



CLEAN DRAFT - For use during 1/19/17 SFC meeting



RESIDENTIAL LEASEHOLD PROPERTY ADDENDUM
Hawaii Association of REALTORS® Standard Form
(Use for Residential and Condominium Properties. Do not use for Commercial or Industrial Leases.)
Revised For Release through 10/20/16 sfc mtg

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RESIDENTIAL LEASEHOLD PROPERTY ADDENDUM is made a part of Purchase Contract:

Purchase Contract Reference Date: \_\_\_\_\_

Property Reference or Address: \_\_\_\_\_

Tax Map Key: Div. \_\_\_\_\_/Zone \_\_\_\_\_/Sec. \_\_\_\_\_/Plat \_\_\_\_\_/Parcel \_\_\_\_\_/CPR \_\_\_\_\_ (if applicable).

Buyer and Seller agree as follows:

Hawaii Law requires Sellers to disclose all material facts concerning the Property and with respect to any sale of a leasehold residential lot of 2 acres or less, condominium or cooperative residential leasehold apartment, Hawaii Law, Hawaii Revised Statutes Chapters 516 and 516D specifically requires that, with the except of certain designated property transfers such as Hawaiian Home Lands and properties owned by the federal government, Seller shall provide to Buyer the LEASEHOLD DISCLOSURE ("DISCLOSURE") as defined below. If such DISCLOSURE is not provided to Buyer, Seller is subject to penalties as provided in the previously referenced Chapters. Buyers other than natural persons may waive, in writing, all the requirements obligating Seller under the requirements of these Chapters.

IT IS STRONGLY RECOMMENDED THAT SELLER UTILIZE THE SERVICES OF AN ATTORNEY OR COMPANY SPECIFICALLY ENGAGED IN THIS BUSINESS TO ASSEMBLE AND DRAFT THE REQUIRED INFORMATION AND DOCUMENTS SPECIFIED IN HRS Chapters 516 and 516D.

1. DEFINITIONS:

- LEASE: The conveyance of land or an interest in land in a written agreement by a fee simple owner, Lessor, giving possession of the land or an interest in land to another person, Lessee, for a definite period of time in return for the payment of rent.
LESSOR: Any fee simple owner of land who leases or subleases land to another and is subject to a leasehold interest.
LESSEE: Any person to whom land is leased or subleased and thus holds a leasehold interest.
LEASEHOLD PROPERTY: A Property held under the terms of a Lease agreement. The holder of a Leasehold Interest, Lessee, usually pays the owner of the Leased Fee Interest, Lessor, a stated amount of lease rent over a specified lease term in consideration for the right to use and occupy the Property.
LEASE RENT: Periodic rental payments exclusive of any other payment required under the lease made by the Lessee to the owner (Lessor) in return for the right to use and occupy the property. The lease rent is specified in the lease agreement. The lease usually also specifies where and when lease rent payments are to be made.
LEASEHOLD DISCLOSURE ("DISCLOSURE"): A packet of documents as prescribed by Hawaii Law and required of Seller to provide to Buyer no later than ten (10) days after acceptance of the Purchase Contract, (or as otherwise agreed upon by Buyer and Seller under 2B below), which packet must include the following:
A. A complete and accurate copy of the applicable leases and amendments. For condominiums and cooperatives this will include copies of master and apartment leases.
B. A standardized summary of the lease provisions, in plain language, which shall contain information on the following the length of the lease, lease rent terms, lease rent renegotiation dates, how renegotiated lease rents will be calculated, and surrender clause provisions.
C. A standardized glossary of commonly used lease terms in plain language satisfied by use of a publication by the Hawaii State's office of HFDC.
D. For condominiums and cooperatives, a statement that there are currently no statutory provisions for the mandatory conversion of leasehold condominiums and cooperatives and that there are no assurances that such measures will be enacted in the future.
RENEGOTIATION DATE(S): The date on which the terms of the lease are renegotiated and changed. In most leases the lease rent is not fixed for the full term of the Lease, instead, at certain fixed times stated in the Lease, called Renegotiation Date(s), Lessor and Lessee agree on a new lease rent. The Lease usually contains a formula for setting the new lease rent and usually increases.
EXPIRATION DATE: Date on which the Lease ends and Lessee is obligated to return the land to Lessor unless there are other stipulations in the Lease. There is no obligation for Lessor to negotiate a new lease with Lessee after the Expiration of the Lease.
SURRENDER CLAUSE: Provision set in the Lease which mandates that at the end of the Lease, the Lessee has to surrender the property and the land back to the Lessor. Some provisions in the Surrender Clause include the stipulation as to who receives any improvements and what conditions apply. The conditions spelled out in the Surrender Clause of the Lease, provide if the Lessor keeps the improvements or if Lessee is obligated to remove the improvements or face Lessor's costs for doing so, or if Lessee has the right to remove the improvements in a certain timely manner. Hawaii law may limit or even change Lessor's rights under the Lease.

BUYER'S INITIALS & DATE

SELLER'S INITIALS & DATE



2. **DELIVERY OF DISCLOSURE AND PROVISIONS:** Choose A or B.

- A. Within ten (10) days after the Purchase Contract is accepted, Seller shall deliver to Buyer, at Seller's expense, the Disclosure. Upon receipt of the Disclosure, Buyer shall provide Seller a signed receipt. Upon receipt of the Disclosure, Buyer shall have ten (10) days (or as otherwise agreed upon by Buyer and Seller under 2B below) to examine the Disclosure and to terminate the Purchase Contract pursuant to Paragraph O-2 of the Purchase Contract.

If Seller fails to deliver the Disclosure within the agreed upon time, Buyer may elect to terminate the Purchase Contract pursuant to Paragraph O-3 of the Purchase Contract.

- B. Other arrangements regarding the delivery and provisions of the Disclosure. \_\_\_\_\_

3. **ADDITIONAL INFORMATION:**

- A. **THE SELLER OF PROPERTY IS THE CURRENT LESSEE.** Buyer is buying Lessee's position in Lease. In some Leases, Lessor must consent to any transfer of Lessee's rights under Lease. If this Lease requires consent, the sale is subject to obtaining Lessor's consent. Neither Seller nor Brokers can control Lessor's consent procedure and timing.
- B. **POSSIBLE FUTURE SALE OF LESSOR'S LEASED FEE INTEREST:** Buyer should check with Lessor, Homeowners' Association (if any), and legal counsel to see if Lessor's Leased Fee Interest may be purchased later. Brokers in this sale cannot assure Buyer that Lessor will offer to sell its Lease Fee Interest, now or in the future.

**BUYER AND SELLER ACKNOWLEDGE THEY ARE NOT RELYING ON BROKERAGE FIRMS FOR LEGAL ADVICE ON ANY CONCERNS OR QUESTIONS BUYER OR SELLER MAY HAVE REGARDING THE RAMIFICATIONS OF SELLING OR BUYING LEASEHOLD PROPERTIES.**

Buyer and Seller acknowledge that Buyer/Seller have read, understand and agree to the terms and conditions of this RESIDENTIAL LEASEHOLD PROPERTY ADDENDUM, and have not relied upon any advice from Brokerage Firm(s) involved in this transaction and further acknowledge receipt of a completed copy of this Residential Leasehold Property Addendum.

\_\_\_\_\_  
Buyer Date

\_\_\_\_\_  
Title

\_\_\_\_\_  
Seller Date

\_\_\_\_\_  
Title

\_\_\_\_\_  
Buyer Date

\_\_\_\_\_  
Title

\_\_\_\_\_  
Seller Date

\_\_\_\_\_  
Title

**NOTE: THERE IS NO WARRANTY ON PLAIN LANGUAGE.** An effort has been made to put this agreement into plain language. But there is no promise that it is in plain language. In legal terms, THERE IS NO WARRANTY, EXPRESSED OR IMPLIED, THAT THIS AGREEMENT COMPLIES WITH CHAPTER 487A OF THE HAWAII REVISED STATUTES. This means that the Hawaii Association of REALTORS® is not liable to any Buyer, Seller, or other person who uses this form for any damages or penalty because of any violation of Chapter 487A. People are cautioned to see their own attorneys about Chapter 487A (and other laws that may apply).