which currently exists but has not had a corresponding rule which adopts the form by reference—is amended to add a reference to the notice requirements regarding public improvement districts. The Notice to Prospective Buyer form is a voluntary use form and may be used once posted on the agency's website.



### \*\*Adopted Changes to the Loan Assumption Addendum Form

The Loan Assumption Addendum contains the following amendments:

- "Effective Date" and "Title Company" are capitalized throughout.
- Paragraph A is amended to add that the noteholder of the loan being assumed is authorized to receive a copy of the buyer's credit reports.
- Paragraph B is amended to modify the time period within which the seller may terminate.
- Paragraph C is amended to clarify that the buyer will assume in writing the following notes at closing, to remove the reference to \$500 and instead insert a blank, and to add the following sentence: "Within 7 days after the Effective Date, Seller will deliver to Buyer copies of the note(s) to be assumed, the deed(s) of trust, and the most recent loan statement(s) from the lender."
- New Paragraph H is added related to authorization to release information.
- A new due on sale notice is added.

### \*\*Adopted Changes to the Addendum for Reservation of Oil, Gas, and Other Minerals Form

The Addendum for Reservation of Oil, Gas, and Other Minerals is amended to replace the phrase "reserve and retain implied" with "waive" in Paragraph C. The term "current" is added to "contact information" in Paragraph D.

## \*\*Some Other Contract Form Changes

### \*\*Adopted Changes to the Residential Condominium Contract (Resale) Form

The Residential Condominium Contract contains the following additional changes:

- Paragraphs 2B(2) and 2C(2) are amended to clarify the timing related to termination and to add a reference to the applicable Property Code provision.
- Paragraph 12A(3) is amended to except regular periodic maintenance fees, assessments, or dues (including prepaid items) that are prorated under Paragraph 13 from the parties' obligation to pay under this section, as well as costs and fees provided by Paragraph 2.



## **\*\*Some Other Contract Form Changes**

### **\*\*The Farm and Ranch Contract contains the following additional changes:**

- A notice is added that states the form is designed for use in sales of existing farms or ranches of any size, and that it's not for use in complex transactions.
- Paragraph 2A adds the term "Counties" to reflect the fact that farm and ranch properties could be located across two or more counties. Additionally, the phrase "including but not limited to: water rights, claims, permits, strips and gores, easements, and cooperative or association memberships" is deleted from the paragraph.
- Paragraph 2B is amended to make the terms "house" and "garage" plural.
- Paragraph 3D is amended to alter the calculation of the sales price adjustment should the survey reveal a difference in acreage.
- New paragraph 4D is added to address surface leases and includes options regarding whether the seller has delivered copies of written leases or provided notice of oral leases to the buyer, similar to the existing natural resource lease paragraph. The corresponding language in Paragraph 6F is also amended.
- On page 10 of the Contract, the statement "Do not sign if there is a separate written agreement for payment of Brokers' fees" is being modified to make it more conspicuous.

**\*\*Reference: Taken from <https://www.trec.texas.gov/article/trec-form-changes-effective-february-1-2023>**



**Don't Stress Over The Changes.  
Hire A Full Service Transaction Team to Help  
Keep On Top of All Of the Changes and All of  
Your Required Compliance. We Got You!**

### **Transaction Coordinator Services- Flat Fee Paid At Closing**

- Buyer/Seller Full Service Contract to Close Out Compliance
- Buyer/Seller Partial Service Contract to Close Out Compliance
- Buyer/Seller- Broker Compliance/CDA Only
- Buyer Offer Package-
- Full Service Listing Launch
- MLS Only Listing Services
- Buyer/Seller Compliance Paperwork Only

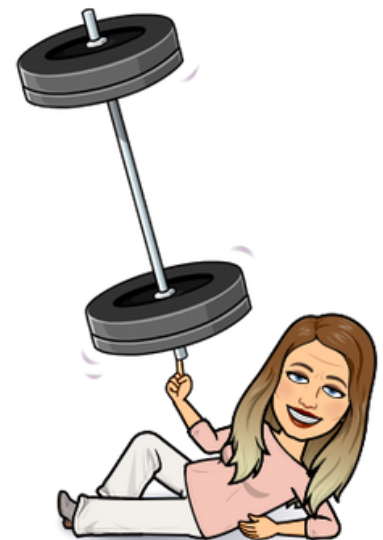


### **Virtual Assistant Services**

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|--------------------------|--------------------------|
| • Database Management    | • Mobile Notary Services |
| • Marketing              | • Mobile Signing Agent   |
| • Social Media Marketing | • Mobile Notary          |
| • Mailings               |                          |
| • Email Management       |                          |
| • Lead Gen               |                          |
| • Systems Management     |                          |

### **Broker Compliance**

- Full Broker Required Compliance Review,
- Agent Communication for Correction, Ensure compliance
- is met on each file and release approval for Broker to provide CDA



As Needed Services