

Effective April 1, 2021



TRINITY TITLE
OF TEXAS

The Texas Real Estate Commission (TREC) adopted changes to its contract forms and two new addendums, which become *mandatory* on April 1, 2021.

- The earnest money and option fee are to be made payable to the escrow agent;
- The earnest money and option fee may be paid separately or combined in a single payment;
- The amount the escrow agent receives shall be applied first to the option fee, then to earnest money, and any remainder to additional earnest money;
- The buyer authorizes the escrow agent to release and deliver the option fee to the seller at any time, without further notice to or consent from the buyer;
- The buyer releases the escrow agent from liability for delivery of the option fee to the seller;
- The option fee is to be credited to the sales price at closing; and

PROMULGATED BY THE TEXAS REAL ESTATE COMMISSION (TREC) 2-12-18
NEW HOME CONTRACT
(Completed Construction)
NOTICE: Not For Use For Condominium Transactions or Closings Prior to Completion of Construction

1. PARTIES: The parties to this contract are _____ (Buyer). Seller agrees (Seller) and _____ (Seller) to sell and convey to Buyer and Buyer agrees to buy from Seller the Property defined below.

2. PROPERTY: Lot _____, Block _____, Addition _____, _____, County of _____, City of _____, Texas, known as _____ on attached exhibit, together with: (i) improvements, (address/zip code), or as described on attached exhibit, together with: (i) improvements, fixtures and all other property located thereon; and (ii) all rights, privileges and appurtenances thereto, including but not limited to: permits, easements, and cooperative and association memberships. All property sold by this contract is called the "Property".
RESERVATIONS: Any reservation for oil, gas, or other minerals, water, timber, or other interests is made in accordance with an attached addendum.

3. SALES PRICE:
A. Cash portion of Sales Price payable by Buyer at closing \$ _____
B. Sum of all financing described in the attached: Third Party Financing Addendum, Loan Assumption Addendum, Seller Financing Addendum \$ _____
C. Sales Price (Sum of A and B) \$ _____

4. LICENSE HOLDER DISCLOSURE: Texas law requires a real estate license holder who is a party to a transaction or acting on behalf of a spouse, parent, child, business entity in which the license holder owns more than 10%, or a trust for which the license holder acts as trustee, to notify the other party in writing before entering into a contract of sale. Disclose if applicable: _____

5. EARNEST MONEY: Within 3 days after the Effective Date, Buyer must deliver _____ (address) as earnest money to _____ in escrow agent within _____

- If the buyer gives notice of termination within the prescribed time, then:
 - The option fee **will not** be refunded;
 - Any option fee remaining with the escrow agent will be released to the seller; and
 - Any earnest money will be refunded to the buyer.
- **Texas Department of Insurance Basic Manual Procedural Rule P-27's requirements regarding good funds still applies to disbursement from escrow accounts.** Paragraph 18 of the TREC contract expressly provides that the escrow agent may require any disbursement to be conditioned on the escrow agent's collection of good funds acceptable to the escrow agent.
- New Paragraph 4 in the TREC contract focuses solely on leases. It includes language regarding disclosure of existing leases and prohibits, without the buyer's consent, any new leases, amendments to existing leases, or conveyance of interest in the property. The following specific three types of leases are identified:
 - Residential leases when the seller is leasing the property to tenants;
 - Fixture leases when the seller is leasing items such as solar panels, water softeners, or propane tanks; and
 - Natural resource leases such as oil and gas, water or wind leases to which the seller is a party.
- **Addendums for properties subject to a residential or fixture lease were adopted** to provide for how the lease is to be addressed between parties.

