



## **SUMMARY OF 2020 CHANGES TO NC REALTOR® RESIDENTIAL FORMS (EFFECTIVE JULY 1, 2020 EXCEPT AS OTHERWISE NOTED)**

The following residential forms have been revised or created effective July 1, 2020 except as otherwise noted. A summary of the significant changes to each form follows the list. A marked-up copy of each form showing the exact changes may be viewed by clicking on the name of the form immediately preceding the summary of the form.

**NOTE:** The following four forms were released effective May 1<sup>st</sup> in coordination with NAR's new Clear Cooperation Policy, which MLSs were required to implement no later than May 1, 2020: Form 101, Form 101G, Form 103, and Form 103G. In addition, the COVID-19 Addendum (Form 790) was released March 23<sup>rd</sup> and the Onsite Preview Addendum (Form 795) was released April 13<sup>th</sup> in response to the COVID-19 Pandemic.

### **Jointly-Approved Forms (approved by NCAR and NC Bar Association)**

- (1) Offer to Purchase and Contract (Form 2-T) (JULY 1 RELEASE)
- (2) Guidelines for Completing Offer to Purchase and Contract (Form 2G) (JULY 1 RELEASE)
- (3) Offer to Purchase and Contract (Vacant Lot/Land) (Form 12-T) (JULY 1 RELEASE)
- (4) Guidelines for Completing Offer to Purchase and Contract (Vacant Lot/Land) (Form 12G) (JULY 1 RELEASE)
- (5) Back-Up Contract Addendum (Form 2A1-T) (JULY 1 RELEASE)
- (6) Seller Financing Addendum (Form 2A5-T) (JULY 1 RELEASE)
- (7) Lead-Based Paint or Lead-Based Paint Hazard Addendum (Form 2A9-T) (JULY 1 RELEASE)
- (8) Additional Provisions Addendum (Form 2A11-T) (JULY 1 RELEASE)
- (9) Additional Signatures Addendum (Form 3-T) (FORMATTING ONLY) (JULY 1 RELEASE)
- (10) Guidelines for Completing Additional Signatures Addendum (Form 3G) (FORMATTING ONLY) (JULY 1 RELEASE)
- (11) Offer to Purchase and Contract—New Construction (Form 800-T) (JULY 1 RELEASE)
- (12) Guidelines for Completing Offer to Purchase and Contract—New Construction (Form 800G) (JULY 1 RELEASE)

### **NCAR Residential Forms (approved by NCAR only)**

- (13) Exclusive Right to Sell Listing Agreement (Form 101) (MAY 1 RELEASE)
- (14) Guidelines for Completing Exclusive Right to Sell Listing Agreement (Form 101G) (MAY 1 RELEASE)
- (15) Exclusive Right to Sell Listing Agreement (Vacant Lot/Land) (Form 103) (MAY 1 RELEASE)
- (16) Guidelines for Completing Exclusive Right to Sell Listing Agreement (Vacant Lot/Land) (Form 103G) (MAY 1 RELEASE)

- (17) Internet Advertising Addendum (Form 105) (JULY 1 RELEASE)
- (18) Unrepresented Seller Disclosure and Fee Agreement (Form 150) (JULY 1 RELEASE)
- (19) Exclusive Buyer Agency Agreement (Form 201) (JULY 1 RELEASE)
- (20) Guidelines for Completing Exclusive Buyer Agency Agreement (Form 201G) (JULY 1 RELEASE)
- (21) Non-Exclusive Buyer Agency Agreement (form 203) (JULY 1 RELEASE)
- (22) Confirmation of Agency Relationship, Appointment and Compensation (Form 220) (FORMATTING ONLY) (JULY 1 RELEASE)
- (23) Guidelines for Completing Confirmation of Agency Relationship, Appointment and Compensation (Form 220G) (FORMATTING ONLY) (JULY 1 RELEASE)
- (24) Due Diligence Request and Agreement (form 310-T) (FORMATTING ONLY) (JULY 1 RELEASE)
- (25) Guidelines for Completing Due Diligence Request and Agreement (form 310G) (FORMATTING ONLY) (JULY 1 RELEASE)
- (26) Offer to Purchase and Contract Worksheet (Form 360) (NEW) (JULY 1 RELEASE)
- (27) Exclusive Tenant Representation Agreement (Form 460) (NEW) (JULY 1 RELEASE)
- (28) Agency Agreement Renewal and/or Amendment (Form 710) (JULY 1 RELEASE)
- (29) Termination of Agency Agreement and Release (Form 720) (JULY 1 RELEASE)
- (30) Broker-To-Builder Referral Agreement (Form 731) (NEW) (JULY 1 RELEASE)
- (31) Professional Services Disclosure And Election (Form 760) (JULY 1 RELEASE)
- (32) Guidelines for Completing Professional Services Disclosure And Election (Form 760G) (JULY 1 RELEASE)
- (33) Confirmation of Compensation (Form 770) (FORMATTING ONLY) (JULY 1 RELEASE)
- (34) Guidelines for Completing Confirmation of Compensation (Form 770G) (FORMATTING ONLY) (JULY 1 RELEASE)
- (35) COVID-19 Addendum (Form 790) (NEW) (MARCH 23 RELEASE)
- (36) Onsite Preview Addendum (Form 795) (NEW) (APRIL 13 RELEASE)

**Jointly-Approved Forms (approved by NCAR and NC Bar Association)**

**(1) [Offer to Purchase and Contract \(Form 2-T\)](#)**

- Paragraph 1(f)—New sentence added wherein buyer and seller consent to disclosure by the escrow agent of any material facts pertaining to the earnest money deposit. This sentence addresses a situation brought to the attention of the Joint Forms Task Force where an attorney acting as escrow agent received guidance from the State Bar that he was ethically obligated not to disclose to the seller/listing agent that his buyer client’s EMD check had bounced.
- Paragraph 1(l)—New “Note” added under definition of “Settlement Date” to bring to the attention of the parties the fact that Settlement may be delayed under certain circumstances under the “Delay in Settlement/Closing” paragraph.
- Paragraph 2
  - New "Warning" added to stress the importance of addressing in the contract what items will be included in or excluded from the sale
  - subparagraph (b)
    - "smart" devices will be included as a part of the sale unless excluded
    - new "Note" added under "Fuel tanks" at request of NC Propane Gas Association to make it clear that state law prohibits disconnecting, interrupting, or filling a propane tank without the supplier’s consent
    - thermostats added to list of items
  - subparagraph (c)--new wording obligates seller to "unpair" any devices that will convey from any personal property devices with which they are paired, delete personal data

from any devices that will convey, and restore all devices to factory default settings unless otherwise agreed

- Paragraph 3--new sentence added to existing "Note" to stress the importance of identifying in the contract any personal property that will be included in the sale
- Paragraph 9—the word “provided” changed to “agreed” to clarify that the parties may agree to prorations of real estate taxes, rents, and dues that are different from those set forth in paragraph 9
- Paragraph 20—If, according to the buyer agent’s email program, a notice of termination of contract was sent to the listing agent at 4:59 PM on the last day of the Due Diligence Period, but according to the listing agent’s email program, the email was received at 5:01 PM, was the termination notice “delivered” at 4:59 or 5:01 PM? A new sentence has been added to paragraph 20 to clarify that electronic notice under the contract is deemed delivered when it has been properly sent. The wording is based on the definition of when an electronic record is deemed “sent” in Section 66-325(a) of the Uniform Electronic Transactions Act.

**(2) [Guidelines for Completing Offer to Purchase and Contract \(Form 2G\)](#)**

- Changes corresponding to the changes made to Form 2-T over the past couple of years have been made where necessary to update the Guidelines for completing Form 2-T

**(3) [Offer to Purchase and Contract \(Vacant Lot/Land\) \(Form 12-T\)](#)**

- Changes corresponding to the changes to Form 2-T described above have been made to the vacant lot/land version of the contract where relevant

**(4) [Guidelines for Completing Offer to Purchase and Contract \(Vacant Lot/Land\) \(Form 12G\)](#)**

- Changes corresponding to the changes made to Form 12-T over the past couple of years have been made where necessary to update the Guidelines for completing Form 12-T

**(5) [Back-Up Contract Addendum \(Form 2A1-T\)](#)**

- Paragraph 8—wording changed to clarify that seller must deliver *both* written notice that the back-up contract has become primary *and* documentation that the primary contract has been terminated in order in order to constitute delivery of “Notice of Primary Status.” Under paragraph 9, the Due Diligence Period, Settlement Date, and delivery of the Due Diligence Fee are tied to the delivery of Notice of Primary Status, and under paragraph 10, the buyer’s right to terminate the back-up contract is cut off by delivery of Notice of Primary Status, so it is important that Notice of Primary Status is clearly defined.
- Paragraph 9—wording in subparagraph (a) changed to clarify that the Due Diligence Fee is due upon delivery of Notice of Primary Status rather than 5 days after delivery of such notice, and must be paid within 3 days, rather than 5 days, thereafter.

**(6) [Seller Financing Addendum \(Form 2A5-T\)](#)**

- New "Note" added under name of form to alert parties and their agents to existence of federal and state laws and regulations limiting the availability of financing by persons unlicensed as lenders

**(7) [Lead-Based Paint or Lead-Based Paint Hazard Addendum \(Form 2A9-T\)](#)**

- Changes made to subsection (c) to make it clear that the buyer is acknowledging receipt of *both* the seller’s statement in subsection (a) regarding the seller’s knowledge of the presence of lead-based paint or lead-based paint hazards in the housing, and any available records and reports described in subsection (b). There has been some confusion about whether the buyer should

insert their initials in the blank appearing to the left of the acknowledgment in subsection (c) in situations where there are no available reports. Federal lead-based paint rules require the buyer to acknowledge receipt of both the seller's statement and any available reports, and it is hoped that this change will hopefully help clarify the need for the buyer to insert their initials in subsection (c) whether or not there are any available reports.

**(8) [Additional Provisions Addendum \(Form 2A11-T\)](#)**

- Provision 6—a new Pool/Spa Inspection/Preparation is recommended to address unique issues arising in connection with the inspection of pools that have been winterized or are otherwise not in service. The provision gives the parties the ability to allocate responsibility for any costs associated with putting the property in operable condition for the purpose of inspections, and for re-winterizing the pool following any inspections

**(9) [Additional Signatures Addendum \(Form 3-T\)](#) (FORMATTING ONLY)**

- minor, non-substantive change in reference appearing under name of form recommended for purposes of uniformity with other forms

**(10) [Guidelines for Completing Additional Signatures Addendum \(Form 3G\)](#) (FORMATTING ONLY)**

- minor, non-substantive change in reference appearing under name of form recommended for purposes of uniformity with other forms

**(11) [Offer to Purchase and Contract—New Construction \(Form 800-T\)](#)**

- Changes corresponding to the changes to Form 2-T described above have been made to the new construction version of the contract where relevant

**(12) [Guidelines for Completing Offer to Purchase and Contract—New Construction \(Form 800G\)](#)**

- Changes corresponding to the changes made to Form 800-T over the past couple of years have been made where necessary to update the Guidelines for completing Form 800-T

**NCAR Residential Forms (approved by NCAR only)**

**(13) [Exclusive Right to Sell Listing Agreement \(form 101\)](#)**

- Paragraph 1(c)—"midnight" changed to "11:59 p.m." to clarify that the agreement terminates at the end of the day inserted in the blank
- Immediately prior to paragraph 3— new "Note" clarifies that paragraph 3 ("Fixtures and Exclusions") and paragraph 4 ("Personal Property") of the listing agreement are a part of the Offer to Purchase and Contract commonly used to put the property under contract, and to stress the importance to the seller and listing agent of discussing in detail and describing in writing in paragraphs 3 and 4 of the listing agreement what items seller is willing to convey as a part of any sale of the property, what items the seller would like to exclude from any sale, and what items located on the property that seller may not own.
- Paragraph 3—incorporates new wording and reformatting of "Fixtures and Exclusions" paragraph in Offer to Purchase and Contract
  - Warning--new "Warning" added to stress the importance of addressing in the contract what items will be included in or excluded from the sale
  - subparagraph (b)
    - "smart" devices will be included as a part of the sale unless excluded

- new "Note" added under "Fuel tanks" at request of NC Propane Gas Association to make it clear that state law prohibits disconnecting, interrupting, or filling a propane tank without the suppliers consent
    - thermostats added to list of items
  - subparagraph (c)--new wording obligates seller to "unpair" any devices that will convey from any personal property devices with which they are paired, delete personal data from any devices that will convey, and restore all devices to factory default settings unless otherwise agreed
- Paragraph 4--new sentence added to existing "Note" to stress the importance of identifying in the contract any personal property that will be included in the sale
- Paragraph 9--reformatted to put greater emphasis on Firm's duties
  - existing wording has been broken down into separate subsections to assist in reading and comprehension of Firm's duties
  - Firm's ethical duties relating to the disclosure of offers has been inserted in a new "Note" box and moved to the beginning of the paragraph
  - Seller initial blanks added at end of paragraph to confirm that seller has been made aware of each duty listed in paragraph
- Paragraph 10--changes to paragraph in light of new Clear Cooperation Policy previously approved by Executive Committee

**(14) [Guidelines for Completing Exclusive Right to Sell Listing Agreement \(Form 101G\)](#) (MAY 1 RELEASE)**

- Changes made to correspond to changes to Form 101 listed above
- New paragraph 20 added to direct agents to use NCR Form 710 to memorialize any changes to a listing agreement

**(15) [Exclusive Right to Sell Listing Agreement \(Vacant Lot/Land\) \(Form 103\)](#) (MAY 1 RELEASE)**

- Paragraph 1(c)-- change corresponds to change to paragraph 1(c) of form 101
- Paragraph 6-- changes corresponds to changes to paragraph 9 of form 101
- Paragraph 7--changes correspond to changes to paragraph 10 of form 101

**(16) [Guidelines for Completing Exclusive Right to Sell Listing Agreement \(Vacant Lot/Land\) \(Form 103\)](#) (MAY 1 RELEASE)**

- Changes made to correspond to changes to Form 103 listed above
- New paragraph 16 added to direct agents to use NCR Form 710 to memorialize any changes to a listing agreement

**(17) [Internet Advertising Addendum \(Form 105\)](#)**

- Paragraph 1(b)--definition of "IDX Site" expanded to include mobile apps and audio devices
- Paragraph 2(b)--eliminated in light of new Clear Cooperation Policy since Firm will not be permitted to publicly advertise seller's property without making it available to other MLS participants

**(18) [Unrepresented Seller Disclosure and Fee Agreement \(Form 150\)](#)**

- Recital D--Paragraph 1(c)— the phrase "to this Agreement" in first sentence should be stricken to comply with wording in Real Estate Commission Rule 58A.0104(b), and same phrase stricken from second sentence to parallel its removal from first sentence.

- (19) [Exclusive Buyer Agency Agreement \(Form 201\)](#)
- Paragraph 3--rewritten to provide 2 options for termination date of agreement. The first is for buyers who intend to purchase a single property and agency agreement will end at the time of any such purchase or on the agreed-upon date, whichever takes place sooner. The second option is for buyers who may purchase more than one property and agency agreement will end on the agreed-upon date
- (20) [Guidelines for Completing Exclusive Buyer Agency Agreement \(Form 201G\)](#)
- Changes made to correspond to changes to Form 201 listed above
  - New paragraph 16 added to direct agents to use NCR Form 710 to memorialize any changes to a buyer agency agreement
- (21) [Non-Exclusive Buyer Agency Agreement \(form 203\)](#)
- Paragraph 2-- change corresponds to change to paragraph 1(c) of form 101
- (22) [Confirmation of Agency Relationship, Appointment and Compensation \(Form 220\) \(FORMATTING ONLY\)](#)
- minor, non-substantive change in reference appearing under name of form recommended for purposes of uniformity with other forms
- (23) [Guidelines for Completing Confirmation of Agency Relationship, Appointment and Compensation \(Form 220\) \(FORMATTING ONLY\)](#)
- minor, non-substantive change in reference appearing under name of form recommended for purposes of uniformity with other forms
- (24) [Due Diligence Request and Agreement \(form 310-T\) \(FORMATTING ONLY\)](#)
- minor, non-substantive change in reference appearing under name of form recommended for purposes of uniformity with other forms
- (25) [Guidelines for Completing Due Diligence Request and Agreement \(form 310-T\) \(FORMATTING ONLY\)](#)
- minor, non-substantive change in reference appearing under name of form recommended for purposes of uniformity with other forms
- (26) **Offer to Purchase and Contract Worksheet (Form 360) (NEW)**
- This new form is a worksheet that summarizes the terms of an Offer To Purchase And Contract. It is designed primarily for use by a buyer or seller and their agent as an internal reference tool. The WARNING makes it clear that the Worksheet is not a part of an Offer to Purchase and Contract and may not be used to create a contract.
- (27) **Exclusive Tenant Representation Agreement (Form 460) (NEW)**
- This new form is designed for use by brokers who represent clients seeking to rent residential property. The form is patterned closely after the Exclusive Buyer Agency Agreement (form 201).
- (28) [Agency Agreement Renewal and/or Amendment \(Form 710\)](#)
- Added new Forms 405 and 460 to menu of forms that may be amended using the Agency Agreement Renewal and/or Amendment

- Changed “Midnight” to “11:59 pm” to clarify when renewal term ends

**(29) [Termination of Agency Agreement and Release \(Form 720\)](#)**

- Added new Forms 405 and 460 to menu of forms that may be terminated using the Termination of Agency Agreement and Release

**(30) [Broker-To-Builder Referral Agreement \(Form 731\) \(NEW\)](#)**

- This new form is designed to memorialize an agreement by a builder to compensate a firm for the referral of a prospect to a builder for the construction of a house and, if applicable, the purchase of property from the builder. It includes alternative compensation provisions depending on whether compensation will be paid only on the cost of the construction or also on the cost of property if the prospect is purchasing property from the builder.
- The "Note" at the top of the first page makes it clear that this is a referral agreement only and will not suffice as an agency agreement with either the builder or the buyer

**(31) [Professional Services Disclosure And Election \(Form 760\)](#)**

- Paragraph 1
  - instruction expanded to address who will order service, to clarify that the provider is selected by the buyer, and to clarify that the form may be amended to address additional professional services that may be considered after form initially signed
  - the list of services has been reorganized to group services related to inspection and insurance together
  - pool/spa and flood insurance have been added to the list of services
- Paragraph 2
  - new "Note" added that advises buyer or seller to consider testing the air and any private drinking well water for the presence of contaminants other than radon, including but not limited to, biological, chemical, and radiological contaminants
  - "Note" also advises buyer or seller to consult with an air and/or water quality specialist regarding the need for and scope of any such testing

**(32) [Guidelines for Completing Professional Services Disclosure And Election \(Form 760\)](#)**

- minor, non-substantive change in reference appearing under name of form recommended for purposes of uniformity with other forms

**(33) [Confirmation of Compensation \(Form 770\) \(FORMATTING ONLY\)](#)**

- minor, non-substantive change in reference appearing under name of form recommended for purposes of uniformity with other forms

**(34) [Guidelines for Completing Confirmation of Compensation \(Form 770\) \(FORMATTING ONLY\)](#)**

- minor, non-substantive change in reference appearing under name of form recommended for purposes of uniformity with other forms

**(35) [COVID-19 Addendum \(Form 790\) \(NEW\)](#)**

- This new addendum to the Offer to Purchase and Contract was released March 23, 2020. It will permit buyers and sellers to agree in advance that in the event circumstances arise in connection with the COVID-19 pandemic that make it unduly burdensome or impossible for either or both parties to complete the transaction, there will be an extension of contract deadlines for an agreed-upon number of days. See paragraph 3.

- In the event the transaction doesn't close within the agreed-upon number of days following the Settlement Date, the contract will be null and void. If the failure to complete the transaction was due to a COVID-19 related issue, the seller will retain any DDF and the EMD will be refunded to the buyer regardless of the reason for the delay.
- The inability of a party to complete the transaction due to a reason that is NOT related to the pandemic will be covered under paragraph 12 of the Offer to Purchase and Contract, not the COVID-19 Addendum.
- In addition, the Form provides that if the buyer is unable to obtain a loan to purchase the property due to loss of income related to the pandemic, either party may terminate the contract, with the seller retaining any DDF and the EMD refunded to the buyer.

**(36) Onsite Preview Addendum (Form 795) (NEW)**

- This form was released on April 13, 2020. It is designed for use with NCR Forms 2-T and 12-T in situations where a buyer's ability to conduct an onsite preview of a property has been prohibited or impaired by a local, state, and/or federal Stay at Home order. It permits a buyer to put property under contract "sight unseen," subject to the buyer's right to terminate the contract after having the opportunity to conduct an onsite visual inspection of the property for an agreed-upon period of time in exchange for an agreed-upon fee.

The forms have been updated on the NCR web site and provided to NCR's approved forms software vendor and NCR members who license the forms. According to NCR Forms Policy, permitted users will have a 60-day grace period from the effective date of the new version of a form to transition to the new form.