Introduction

Only members of the State Bar of Texas and other persons who comply with the Texas Supreme Court’s rules regarding the practice of law may practice law in Texas (22 TAC 537.11).

With respect to out-of-court functions, the “practice of law” is a service rendered out of court, including the giving of advice or the rendering of any service requiring the use of legal skill or knowledge, such as preparing a will, contract, or other instrument, the legal effect of which under the facts and conclusions involved must be carefully determined (§81.101, Government Code). See Appendix C.

DISCUSSION

1. Because the definition of practicing law includes the service of preparing a contract, how is it that real estate brokers and sales agents can prepare contracts for their clients and customers?
2. Is it possible for a license holder to engage in the unauthorized practice of law if he or she uses only standard forms promulgated by TREC or TAR?
3. What are some of the services or actions that license holders must be cautious to avoid so as to not engage in the practice of law?
4. May a license holder add matters to the standard form to address matters that are covered in a standard addendum or other form?
5. May a license holder explain the forms without practicing law?
1. PARTIES: The parties to this contract are ___________________________ (Seller) and ___________________________ (Buyer). Seller agrees to sell and convey to Buyer and Buyer agrees to buy from Seller the Property defined below.

2. PROPERTY: The land, improvements and accessories are collectively referred to as the "Property".
   A. LAND: Lot ___________ Block ___________, ___________, County of ___________, Texas, known as ____________________________, or as described on attached exhibit.
   B. IMPROVEMENTS: The house, garage and all other fixtures and improvements attached to the above-described real property, including without limitation, the following permanently installed and built-in items, if any: all equipment and appliances, valances, screens, shutters, awnings, wall-to-wall carpeting, mirrors, ceiling fans, attic fans, mail boxes, television antennas, mounts and brackets for televisions and speakers, heating and air-conditioning units, security and fire detection equipment, wiring, plumbing and lighting fixtures, chandeliers, water softener system, kitchen equipment, garage door openers, cleaning equipment, shrubbery, landscaping, outdoor cooking equipment, and all other property owned by Seller and attached to the above described real property.
   C. ACCESSORIES: The following described related accessories, if any: window air conditioning units, stove, fireplace screens, curtains and rods, blinds, window shades, draperies and rods, door keys, mailbox keys, above ground pool, swimming pool equipment and maintenance accessories, artificial fireplace logs, and controls for: (i) garage doors, (ii) entry gates, and (iii) other improvements and accessories.
   D. EXCLUSIONS: The following improvements and accessories will be retained by Seller and must be removed prior to delivery of possession: ___________________________.

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 a trustee or of which the license holder or the license holder’s spouse, parent or child is a beneficiary, to notify the other party in writing before entering into a contract of sale. Disclose if applicable: ___________________________.

5. EARNEST MONEY: Upon execution of this contract by all parties, Buyer shall deposit $__________________ as earnest money with ___________________________, as escrow agent, at ___________ (address). Buyer shall deposit additional earnest money of $__________________ with escrow agent within ____ days after the effective date of this contract. If Buyer fails to deposit the earnest money as required by this contract, Buyer will be in default.

6. TITLE POLICY AND SURVEY:
   A. TITLE POLICY: Seller shall furnish to Buyer at ☐ Seller’s ☐ Buyer’s expense an owner policy of title insurance (Title Policy) issued by ___________________________, (Title Company) in the amount of the Sales Price, dated at or after closing, insuring Buyer against loss under the provisions of the Title Policy, subject to the promulgated exclusions (including existing building and zoning ordinances) and the following exceptions:
      (1) Restrictive covenants common to the platted subdivision in which the Property is located.
      (2) The standard printed exception for standby fees, taxes and assessments.
      (3) Liens created as part of the financing described in Paragraph 3.
      (4) Utility easements created by the dedication deed or plat of the subdivision in which the Property is located.
      (5) Reservations or exceptions otherwise permitted by this contract or as may be approved by Buyer in writing.

Initialed for identification by Buyer______ _____ and Seller _______ _____
(6) The standard printed exception as to marital rights.
(7) The standard printed exception as to waters, tidelands, beaches, streams, and related matters.
(8) The standard printed exception as to discrepancies, conflicts, shortages in area or boundary lines, encroachments or protrusions, or overlapping improvements: (i) will not be amended or deleted from the title policy; or (ii) will be amended to read, "shortages in area" at the expense of Buyer or Seller.

B. COMMITMENT: Within 20 days after the Title Company receives a copy of this contract, Seller shall furnish to Buyer a commitment for title insurance (Commitment) and, at Buyer's expense, legible copies of restrictive covenants and documents evidencing exceptions in the Commitment (Exception Documents) other than the standard printed exceptions. Seller authorizes the Title Company to deliver the Commitment and Exception Documents to Buyer at Buyer's address shown in Paragraph 21. If the Commitment and Exception Documents are not delivered to Buyer within the specified time, the time for delivery will be automatically extended up to 15 days or 3 days before the Closing Date, whichever is earlier. If, due to factors beyond Seller's control, the Commitment and Exception Documents are not delivered within the time required, Buyer may terminate this contract and the earnest money will be refunded to Buyer.

C. SURVEY: The survey must be made by a registered professional land surveyor acceptable to the Title Company and Buyer's lender(s). (Check one box only)

☐(1) Within _______ days after the effective date of this contract, Seller shall furnish to Buyer and Title Company Seller's existing survey of the Property and a Residential Real Property Affidavit promulgated by the Texas Department of Insurance (T-47 Affidavit). **If Seller fails to furnish the existing survey or affidavit within the time prescribed, Buyer shall obtain a new survey at Seller's expense no later than 3 days prior to Closing Date.** If the existing survey or affidavit is not acceptable to Title Company or Buyer's lender(s), Buyer shall obtain a new survey at Seller's expense no later than 3 days prior to Closing Date.

☐(2) Within _______ days after the effective date of this contract, Buyer shall obtain a new survey at Buyer's expense. Buyer is deemed to receive the survey on the date of actual receipt or the date specified in this paragraph, whichever is earlier.

☐(3) Within _______ days after the effective date of this contract, Seller, at Seller's expense shall furnish a new survey to Buyer.

D. OBJECTIONS: Buyer may object in writing to defects, exceptions, or encumbrances to title: disclosed on the survey other than items 6A(1) through (7) above; disclosed in the Commitment other than items 6A(1) through (8) above; or which prohibit the following use or activity:

Buyer must object the earlier of (i) the Closing Date or (ii) _______ days after Buyer receives the Commitment, Exception Documents, and the survey. Buyer's failure to object within the time allowed will constitute a waiver of Buyer's right to object; except that the requirements in Schedule C of the Commitment are not waived by Buyer. Provided Seller is not obligated to incur any expense, Seller shall cure the timely objections of Buyer or any third party lender within 15 days after Seller receives the objections and the Closing Date will be extended as necessary. If objections are not cured within such 15 day period, this contract will terminate and the earnest money will be refunded to Buyer unless Buyer waives the objections.

E. TITLE NOTICES:

(1) ABSTRACT OR TITLE POLICY: Broker advises Buyer to have an abstract of title covering the Property examined by an attorney of Buyer's selection, or Buyer should be furnished with or obtain a Title Policy. If a Title Policy is furnished, the Commitment should be promptly reviewed by an attorney of Buyer's choice due to the time limitations on Buyer's right to object.

(2) MEMBERSHIP IN PROPERTY OWNERS ASSOCIATION(S): The Property is subject to mandatory membership in a property owners association(s). Seller notifies Buyer under §5.012, Texas Property Code, that, as a purchaser of property in the residential community identified in Paragraph 2A in which the Property is located, you are obligated to be a member of the property owners association(s). Restrictive covenants governing the use and occupancy of the Property and all dedicatory instruments governing the establishment, maintenance, or operation of this residential community have been or will be recorded in the Real Property Records of the county in which the Property is located. Copies of the restrictive covenants and dedicatory instruments may be obtained from the county clerk. You are obligated to pay assessments to the property owners association(s). The amount of the assessments is subject to change. Your failure to pay the assessments could result in enforcement of the association's lien on and the foreclosure of the

Initialed for identification by Buyer_______ _______ and Seller_______ _______ TREC NO. 20-13
Appendix A

Property
Section 207.003, Property Code, entitles an owner to receive copies of any document that governs the establishment, maintenance, or operation of a subdivision, including, but not limited to, restrictions, bylaws, rules and regulations, and a resale certificate from a property owners' association. A resale certificate contains information including, but not limited to, statements specifying the amount and frequency of regular assessments and the style and cause number of lawsuits to which the property owners' association is a party, other than lawsuits relating to unpaid ad valorem taxes of an individual member of the association. These documents must be made available to you by the property owners' association or the association's agent on your request.

If Buyer is concerned about these matters, the TREC promulgated Addendum for Property Subject to Mandatory Membership in a Property Owners Association(s) should be used.

(3) STATUTORY TAX DISTRICTS: If the Property is situated in a utility or other statutorily created district providing water, sewer, drainage, or flood control facilities and services, Chapter 49, Texas Water Code, requires Seller to deliver and Buyer to sign the statutory notice relating to the tax rate, bonded indebtedness, or standby fee of the district prior to final execution of this contract.

(4) TIDE WATERS: If the Property abuts the tidally influenced waters of the state, §33.135, Texas Natural Resources Code, requires a notice regarding coastal area property to be included in the contract. An addendum containing the notice promulgated by TREC or required by the parties must be used.

(5) ANNEXATION: If the Property is located outside the limits of a municipality, Seller notifies Buyer under §5.011, Texas Property Code, that the Property may now or later be included in the extraterritorial jurisdiction of a municipality and may now or later be subject to annexation by the municipality. Each municipality maintains a map that depicts its boundaries and extraterritorial jurisdiction. To determine if the Property is located within a municipality’s extraterritorial jurisdiction or is likely to be located within a municipality’s extraterritorial jurisdiction, contact all municipalities located in the general proximity of the Property for further information.

(6) PROPERTY LOCATED IN A CERTIFICATED SERVICE AREA OF A UTILITY SERVICE PROVIDER: Notice required by §13.257, Water Code: The real property, described in Paragraph 2, that you are about to purchase may be located in a certificated water or sewer service area, which is authorized by law to provide water or sewer service to the properties in the certificated area. If your property is located in a certificated area there may be special costs or charges that you will be required to pay before you can receive water or sewer service. There may be a period required to construct lines or other facilities necessary to provide water or sewer service to your property. You are advised to determine if the property is in a certificated area and contact the utility service provider to determine the cost that you will be required to pay and the period, if any, that is required to provide water or sewer service to your property. The undersigned Buyer hereby acknowledges receipt of the foregoing notice at or before the execution of a binding contract for the purchase of the real property described in Paragraph 2 or at closing of purchase of the real property.

(7) PUBLIC IMPROVEMENT DISTRICTS: If the Property is in a public improvement district, §5.014, Property Code, requires Seller to notify Buyer as follows: As a purchaser of this parcel of real property you are obligated to pay an assessment to a municipality or county for an improvement project undertaken by a public improvement district under Chapter 372, Local Government Code. The assessment may be due annually or in periodic installments. More information concerning the amount of the assessment and the due dates of that assessment may be obtained from the municipality or county for an improvement project undertaken by a public improvement district under Chapter 372, Local Government Code. This assessment is not limited to, statements specifying the amount and frequency of regular assessments and the style and cause number of lawsuits to which the property owners' association is a party, other than lawsuits relating to unpaid ad valorem taxes of an individual member of the association. These documents must be made available to you by the property owners' association or the association's agent on your request.

If Buyer is concerned about these matters, the TREC promulgated Addendum for Property Subject to Mandatory Membership in a Property Owners Association(s) should be used.

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(8) TRANSFER FEES: If the Property is subject to a private transfer fee obligation, §5.205, Property Code, requires Seller to notify Buyer as follows: The private transfer fee obligation may be governed by Chapter 5, Subchapter G of the Texas Property Code.

(9) PROPANE GAS SYSTEM SERVICE AREA: If the Property is located in a propane gas system service area owned by a distribution system retailer, Seller must give Buyer written notice as required by §141.010, Texas Utilities Code. An addendum containing the notice approved by TREC or required by the parties should be used.

(10) NOTICE OF WATER FLUCTUATIONS: If the Property adjoins an impoundment of water, including a reservoir or lake, constructed or maintained under Chapter 11, Water Code, that has a storage capacity of at least 5,000 acre-feet at the impoundment's normal operating level, Seller hereby notifies Buyer: “The water level of the impoundment of water adjoining the Property fluctuates for various reasons, including the result of: (1) an entity lawfully exercising its right to use the water stored in the impoundment; or (2)
7. PROPERTY CONDITION:

A. ACCESS, INSPECTIONS AND UTILITIES: Seller shall permit Buyer and Buyer’s agents access to the Property at reasonable times. Buyer may have the Property inspected by inspectors selected by Buyer and licensed by TREC or otherwise permitted by law to make inspections. Any hydrostatic testing must be separately authorized by Seller in writing. Seller at Seller’s expense shall immediately cause existing utilities to be turned on and shall keep the utilities on during the time this contract is in effect.

B. SELLER’S DISCLOSURE NOTICE PURSUANT TO §5.008, TEXAS PROPERTY CODE (Notice):

(1) Buyer has received the Notice.
(2) Buyer has not received the Notice. Within _______ days after the effective date of this contract, Seller shall deliver the Notice to Buyer. If Buyer does not receive the Notice, Buyer may terminate this contract at any time prior to the closing and the earnest money will be refunded to Buyer. If Seller delivers the Notice, Buyer may terminate this contract for any reason within 7 days after Buyer receives the Notice or prior to the closing, whichever first occurs, and the earnest money will be refunded to Buyer.
(3) The Seller is not required to furnish the notice under the Texas Property Code.

C. SELLER’S DISCLOSURE OF LEAD-BASED PAINT AND LEAD-BASED PAINT HAZARDS is required by Federal law for a residential dwelling constructed prior to 1978.

D. ACCEPTANCE OF PROPERTY CONDITION: “As Is” means the present condition of the Property with any and all defects and without warranty except for the warranties of title and the warranties in this contract. Buyer’s agreement to accept the Property As Is under Paragraph 7D(1) or (2) does not preclude Buyer from inspecting the Property under Paragraph 7A, from negotiating repairs or treatments in a subsequent amendment, or from terminating this contract during the Option Period, if any.

(1) Buyer accepts the Property As Is.
(2) Buyer accepts the Property As Is provided Seller, at Seller’s expense, shall complete the following specific repairs and treatments: __________________________.(Do not insert general phrases, such as “subject to inspections” that do not identify specific repairs and treatments.)

E. LENDER REQUIRED REPAIRS AND TREATMENTS: Unless otherwise agreed in writing, neither party is obligated to pay for lender required repairs, which includes treatment for wood destroying insects. If the parties do not agree to pay for the lender required repairs or treatments, this contract will terminate and the earnest money will be refunded to Buyer. If the cost of lender required repairs and treatments exceeds 5% of the Sales Price, Buyer may terminate this contract and the earnest money will be refunded to Buyer.

F. COMPLETION OF REPAIRS AND TREATMENTS: Unless otherwise agreed in writing: (i) Seller shall complete all agreed repairs and treatments prior to the Closing Date; and (ii) all required permits must be obtained, and repairs and treatments must be performed by persons who are licensed to provide such repairs or treatments or, if no license is required by law, are commercially engaged in the trade of providing such repairs or treatments. At Buyer’s election, any transferable warranties received by Seller with respect to the repairs and treatments will be transferred to Buyer at Buyer’s expense. If Seller fails to complete any agreed repairs and treatments prior to the Closing Date, Buyer may exercise remedies under Paragraph 15 or extend the Closing Date up to 5 days if necessary for Seller to complete the repairs and treatments.

G. ENVIRONMENTAL MATTERS: Buyer is advised that the presence of wetlands, toxic substances, including asbestos and wastes or other environmental hazards, or the presence of a threatened or endangered species or its habitat may affect Buyer’s intended use of the Property. If Buyer is concerned about these matters, an addendum promulgated by TREC or required by the parties should be used.

H. RESIDENTIAL SERVICE CONTRACTS: Buyer may purchase a residential service contract from a residential service company licensed by TREC. If Buyer purchases a residential service contract, Seller shall reimburse Buyer at closing for the cost of the residential service contract in an amount not exceeding $________ . Buyer should review any residential service contract for the scope of coverage, exclusions and limitations. The purchase of a residential service contract is optional. Similar coverage may be purchased from various companies authorized to do business in Texas.

8. BROKERS’ FEES: All obligations of the parties for payment of brokers’ fees are contained in separate written agreements.

9. CLOSING:

A. The closing of the sale will be on or before _______ , 20____ , or within 7 days Initialed for identification by Buyer _______ _____ and Seller _______ _____ TREC NO. 20-13
after objections made under Paragraph 6D have been cured or waived, whichever date is later (Closing Date). On or before the Closing Date, Buyer may extend the Closing Date up to 10 days, by giving notice to Seller, if Buyer’s lender is required to provide additional disclosures mandated by the TILA-RESPA Integrated Disclosure Rule. If either party fails to close the sale by the Closing Date, the non-defaulting party may exercise the remedies contained in Paragraph 15.

B. At closing:
(1) Seller shall execute and deliver a general warranty deed conveying title to the Property to Buyer and showing no additional exceptions to those permitted in Paragraph 6 and furnish tax statements or certificates showing no delinquent taxes on the Property.
(2) Buyer shall pay the Sales Price in good funds acceptable to the escrow agent.
(3) Seller and Buyer shall execute and deliver any notices, statements, certificates, affidavits, releases, loan documents and other documents reasonably required for the closing of the sale and the issuance of the Title Policy.
(4) There will be no liens, assessments, or security interests against the Property which will not be satisfied out of the sales proceeds unless securing the payment of any loans assumed by Buyer and assumed loans will not be in default.
(5) If the Property is subject to a residential lease, Seller shall transfer security deposits (as defined under §92.102, Property Code), if any, to Buyer. In such an event, Buyer shall deliver to the tenant a signed statement acknowledging that the Buyer has acquired the Property and is responsible for the return of the security deposit, and specifying the exact dollar amount of the security deposit.

10. POSSESSION:
A. Buyer’s Possession: Seller shall deliver to Buyer possession of the Property in its present or required condition, ordinary wear and tear excepted: upon closing and funding for a temporary residential lease form promulgated by TREC or other written lease required by the parties. Any possession by Buyer prior to closing or by Seller after closing which is not authorized by a written lease will establish a tenancy at sufferance relationship between the parties. Consult your insurance agent prior to change of ownership and possession because insurance coverage may be limited or terminated. The absence of a written lease or appropriate insurance coverage may expose the parties to economic loss.

B. Leases:
(1) After the Effective Date, Seller may not execute any lease (including but not limited to mineral leases) or convey any interest in the Property without Buyer’s written consent.
(2) If the Property is subject to any lease to which Seller is a party, Seller shall deliver to Buyer copies of the lease(s) and any move-in condition form signed by the tenant within 7 days after the Effective Date of the contract.

11. SPECIAL PROVISIONS: (Insert only factual statements and business details applicable to the sale. TREC rules prohibit license holders from adding factual statements or business details for which a contract addendum, lease or other form has been promulgated by TREC for mandatory use.)

12. SETTLEMENT AND OTHER EXPENSES:
A. The following expenses must be paid at or prior to closing:
(1) Expenses payable by Seller (Seller’s Expenses):
   (a) Releases of existing liens, including prepayment penalties and recording fees; release of Seller’s loan liability; tax statements or certificates; preparation of deed; one-half of escrow fee; and other expenses payable by Seller under this contract.
   (b) Seller shall also pay an amount not to exceed $ to be applied in the following order: Buyer’s Expenses which Buyer is prohibited from paying by FHA, VA, Texas Veterans Land Board or other governmental loan programs, and then to other Buyer’s Expenses as allowed by the lender.
(2) Expenses payable by Buyer (Buyer’s Expenses): Appraisal fees; loan application fees; adjusted origination charges; credit reports; preparation of loan documents; interest on the notes from date of disbursement to one month prior to dates of first monthly payments; recording fees; copies of easements and restrictions; loan title policy with endorsements required by lender; loan-related inspection fees; photos; amortization schedules; one-half of escrow fee; all prepaid items, including required premiums for flood and hazard insurance, reserve deposits for insurance, ad valorem taxes and special governmental assessments; final compliance inspection; courier fee; repair
Appendix A

Initialed for identification by Buyer _______ _______ and Seller _______ _______  TREC NO. 20-13
adverse claims related to the disbursement of the earnest money.

D. DAMAGES: Any party who wrongfully fails or refuses to sign a release acceptable to the escrow agent within 7 days of receipt of the request will be liable to the other party for (i) damages; (ii) the earnest money; (iii) reasonable attorney’s fees; and (iv) all costs of suit.

E. NOTICES: Escrow agent’s notices will be effective when sent in compliance with Paragraph 21. Notice of objection to the demand will be deemed effective upon receipt by escrow agent.

19. REPRESENTATIONS: All covenants, representations and warranties in this contract survive closing. If any representation of Seller in this contract is untrue on the Closing Date, Seller will be in default. Unless expressly prohibited by written agreement, Seller may continue to show the Property and receive, negotiate and accept back up offers.

20. FEDERAL TAX REQUIREMENTS: If Seller is a “foreign person,” as defined by applicable law, or if Seller fails to deliver an affidavit to Buyer that Seller is not a “foreign person,” then Buyer shall withhold from the sales proceeds an amount sufficient to comply with applicable tax law and deliver the same to the Internal Revenue Service together with appropriate tax forms. Internal Revenue Service regulations require filing written reports if currency in excess of specified amounts is received in the transaction.

21. NOTICES: All notices from one party to the other must be in writing and are effective when mailed to, hand-delivered at, or transmitted by fax or electronic transmission as follows:

To Buyer at:  
Phone: ( )  
Fax: ( )  
E-mail:  

To Seller at:  
Phone: ( )  
Fax: ( )  
E-mail:  

22. AGREEMENT OF PARTIES: This contract contains the entire agreement of the parties and cannot be changed except by their written agreement. Addenda which are a part of this contract are (Check all applicable boxes):

- Third Party Financing Addendum
- Seller Financing Addendum
- Addendum for Property Subject to Mandatory Membership in a Property Owners Association
- Buyer’s Temporary Residential Lease
- Loan Assumption Addendum
- Addendum for Sale of Other Property by Buyer
- Addendum for Reservation of Oil, Gas and Other Minerals
- Addendum for "Back-Up" Contract
- Addendum for Coastal Area Property
- Environmental Assessment, Threatened or Endangered Species and Wetlands Addendum
- Seller’s Temporary Residential Lease
- Short Sale Addendum
- Addendum for Property Located Seaward of the Gulf Intracoastal Waterway
- Addendum for Seller’s Disclosure of Information on Lead-based Paint and Lead-based Paint Hazards as Required by Federal Law
- Addendum for Property in a Propane Gas System Service Area
- Other (list):  

Initialed for identification by Buyer _____ _____ and Seller _____ _____  

TREC NO. 20-13
23. **TERMINATION OPTION:** For nominal consideration, the receipt of which is hereby acknowledged by Seller, and Buyer's agreement to pay Seller $_________ (Option Fee) within 3 days after the effective date of this contract, Seller grants Buyer the unrestricted right to terminate this contract by giving notice of termination to Seller within ________ days after the effective date of this contract (Option Period). Notices under this paragraph must be given by 5:00 p.m. (local time at the Property) by the date specified. If no dollar amount is stated as the Option Fee or if Buyer fails to pay the Option Fee to Seller within the time prescribed, this paragraph will not be a part of this contract and Buyer shall not have the unrestricted right to terminate this contract. If Buyer gives notice of termination within the time prescribed, the Option Fee will not be refunded; however, any earnest money will be refunded to Buyer. The Option Fee will not be credited to the Sales Price at closing. **Time is of the essence for this paragraph and strict compliance with the time for performance is required.**

24. **CONSULT AN ATTORNEY BEFORE SIGNING:** TREC rules prohibit real estate license holders from giving legal advice. READ THIS CONTRACT CAREFULLY.

Buyer's Attorney is: ________________________________  Seller's Attorney is: ________________________________

Phone: (_____) ______________________  Phone: (_____) ______________________

Fax: (_____) ______________________  Fax: (_____) ______________________

E-mail: ________________________________  E-mail: ________________________________

EXECUTED the ________ day of __________________, 20____ (EFFECTIVE DATE).

(BROKER: FILL IN THE DATE OF FINAL ACCEPTANCE.)

Buyer ___________________________________  Seller ___________________________________

Buyer ___________________________________  Seller ___________________________________
### BROKER INFORMATION
(Print name(s) only. Do not sign)

<table>
<thead>
<tr>
<th>Other Broker Firm</th>
<th>License No.</th>
<th>Listing Broker Firm</th>
<th>License No.</th>
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<td>represents ☐ Buyer only as Buyer’s agent</td>
<td>☐ Seller as Listing Broker’s subagent</td>
<td>represents ☐ Seller and Buyer as an intermediary</td>
<td>☐ Seller only as Seller’s agent</td>
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<th>Name of Associate’s Licensed Supervisor</th>
<th>Phone</th>
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<td>Associate’s Name</td>
<td>License No.</td>
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<td>Other Broker’s Address</td>
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<td>Associate’s Email Address</td>
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<th>Name of Associate’s Licensed Supervisor</th>
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<table>
<thead>
<tr>
<th>Selling Associate’s Name</th>
<th>License No.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Name of Selling Associate’s Licensed Supervisor</td>
<td>Phone</td>
</tr>
<tr>
<td>Selling Associate’s Office Address</td>
<td>Fax</td>
</tr>
<tr>
<td>City</td>
<td>State</td>
</tr>
<tr>
<td>Selling Associate’s Email Address</td>
<td>Phone</td>
</tr>
</tbody>
</table>

### OPTION FEE RECEIPT

Receipt of $__________ (Option Fee) in the form of __________________ is acknowledged.

Seller or Listing Broker Date

### CONTRACT AND EARNEST MONEY RECEIPT

Receipt of ☐ Contract and ☐ $__________Earnest Money in the form of __________________ is acknowledged.

Escrow Agent: ________________________ Date: ________________________

By: ________________________ Email Address ________________________ Phone: (____) ________

Address ________________________ Fax: (____) ________

City State Zip
A. TYPE OF FINANCING AND DUTY TO APPLY AND OBTAIN APPROVAL: Buyer shall apply promptly for all financing described below and make every reasonable effort to obtain approval for the financing, including but not limited to furnishing all information and documents required by Buyer’s lender. (Check applicable boxes):

- 1. Conventional Financing:
  - (a) A first mortgage loan in the principal amount of $________________________ (excluding any financed PMI premium), due in full in _______ year(s), with interest not to exceed ___% per annum for the first _______ year(s) of the loan with Adjusted Origination Charges as shown on Buyer’s Loan Estimate for the loan not to exceed ___% of the loan.
  - (b) A second mortgage loan in the principal amount of $________________________ (excluding any financed PMI premium), due in full in _______ year(s), with interest not to exceed ___% per annum for the first _______ year(s) of the loan with Adjusted Origination Charges as shown on Buyer’s Loan Estimate for the loan not to exceed ___% of the loan.

- 2. Texas Veterans Loan: A loan(s) from the Texas Veterans Land Board of $__________ for a period in the total amount of _______ years at the interest rate established by the Texas Veterans Land Board.

- 3. FHA Insured Financing: A Section ________ FHA insured loan of not less than $________________________ (excluding any financed MIP), amortizable monthly for not less than _______ years, with interest not to exceed ___% per annum for the first _______ year(s) of the loan with Adjusted Origination Charges as shown on Buyer’s Loan Estimate for the loan not to exceed ___% of the loan.

- 4. VA Guaranteed Financing: A VA guaranteed loan of not less than $________________________ (excluding any financed Funding Fee), amortizable monthly for not less than _______ years, with interest not to exceed ___% per annum for the first _______ year(s) of the loan with Adjusted Origination Charges as shown on Buyer’s Loan Estimate for the loan not to exceed ___% of the loan.

- 5. USDA Guaranteed Financing: A USDA-guaranteed loan of not less than $________________________ (excluding any financed Funding Fee), amortizable monthly for not less than _______ years, with interest not to exceed ___% per annum for the first _______ year(s) of the loan with Adjusted Origination Charges as shown on Buyer’s Loan Estimate for the loan not to exceed ___% of the loan.

- 6. Reverse Mortgage Financing: A reverse mortgage loan (also known as a Home Equity Conversion Mortgage loan) in the original principal amount of $__________ (excluding any financed PMI premium or other costs), with interest not to exceed ___% per annum for the first _______ year(s) of the loan with Adjusted Origination Charges as shown on Buyer’s Loan Estimate for the loan not to exceed ___% of the loan. The reverse mortgage loan will not be an FHA insured loan.

B. APPROVAL OF FINANCING: Approval for the financing described above will be deemed to have been obtained when Credit Approval and Property Approval are obtained.

1. Credit Approval: Credit Approval will be deemed to have been obtained when (i) the terms of the loan(s) described above are available and (ii) lender determines that Buyer has satisfied all of lender’s requirements related to Buyer’s assets, income and credit history. If Buyer cannot obtain Credit Approval, Buyer may give written notice to Seller within _______ days after the effective date of this contract and this contract will terminate and the earnest money will be refunded to Buyer. If Buyer does not terminate the contract under this provision, the contract shall no longer be subject to the Buyer obtaining Credit Approval.

2. Property Approval: Property Approval will be deemed to have been obtained when the
Property has satisfied lender’s underwriting requirements for the loan, including but not limited to appraisal, insurability, and lender required repairs. If the Property Approval is not obtained by the day before the Closing Date, Buyer may terminate this contract by giving notice to Seller prior to closing and the earnest money will be refunded to Buyer.

3. **Time is of the essence for this paragraph and strict compliance with the time for performance is required.**

C. SECURITY: Each note for the financing described above must be secured by vendor’s and deed of trust liens.

D. AUTHORIZATION TO RELEASE INFORMATION: Buyer authorizes lender to furnish to Seller or Buyer or their representatives information relating to the status of the approval for the financing.

E. FHA/VA REQUIRED PROVISION: If the financing described above involves FHA insured or VA financing, it is expressly agreed that, notwithstanding any other provision of this contract, the purchaser (Buyer) shall not be obligated to complete the purchase of the Property described herein or to incur any penalty for forfeiture of earnest money deposits or otherwise: (i) unless the Buyer has been given in accordance with HUD/FHA or VA requirements a written statement issued by the Federal Housing Commissioner, Department of Veterans Affairs, or a Direct Endorsement Lender setting forth the appraised value of the Property of not less than $ ; or (ii) if the contract purchase price or cost exceeds the reasonable value of the Property established by the Department of Veterans Affairs.

(1) The Buyer shall have the privilege and option of proceeding with consummation of the contract without regard to the amount of the appraised valuation or the reasonable value established by the Department of Veterans Affairs.

(2) If FHA financing is involved, the appraised valuation is arrived at to determine the maximum mortgage the Department of Housing and Urban Development will insure. HUD does not warrant the value or the condition of the Property. The Buyer should satisfy himself/herself that the price and the condition of the Property are acceptable.

(3) If VA financing is involved and if Buyer elects to complete the purchase at an amount in excess of the reasonable value established by the VA, Buyer shall pay such excess amount in cash from a source which Buyer agrees to disclose to the VA and which Buyer represents will not be from borrowed funds except as approved by VA. If VA reasonable value of the Property is less than the Sales Price, Seller may reduce the Sales Price to an amount equal to the VA reasonable value and the sale will be closed at the lower Sales Price with proportionate adjustments to the down payment and the loan amount.

Buyer ____________________________  Seller ____________________________

Buyer ____________________________  Seller ____________________________

This form has been approved by the Texas Real Estate Commission for use with similarly approved or promulgated contract forms. Such approval relates to this form only. TREC forms are intended for use only by trained real estate license holders. No representation is made as to the legal validity or adequacy of any provision in any specific transactions. It is not intended for complex transactions. Texas Real Estate Commission, P.O. Box 12188, Austin, TX 78711-2188, (512) 936-3000 (http://www.trec.texas.gov) TREC No. 40-7. This form replaces TREC No. 40-6.
Seller Otto is discussing listing his rental property for sale with his agent, Maynard.

OTTO

Okay, I am ready to list my rent house. Like I told you, I really want to get it sold as soon as possible, especially after my tenant leaves in a few months. I need to get $134,500 to be able to make any money on it. Can you sell it for that?

MAYNARD

Sure. That sounds like a good price. I’ll file the listing in MLS right away.

(hands Otto a stack of documents)

First though, I need you to sign some documents so we can get started.

OTTO

So what’re all these?

MAYNARD

Well, the first one’s just the Information About Broker Services. The real estate commission requires you to sign it. The second one’s the listing agreement. It lists the terms of the listing agreement for my commission. It has a two-year term. It has our rights and responsibilities, too. Like for instance it states that I’ll advertise the property in our local MLS, and I am authorized to put a keybox on the property.

OTTO

OK. What about my tenant?

MAYNARD

I’m sure your lease allows you, as landlord, to show the property if you want to sell it, so that’s not an issue. But I’ll call the tenant ahead of time and let ‘em know I’m putting a keybox on it and they should keep it nice in case there are showings.
OTTO
And this next document?

MAYNARD
Oh, that’s the Seller’s Disclosure. You have to fill it out and sign it to give to any buyer. But since you don’t live there, you can just put “unknown” for all the answers.

OTTO
(holding up next document)
This one?

MAYNARD
That’s the Intermediary Relationship Notice. You sign it now, and then if I find a prospective buyer, and they want to use my brokerage, too, we’ll represent you both and fast track the whole deal.

OTTO
And this Registration one?

MAYNARD
That’s the Registration Agreement between the broker and owner. It allows me to register a prospect who might already be interested in buying the property. You can sign it now, and if I get a prospect, I’ll put their name in the blank.

OTTO
And this one about Request for Mortgage Information? Why do you need that?

MAYNARD
That’s so I can get the mortgage payoff so we can let the title company know when we have a contract.

OTTO
I don’t have my mortgage company information handy. Can’t I wait until we have a contract?

MAYNARD
Why don’t you just sign it now and then you can give me the mortgage information when you have time. Then I won’t have to bother you about it later.
22 TAC 537.11

(a) When negotiating contracts binding the sale, exchange, option, lease or rental of any interest in real property, a real estate licensee shall use only those contract forms promulgated by the Texas Real Estate Commission (the Commission) for that kind of transaction with the following exceptions:

(1) transactions in which the license holder is functioning solely as a principal, not as an agent;
(2) transactions in which an agency of the United States government requires a different form to be used;
(3) transactions for which a contract form has been prepared by a principal to the transaction or prepared by an attorney and required by a principal to the transaction; or
(4) transactions for which no standard contract form has been promulgated by the Commission, and the license holder uses a form prepared by an attorney at law licensed by this state and approved by the attorney for the particular kind of transactions involved or prepared by the Texas Real Estate Broker-Lawyer Committee (the committee) and made available for trial use by license holders with the consent of the Commission.

(b) A license holder may not:

(1) practice law;
(2) offer, give or attempt to give legal advice, directly or indirectly;
(3) give advice or opinions as to the legal effect of any contracts or other such instruments which may affect the title to real estate;
(4) give opinions concerning the status or validity of title to real estate;
 or
(5) attempt to prevent or in any manner whatsoever discourage any principal to a real estate transaction from employing a lawyer.

(c) This section does not limit a license holder’s fiduciary obligation to disclose to the license holder’s principals all pertinent facts which are within the knowledge of the license holder, including such facts which might affect the status of or title to real estate.

(d) A license holder may not undertake to draw or prepare documents fixing and defining the legal rights of the principals to a real estate transaction.

(e) In negotiating real estate transactions, a license holder may prepare forms using only forms that have been approved and promulgated by the Commission or such forms as are otherwise permitted by these rules.

(f) When filling in a form authorized for use by this section, the license holder may only fill in the blanks provided and may not add to or strike matter from such form, except that a license holder shall add factual statements and business details desired by the principals and shall strike only such matter as is desired by the principals and as is necessary to conform the instrument to the intent of the parties.
(g) A license holder may not add to a promulgated contract form factual statements or business details for which a contract addendum, lease or other form has been promulgated by the Commission for mandatory use.

(h) This section does not prevent the license holder from explaining to the principals the meaning of the factual statements and business details contained in an instrument so long as the license holder does not offer or give legal advice.

(i) It is not the practice of law as defined in this Act for a real estate license holder to complete a contract form which is either promulgated by the Commission or prepared by the committee and made available for trial use by license holder with the consent of the Commission.

(j) Contract forms prepared by the committee for trial use may be used on a voluntary basis after being approved by the Commission.

(k) A contract form prepared by the committee and approved by the Commission to replace a previously promulgated form may be used by license holders on a voluntary basis before the effective date of rules requiring use of the replacement form.

(l) When a transaction involves unusual matters that should be reviewed by legal counsel before an instrument is executed, or if the instrument must be acknowledged and filed of record, the license holder shall advise the principals that each should consult a lawyer of the principal's choice before executing the instrument.

(m) A license holder may not employ, directly or indirectly, a lawyer nor pay for the services of a lawyer to represent any principal to a real estate transaction in which the license holder is acting as an agent. The license holder may employ and pay for the services of a lawyer to represent only the license holder in a real estate transaction, including preparation of the contract, agreement, or other legal instruments to be executed by the principals to the transactions.

(n) A license holder shall advise the principals that the instrument they are about to execute is binding on them.