

# **2018 CREC Forms**

**(2017 Forms Adopted 6-19-17)**  
**Effective-Mandatory 1-1-18**

## **COLORADO REAL ESTATE COMMISSION** **FORMS**

**By**

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# 2018 CREC Forms 6-20-17

## COLORADO REAL ESTATE COMMISSION

### FORMS

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### INTRODUCTION

A minimal number of changes to the Commission approved forms occurred in 2017. Changes were made to only two forms; (1) the Seller's Property Disclosure "family" of forms and (2) the Agreement to Amend/Extend Contract form. *(rejected)*  
↳ SPD19 & SPD19L

**NOTE:** The forms included in this material are current (subject to proofing and editing) through the 6-17 Revision cycle effective January 1, 2018. The final forms will be available electronically at the Colorado Real Estate Commission's website:

<http://www.dora.state.co.us/real-estate/> (**Real Estate Broker Mandatory Contracts and Forms**).

### I. SELLER'S PROPERTY DISCLOSURE

#### A. Purpose of SPD

The purpose of a Seller's Property Disclosure (SPD) form has not changed since its inception. Its purpose has always been to give a Seller a method of disclosing and documenting a Seller's disclosure to a Buyer of adverse facts about the condition of the Property that the Seller has actual knowledge. The disclosure by the Seller of such facts, especially if the matters are "latent", allows a Buyer to know problems with the Property the Buyer is purchasing to avoid surprises, especially after Closing. Disclosure of adverse material facts minimizes liability to a Seller for False Representation (Morrison v. Goodspeed, 100 Colo. 470, 68 P.2d 458 (Colo. 1937), Non-Disclosure or Concealment (Burman v. Richmond Homes, Ltd., 821 P.2d 913 (Colo. App. 1991).

While the SPD forms are extensive in enumerating the various areas of disclosing the condition of the Property, they are not totally comprehensive. Disclosure must be made

(of known adverse material facts) about the condition of the Property, even if there is no specific line item on the SPD form. (Gattis v. McNutt, 318 P.3d 549 (Colo. App. 2013)). That is, the listing of items on the SPD form is **not** all encompassing and inclusive. Whether there is a line item or not, disclosure of known, adverse material facts, are required to be disclosed. The listing of items is designed as a reminder to a Seller for the many items commonly required to be disclosed. Most every time the form is revised, additional items are added to the SPD form.

The SPD form was never intended to be a guarantee or warranty that problems are or will be absent from the Property. Rather, the SPD form is designed to be a vehicle to trigger or remind a Seller and permit the disclosure of items the Seller knows to be a problem. All of the areas and items in the SPD require disclosure of its current adverse condition; some areas and items require a Seller to make disclosure if the Property **previously** had a problem, whether it has been rectified or not. This alert, of a problem with the condition of the Property in the past, allows the Buyer to have additional due diligence and investigation occur to assess whether the work done did in fact correct the prior problem to the satisfaction of the Buyer.

A number of years ago the Contract to Buy and Sell Real Estate was clarified that it was not mandatory that the SPD form had to be completed and supplied. While the language in the Contract is structured to have a Seller complete and supply a SPD form:

**10.1. Seller's Property Disclosure.** On or before **Seller's Property Disclosure Deadline**, Seller agrees to deliver to Buyer the most current version of the applicable Colorado Real Estate Commission's Seller's Property Disclosure form completed by Seller to Seller's actual knowledge, current as of the date of this Contract.

**10.2. Disclosure of Latent Defects; Present Condition.** Seller must disclose to Buyer any latent defects actually known by Seller. Seller agrees that disclosure of latent defects will be in writing. Except as otherwise provided in this Contract, Buyer acknowledges that Seller is conveying the Property to Buyer in an "As Is" condition, "**Where Is**" and "**With All Faults.**"

The method of eliminating the completion and supplying of a SPD form is by noting in Section 3 that Item 10 (Seller's Property Disclosure Deadline) is deleted:

**3.1. Applicability of Terms.** Any box checked in this Contract means the corresponding provision applies. Any box, blank or line in this Contract left blank or completed with the abbreviation "N/A", or the word "**Deleted**" means **such provision, including any deadline, is not applicable and the corresponding provision of this Contract to which reference is made is deleted.** If no box is checked in a provision that contains a selection of "None", such provision means that "None" applies. (Emphasis supplied).

A Seller, except in the rare commercial transaction where a Seller disclaims all obligations to disclose, confirms the obligation of investigation and discovery of the condition and suitability of the Property is borne by the Buyer, a Seller is required to make



disclosure of latent defects, whether an SPD form is or is not used. (See, Caps, Baskets, Waivers and Fraud with Impunity: Commercial Contract Remedies and the Economic Loss Rule by J. Marcus Painter, Esq. and Jordan J. Bunch, Esq., 2016 34<sup>th</sup> Annual Real Estate Symposium). The SPD form is common in most transactions, especially in the sale of residential property.

Prior versions of the SPD required a Seller to disclose “Yes”, if there currently or previously was a problem; or “No” there is or has not been a problem with the particular item. Another choice was “Do Not Know,” which was a favorite as many Sellers and Brokers concluded that it was advantageous to check the “Do Not Know” column either to be less than truthful, or even if truthful, the Seller would reason that the Seller truly did not know whether it currently was a problem or not. It was concluded that the two columns “No” and “Do Not Know” was either redundant with the base instructions of the form that provides the Seller is to complete the SPD form “to **Seller’s CURRENT ACTUAL KNOWLEDGE**” or giving a false sense of security or an unwarranted comfort level to the Buyer to be less than diligent. A Seller checking the column “No” or “Do Not Know” has resulted in lawsuits and claims against a Seller for failure to make disclosure of a problem with the Property. This claim is advanced where a Seller selects “No” and other places in the same SPD selects “Do Not Know” when the Seller’s knowledge is the same for both items. That is, the Seller does not have actual knowledge of a problem with the respective item, but the “Do Not Know” column is selected by the Seller as the Seller does not want to represent that there is no problem when there might be a problem, even if the Seller has no actual knowledge of such a problem. If a Seller lacks knowledge of a problem with an item on the Property, a Seller should not have to guess to use “No” or “Do Not Know,” as both selections would be correct due to the Seller not possessing knowledge of a problem but also not knowing for sure that there is or is not a problem.

To minimize unwarranted claims against a Seller who had no actual knowledge of a problem with an item on the Property, and to avoid either inconsistency or redundancy, the “No”, “Do Not Know” and “N/A” (not applicable) columns **have been deleted** with the instruction to the Seller to complete the SPD form “to **Seller’s CURRENT ACTUAL KNOWLEDGE**” that there is or was a problem (now or in the past, as applicable). It was the conclusion that eliminating the two columns and revision to the SPD to fulfill the overall purpose of facilitating a Seller to make disclosure of known problems that the revised SPD form simplifies the Seller’s completion of the SPD form as it now only has two columns, “Yes” (there is or was a problem with the item on the Property) and “Comments” for any further explanation. For example, a Property connected to a municipal sewer system would not have a “Septic System”, accordingly the “Yes” column would not be selected.

The revision to the SPD form now requires selection of “Yes” (there is or was, as applicable) a problem with the Property **only** when the Seller’s current actual knowledge is

that the Property currently (or in the past, if applicable to the respective Part of the SPD) has a problem with the specified item.

A Seller who falsifies or lies in completion of the SPD form will result in the same liability to a Seller (if caught and believed to be misrepresenting the Seller's lack of knowledge and condition of the Property), whether the misrepresentation is made on the old or new SPD form.

The "base" SPD form is entitled "Seller's Property Disclosure (Residential)," was previously form SPD29. Due to conversion of the other SPD form, SPD19, Seller's Property Disclosure (All Types Of Properties), to a Land disclosure which can be a supplement to the revised SPD form, or stand-alone disclosure for land, the SPD for residential has been renumbered as SPD19 and the Land SPD is now SPD19L.

The older SPD form for All Types of Properties was redundant of much of the SPD Residential disclosure. In a mixed-use property if a SPD form is given to the Buyer, the Seller would need to complete the first disclosure form (residential), and make disclosure of matters unique to the non-residential portion of the Property. There is no prescribed form to make disclosure for the non-residential aspects of improvements to the Property as the "All Types of Properties" SPD has been converted to a disclosure for Land, but it may be used with or without improvements, i.e., buildings on the Property.

While the SPD form is painful and very time consuming for a Seller to complete, there was no reason to duplicate the Seller's pain and suffering in completing a second SPD form when all that was needed is disclosure of items not previously or concurrently disclosed.

In larger commercial properties involving attorneys, the CREC SPD form is rarely used. If disclosure is required, usually of latent defects, the Seller and Seller's counsel will craft their own written disclosure. In smaller commercial and mixed use of residential and non-residential properties, the new "base" SPD form (Residential) and disclosure of the matters unique to the non-residential portion of the Property problems should work just fine to facilitate the Seller's disclosure.

## **B. SELLER'S PROPERTY DISCLOSURE (RESIDENTIAL) (SPD19-6-17)**

### **1. Introductory Provisions and Instructions to Seller.**

1.1. Consistent with all the other CREC Standard and Approved forms, the SPD form has the every present "legal warning" to consult with an attorney before signing.

1.2 The SPD form then gives instructions to both Seller and Broker that the SPD is to be completed by the Seller, not the Broker. It is the Seller who has lived in or has knowledge and more familiarity with the Property, not the Broker.

1.3 The introductory paragraph contains instructions to the Seller for the entire SPD form: “Seller states that the information contained in this Disclosure is correct to **Seller’s CURRENT ACTUAL KNOWLEDGE** as of this Date.”

The obligation of disclosure of adverse material facts is consistent with case law requiring actual knowledge of a particular fact, not a “should have known” standard. Johnson v. Graham, 679 P.2d 1090 (Colo. App. 1983), Tri-Aspen Construction Co. v. Johnson, 714 P.2d 484 (Colo. 1986), Denver Business Sales Co. v. Lewis, 148 Colo. 293, 365 P.2d 895 (1961).

1.4 The SPD form alerts a Seller that any changes in the condition of the Property must timely be disclosed after the Seller becomes aware of the change in condition of the Property.

1.5 A Seller’s failure to disclose adverse material facts the Seller has actual knowledge could cause the Seller to be liable for such failure to disclose.

1.6 The SPD form adheres to the statutory revision to §38-35.7-105, C.R.S., approximately nine years ago, requiring disclosure of **off-site matters** that adversely affects the Property (or its occupants) due to enactment of H.B. 2008-1007 (Toll Roads and disclosure of transportation projects) reading in pertinent part:

SECTION 10. Article 35.7 of title 38, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

38-35.7-105. Disclosure of transportation projects - rules. NO LATER THAN JANUARY 1, 2009, THE REAL ESTATE COMMISSION CREATED IN SECTION 12-61-105, C.R.S., SHALL, BY RULE, **REQUIRE EACH SELLER'S PROPERTY DISCLOSURE FOR REAL PROPERTY THAT IS SUBJECT TO THE COMMISSION'S JURISDICTION PURSUANT TO ARTICLE 61 OF TITLE 12, C.R.S., TO DISCLOSE THE EXISTENCE OF ANY PROPOSED OR EXISTING TRANSPORTATION PROJECT THAT AFFECTS OR IS EXPECTED TO AFFECT THE REAL PROPERTY.**

1.7 Guidance is provided that the disclosure, is restricted to the “unit” itself if a Condominium within a Common Interest Community, except disclosure (i) about the Association and (ii) known problems with the common elements in Part “O” of the SPD.



1.8 The Broker is authorized, and standard practice is for the Broker to supply a copy of the completed SPD to the prospective buyers.

1.9 The SPD form no longer clarifies that merely because an item and its condition is set forth on the SPD this does not make it part of the Inclusions. This is also consistent with the removal of the "N/A" column. The form does confirm that it is the Contract which determines whether an item is included or excluded from the transaction and sale. The best practice is to have the Seller note an item's condition when completing the SPD; this assures disclosure of its condition in the event the parties eventually negotiate for the item's inclusion in the sale.

1.10 The "Date" the SPD is completed by the Seller often becomes important to show Seller's stated understanding of its condition when a subsequent dispute develops. As noted above in 1.1, the SPD should be updated to reflect any change in the condition of the Property when the Seller becomes aware of a change. If there is a change before the Contract is entered into, it is best to have the SPD updated prior to the time the parties enter into the Contract.

§ 19 of the CBS states:

"Except as otherwise provided in this Contract, the Property, Inclusions or both will be delivered **in the condition existing as of the date of this Contract**, ordinary wear and tear excepted."

1.11 The disclosures tie to the Property via the Property Address and Seller.

1.12 New for 2018 is the "Year Built." The primary reason for this blank is to key to the parties and Brokers whether a Lead-Based Paint Disclosure and Pamphlet may be required. Many of the MLS's call for the Year Built. This is normally pulled from the County's Assessor's records. Unfortunately, the counties are not uniform in how they use that term. Typically, the "Year Built" is the year the Certificate of Occupancy was issued. However, the Lead-Based Paint rules are very specific in requiring Lead-Based Paint disclosures if a **Building Permit** (Not Certificate of Occupancy) was issued prior to January 1, 1978.

## **I: IMPROVEMENTS - RESIDENTIAL PROPERTY**

### **2.1 Part A: STRUCTURAL CONDITIONS**

2.1.1 Disclosure required of the items in Part A includes problems that are **currently occurring or** have been present in the **Past ("Ever Existing")**. **Disclosure is**



**required, whether the problem has been “fixed or corrected” or not.** This allows the Buyer notice so the Buyer may investigate and make a determination whether the correction purportedly made is acceptable to the Buyer (and the Buyer’s “experts”, i.e., Inspectors, Engineers, contractors, etc. The Commission “suggested” that **“NOW EXISTING” OR “EVER EXISTING”** be set forth in **ALL CAPITALS and Bold**.

2.1.2 The structural problems are the most serious and most expensive to assess and correct. This Part A is one of the most common areas in litigation involving failure to disclose, concealment, etc. Quite often, if there is or has been a structural problem, if the SPD is properly completed and the Seller has knowledge of these problems, multiple items will be marked “Yes.” For example, “structural problems, moisture or water problems, cracks, heaving or settling problems as well as exterior wall or window problems.”

## **2.2 Part B: ROOF**

2.2.1 The **“Roof” Disclosure** in Part B requires disclosure of problems **currently occurring or** have been present in the **Past (“Ever Existing”)**. Disclosure is required, whether the problem has been “fixed or corrected” or not.

**B-1** 2.2.2 **Roof – Other Information.** Items 6 - 8 of the **“Roof” Disclosure** in Part B-1 is additional information on the roof. Whether it under warranty, transferable, repair work under the current roof warranty and the type of roof material and age of the roof.

## **2.3 Part C: APPLIANCES**

2.3.1 The **“Appliances” Disclosure** in Part C requires disclosure of problems with the Appliances **“Now Existing.”**

2.3.2 The “Appliances” are only the existing appliances. It should make no difference to a Buyer what the previous appliances were and any problems, i.e., the dishwasher, dryer, etc. died and was replaced. The disclosures are only what problems, if any, have been experienced with the current appliances.

## **2.4 Part D: ELECTRICAL AND TELECOMMUNICATIONS**

2.4.1 The **“Electrical and Telecommunications” Disclosure** in Part D only requires disclosure of problems **“Now Existing.”**

2.4.2 Additional information about the appliances, besides problems with the appliances, is included in Part D. For example whether the Security system is owned by

the Seller or leased; battery powered or electrical hardwired, the size of the Electrical Service box (amount of Amps), number of remote garage door controllers.

## **2.5 Part D-1 ELECTRICAL & TELECOMMUNICATIONS – Other Information**

2.5.1 Additional information about some of the electric systems includes disclosure of characteristics of the additional items: 220 Volt service, landscape lighting and aluminum wiring (at the outlets). Most service will have aluminum going into the main service box (Panel box), however, this item is to identify whether there is aluminum wiring at the outlets (that has caused problems and fires in the past).

## **2.6 Part E: MECHANICAL**

2.6.1 The “**Mechanical**” Disclosure in Part E requires disclosure of problems “Now Existing.”

2.6.2 This Part E, Mechanical, requires disclosure of problems with a few itemized matters, such as, garage doors, elevators, and room to add additional items.

## **2.7 Part F: VENTILATION, AIR, HEAT**

2.7.1 The **Ventilation, Air and Heat Disclosure** in Part F requires disclosure of problems “Now Existing.”

2.7.2 The **Ventilation, Air and Heat Disclosure** in Part F requires disclosure of problems with ventilation, air and heat. Part F also addresses problems with the HVAC systems, and individual ventilation, air conditioning, and heat.

2.7.3 Heat sources are identified in Part E for both problems and information about the respective heat source from the heating system, including the type and fuel used, fireplace, fireplace insert and (wood/coal, pellet) Stove, date of last cleaning of the flue.

**F-1 2.7.4 Ventilation, Air and Heat – Other Information.** Additional information about HVAC including air conditioning and ventilation and heating is provided in this subsection F-1.

## **2.8 Part G: WATER**

2.8.1 **Water** and related matters disclosures in Part G requires disclosure of problems **"Now Existing."**

2.8.2 **Water** disclosures in Part G address problems with the water system and ancillary items associated with the **clean water supply** including the water heater, water filtration system, water softener, steam room, hot tub, pool as well as sauna. This Part G now contains what previously was under "Plumbing", if associated with the "clean" water supply.

**G-1 2.8.3** Captioned **"Water - Other Information"**. This portion of the form functions as additional information about the system and its components. **This Part contains an enumeration of various matters associated with "clean" water supply including** Galvanized piping and Polybutylene pipe, both of which have led to problems in the past.

## **2.10 Part H: SOURCE OF WATER & WATER SUPPLY**

2.10.1 **Source of Water & Water Supply** disclosures in Part H requires disclosure of problems **"Now Existing."**

2.10.2 **Source of Water & Water Supply** disclosures in Part H pursuant to the statutory changes known as the Source of Water disclosure

1. § 38-35.7-104, C.R.S. was amended by H.B. 07-1156, Source of Water. The Bill and statute mandated disclosure starting January 1, 2008 in the Commission approved forms involving the sale of "residential" properties. The pertinent provision states:

### **§ 38-35.7-104. Disclosure of potable water source - rules.**

(1) (a) (i) by January 1, 2008, the real estate commission created in section 12-61-105, C.R.S., shall, by rule, require each listing contract, contract of sale, or **seller's property disclosure for residential real property** that is subject to the commission's jurisdiction pursuant to article 61 of title 12, C.R.S., to disclose the source of potable water for the property, which disclosure shall include substantially the following information: ...

Note the two triggering definitions of "Residential Real Property" and "Residential Land and Residential Improvements" from § 39-1-102, C.R.S.:

(14.3) **"Residential improvements"** means a building, or that portion of a building, designed for use predominantly as a place of residency by a person, a family, or families. The term **includes** buildings, **structures**, fixtures, **fences**, amenities, and water rights which are an integral part of the residential use. The term also includes mobile homes as defined in section 38-29-102(8) C.R.S., and manufactured homes as defined in section 42-1-102(106)(b), C.R.S.

(14.4) "**Residential land**" means a parcel or contiguous parcels of land under common ownership upon which residential improvements are located and that is used as a unit in conjunction with the residential improvements located thereon. **The term includes parcels of land in a residential subdivision**, the exclusive use of which land is established by the ownership of such residential improvements. The term does not include any portion of the land that is used for any purpose that would cause the land to be otherwise classified, except as provided for in § 39-1-103(10.5). The term also does **not include** land underlying a residential improvement located **on agricultural land**.

(14.5) "**Residential real property**" means residential land and residential improvements but does **not include hotels and motels** as defined in subsection (5.5) of this section.

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The same information is included in both the SPD (Residential) and the Source of Water Addendum. Disclosure in either of these will satisfy the statutory requirements.

2.11 **Part I: SEWER.** This part was broken out for any problems with the sanitary sewer service including "sewer lines" and equipment associated with sanitary sewer lines or "dirty" water, sump pumps, grey water, etc.

2.11.1 **Part I-1: SEWER- Other Information.** This part was broken out to identify the type of sanitary sewer service (public, septic and in between). If a Septic System, because of a number of counties and municipalities requiring an "**Individual Use Permit**" or similar label to have an inspection and permit, especially if the Property is to be sold, as well as the date of the most current inspection and pumping, a separate section was created in the SPD form.

## 2.12 **Part J: DRAINAGE and FLOODING**

2.12.1 The disclosures for **Drainage and Flooding** in Part J requires disclosure if the items are "**Now Existing**" on the Property.

2.12.2 **The Drainage and Flooding** disclosures in Part J include drainage and retention ponds, flooding or drainage problems.

## 2.13 **Part K: OTHER DISCLOSURES –IMPROVEMENTS**

2.13.1 The **Other** disclosures for **Improvements** in Part K requires disclosure if the problems are "**Now Existing**" on the Property.

2.13.2 The **Other** disclosures for **Improvements** is a catchall category allowing a place for the Seller to make disclosure on problems with the fixtures and equipment and the added problems of stains on carpet problems with floors and sub-floors.

## **II: GENERAL IMPROVEMENTS - RESIDENTIAL**



## **2.14 Part L: USE, ZONING & LEGAL ISSUES**

2.14.1 The disclosures for **Use, Zoning & Legal Issues** in Part L requires disclosure if the problems are or were “**Ever Existing**” (now or in the past) on the Property.

2.14.2 The disclosures for **Use, Zoning & Legal Issues** includes (1) Governmental violations or notices, zoning violations, variance – which commonly comes with restrictions, limitations including a limited life for the variance to avoid it being a violation, violations of the zoning restrictions within a PUD (planned unit development) and a non-conforming use – typically a previously conforming use prior to the zoning change that now would be in violation but for the “grandfathering” of the prior use that also normally comes with restrictions, whether it is a continuation of the ownership of the Seller (owner), that will disappear upon sale and no longer allowed, or some phase out period resulting in a prohibition to continue its present use; condemnation proceedings or a “threat” of condemnation, other notice from a governmental agency, notice of some zoning action by the government affecting the Property, Violation of the governmental agency controlling building codes; (2) violation of CC&R’s including work done on the Property within the last year without obtaining approval from the Home Owner’s Association; (3) **any** additions or alterations to the Property (so the Buyer may investigate to determine whether a permit was or was not required, and if required whether the permit was closed by obtaining a final approval of the work; (4) any other “legal action” allowing the Buyer to research whether such action affects the Property and its use.

## **2.15 Part M: ACCESS & PARKING**

2.15.1 The disclosures for **Access & Parking** in Part M requires disclosure if the problems are or were “**Ever Existing**” (now or in the past) on the Property.

2.15.2 The disclosures for **Access & Parking** includes (1) any access problems (2) use by others of roads, trails, paths or driveways on the Property (3) public highways or roads adjoining the Property (4) any “proposed” or existing transportation projects that “is expected” to affect the Property (i.e., RTD rail); (5) encroachments, boundary issues (“disputes”), easements not recorded (6) shared or common areas of adjoining properties (7) requirements for curbs, gravel or paving, landscaping. These items are matters a Buyer should investigate to determine compliance, violation or at least a “red flag” down the road.

## **2.16 Part N: ENVIRONMENTAL CONDITIONS**

2.16.1 The disclosures for **Environmental Conditions** in Part N requires disclosure if the problems are or were “**Ever Existing**” (now or in the past) on the Property.

2.16.2 The disclosures for **Environmental Conditions** includes in item 8 (sliding, settling, upheaval, movement or instability of earth or expansive soils) another common and expensive area in the failure to disclose category. This Part N consists of (1) hazardous materials, toxic materials (e.g., mold, radon, etc.); (2, 3) storage tanks (4) transmission lines - the major power (gas or electric) to the neighborhood or area (5) “animals” kept in the “residence” (dogs, cats, or more exotic creatures), (6) Property previously was used as or adjoins a dump or land fill, (7) monitoring well or equipment (8) sliding, settling, upheaval, movement or instability of earth or expansive soils - each one of these items moves the decimal point significantly, (9) mine shafts, tunnels, wells on the Property, (10) geological or “sensitive” area via the governmental classification, (11) flood plain or wetlands area, (12) dead or diseased trees, (13) environmental studies or reports of the Property, (14) mining or other extraction of oil or gas from the Property, (15) tobacco smoke in the residence or other improvements of the Property, and finally (16) a fill in the blank to itemize any other environmental problem.

## **2.17 Part O: COMMON INTEREST COMMUNITY – ASSOCIATION PROPERTY**

2.17.1 The disclosures for **Common Interest Community – Association Property** in Part O requires disclosure if the Property is part of an Association.

2.17.2 The disclosures for **Common Interest Community – Association Property** includes (1) if the Property is part of the Association, (2) is there a Special Assessment or hike in the Assessments coming, that is, approved but not yet assessed, (3) is there a claim of defective construction made by the Association against the contractor, (4) problems with the common area of the Association. (This Part O expands the disclosures beyond the unit; it includes the common and common limited elements of the Association.)

## **2.18 Part P: OTHER DISCLOSURES - GENERAL**

2.18.1 The disclosures for **Other Disclosures - General** in Part P requires disclosure of additional information about the Property.

2.18.2 The disclosures for **Other Disclosures - General** includes (1) if any part of the Property is leased (oral or written), (2) reports on the improvements on the Property (building, site, soils, engineering, reports or studies), (3) any insurance claims submitted to the Seller’s insurance company (4) all plans or specifications for the improvements (structural, architectural, engineering plans or specifications) (5) Property

previously used as a meth lab but not yet remediated, (6) any governmental special improvements to have been approved, but not yet assessed or installed, but can become a lien against the Property, and (7) “Pending” (i) litigation or (ii) other dispute resolution proceeding regarding the Property. (Note: the CREC created item 7, including “pending” at its adoption meeting. There was no guidance by the CREC or any of the Commissioners of what term “pending” was intended to mean.

## **2.19 ADVISORIES - GENERAL**

2.19.1 The **Advisories - General** The first sentence confirms to both Buyer and Seller that the Brokers are not a guarantor of the disclosures within the SPD.

2.19.2 The **Advisories - General** The last sentence emphasizes to the Buyer that the SPD alone is not adequate to inform the Buyer of the condition and problems with the Property. Rather, the Buyer should have the Property inspected.

## **2.20 ADVISORY TO SELLER**

2.20.1 The **Advisory to Seller** is an acknowledgement of the Broker’s statutory obligation to disclose to the Buyer adverse material facts the Broker has knowledge of. The advisory gives various areas that Broker must make disclosure to the Buyer; i.e., structural defects, soil conditions, nonconforming uses and variances, etc.

2.20.2 The **Advisory to Seller** no longer contains an agreement by the Seller that the Broker has authority to disclose adverse material facts actually known by Broker about the Property. This provision was removed as it is already contained in the Listing Contract and otherwise required under the Brokerage Relationship Act.

## **2.21 ADVISORY TO BUYER**

The **Advisory to Buyer** is much longer and detailed on various areas and matters the Buyer should investigate and confirm.

2.21.1 The first item in the **Advisory to Buyer** is for the Buyer to (1) inspect the Property, (2) obtain Expert assistance to completely assess and evaluate the Property including physical aspects of the Property’s condition; mold, rodents, allowable use of the Property, access, utilities, environmental matters that affect the Property, noxious weeds and all other matters, that may affect the use or ownership important to the Buyer.

2.21.2 The second item in the **Advisory to Buyer** clarifies that a Seller is to make disclosure of adverse matters the Seller has **actual** knowledge of, not what the Seller



“should have known” about the condition of the Property, and no duty of the Seller to investigate or inspect the Property before making any of the disclosures.

2.21.3 The third item in the **Advisory to Buyer** recommends that the Buyer confer with governmental agencies (local, state and national) in addition to engaging other “experts” to evaluate and inspect the Property.

2.21.4 The fourth item in the **Advisory to Buyer** recommends that the Buyer obtain a Survey to assist in identifying the boundaries of the Property, confirming the location and ownership of fences, driveways and similar items.

2.21.5 The fifth item in the **Advisory to Buyer** cautions the Buyer that “Inclusions” are governed by the Contract, not the SPD form.

2.21.6 The sixth item in the **Advisory to Buyer** cautions the Buyer that it is the Buyer, not the Seller who can determine whether the Property will work for the Buyer and the Buyer’s intended use of the Property. Further, the condition of any improvements or the Property itself may change (after the date of the Contract or Closing) as a result, the Seller’s indication is not a warranty or guarantee that it will continue to do so.

## **C. SELLER’S PROPERTY DISCLOSURE - LAND (SPD19L-6-17)**

The **Land SPD** form is the only SPD used if dealing with **land only**, whether (1) with or (2) without improvements. If the Property consists of **(3) a residence and acreage**, then **both the Residential and Land SPD** forms should be used. If there are no improvements on the Property, the abbreviated portion on “Improvements” will not need to be completed (by checking the box, No Improvements). The Land SPD is not intended to duplicate the items in the base (Residential) SPD form, but needed to contain many of the items that may be present with structures on the land.

### **I: IMPROVEMENTS - LAND**

1.1 **Buildings or No Buildings.** If the sale is of land and there are no **buildings** or improvements on the Property, other than a house or houses, the base form “Residential” SPD will adequately address the disclosures from a Seller of the improvements (along with the Land SPD). In which case, **the Check Box that there are no structures or improvements** on the Property and the “Improvements” segment of the Land SPD is **effectively removed or omitted** from the Seller completing this portion of the Land SPD.

#### **1.2 Part A: Structural Conditions**



1.3 **Structural Conditions** If there are buildings or improvements on the Property (in addition to the residential improvements) the Seller needs to also complete the Land SPD version of the Structural Conditions disclosure (in addition to the SPD Residential) to disclose the conditions of the other buildings (in addition to the residence).

1.4 **Structural Conditions** Part A for **Structural Conditions** requires disclosure if the problems are or were “**Ever Existing**” (now or in the past) on the Property. Disclosure is required, whether the problem has been “fixed or corrected” or not.

1.5 **Structural Conditions** Part A for **Structural Conditions** is for the Seller to disclose problems (now or in the past) to the structure, water problems, damage causes by rodents, animals, termites, etc., hail, wind, flooding or fire damage, cracks, heaving or settling problems.

## 2. Part B: ROOF

2.1 The “Roof” Disclosure in Part B requires disclosure of problems **currently occurring or have been** present in the **Past (“Ever Existing”)**. Disclosure is required, whether the problem has been “fixed or corrected” or not.

2.2 Items 1-5 of the Roof Disclosure is to identify any roof leaks, damage to the roof, skylight problems, gutters and downspouts or any other roof problems.

**B-1** 2.3 Items 6 - 8 of the “**Roof-Other Information**” Disclosure in Part B-1 is additional information on the roof. Whether it is under warranty, transferable, repair work under the current roof warranty and the type of roof material and age of the roof.

## 3. Part C Electrical and Telecommunications

3.1 The “Electrical and Telecommunications” Disclosure in Part C requires disclosure of problems “**Now Existing.**”

3.2 Additional space is provided to identify problems in items under the field of **Electrical and Telecommunications**. There are no preprinted items.

## 4 Part C-1 Electrical and Telecommunications – Other Information

4.1 The “**Electrical and Telecommunications – Other Information**” Disclosure in Part C-1 requires disclosure of additional information on the electrical component, whether a problem or not. The additional information includes 220 Volt (or “Other”, e.g., 3-Phase, etc.) service and aluminum wiring which could be present in

outbuildings on land or acreage, size of the electrical service (Breaker Box) in amps, and number of garage door remote controls.

## **5 Part D: Mechanical**

5.1 The “**Mechanical**” Disclosure in Part D requires disclosure of problems “**Now Existing.**”

5.2 Additional space is provided to identify problems in items under the field of **Mechanical**. There are no preprinted items.

## **6 Part E: VENTILATION, AIR, HEAT**

6.1 The “**Ventilation, Air, Heat**” Disclosure in Part E requires disclosure of problems “**Now Existing.**”

6.2 There are no preprinted items in this part, other than the Heating system; rather, because of the variances on the different types of buildings and finishes, blank lines are provided for the seller to describe any problems with the HVAC components.

E-1 6.3 The “**Ventilation, Air, Heat – Other Information**” category in Part E-1 provides space for the Seller to provide additional information, whether there is a problem or not with the HVAC, including the heating system.

## **7 Part F: WATER SUPPLY**

7.1 The “**Water Supply**” Disclosure in Part F requires information about the current water service to the Property (Public, Community, Well, shared Well, etc.). It also seeks information on whether the Well is Metered, date of last inspection of the Well. Note: this does not include the statutory “Residential” Source of Water disclosure, unlike the Residential SPD.

7.2 The “**Water Supply**” Disclosure in Part F requires disclosure of problems “**Now Existing.**”

## **8 Part G: WATER**

8.1 Within the “**Water**” portion Disclosure in Part G the items enumerated in Part G for the Seller to disclose any problems regarding the Water “**Now Existing.**” This includes the water system, water lines and low water pressure, water heater and related water equipment (filtration system, water pump, etc.).

**G-1** 8.2 Within the “**Water – Other Information**” portion Disclosure, Part G-1 allows specification of additional matters on the Water System, whether a problem or not. Specifically, information about the water heater, whether the well is metered, galvanized pipe, polybutylene pipe.

## **9 Part H: SEWER**

9.1 Within the “**Sewer**” portion Disclosure in Part H the items enumerated is for the Seller to disclose any problems regarding the Sewer System. The Seller is also to disclose any problems with the Sewage System and any Lift Station. This disclosure is limited to “**Now Existing.**”

**H-1** 9.2 Within the “**Sewer – Other Information**” portion Disclosure in Part F-4 the Seller may set forth additional information on the Sewer or Waste System, whether a problem or not. The preprinted items primarily focus on the type of sewer service (Public, Community, Septic System, etc.), and due to a number of counties having rules on Septic Systems, including obtaining a Septic “Use” permit, information to be supplied by the Seller include the date the Use Permit was issued, date of last inspection and date of last pumping of the Septic Tank.

## **10 Part I: DRAINAGE, and FLOODING**

10.1 The “**Other Disclosures – Drainage, Water Storage, Flooding**” Disclosure in Part G requires disclosure of problems “**Now Existing.**” The disclosures called for in Part I include drainage matters, retention ponds, and flooding or drainage problems.

## **11 Part J: OTHER DISCLOSURES - INCLUSIONS**

11.1 The “**Other Disclosures - Inclusions**” Disclosure in Part I requires disclosure of problems “**Now Existing.**”

11.2 Within the “**Other Disclosures - Inclusions**” the disclosures called for in Part J include the catchall of items included as fixtures and equipment. Stains on carpet and floors and sub-floors are also included in this part.

## **II: GENERAL DISCLOSURES - LAND**

## **12 Part K: USE, ZONING & LEGAL ISSUES**

12.1 The “**Use, Zoning & Legal Issues**” Disclosure in Part K is to specify if the problems are or were “**Ever Existing**” (now or in the past) on the Property. Disclosure is required, whether the problem has been fully or partially rectified or not.”

12.2 Within the “**Use, Zoning & Legal Issues**” the disclosures called for in Part K include the same items as the Residential SPD on governmental, CC&R or HOA violations. It also adds receipt of an ADA complaint or report. Work performed on building or improvements without first obtaining the HOA approval is included in the “**Land**” Disclosures as work on the Property usually requires approval of the Architectural Design Committee or other body of the Association where the Property is within a Common Interest Community.

### **13 Part L: ACCESS AND PARKING**

13.1 The “**Access and Parking**” Disclosure in Part L is to specify if the problems are or were “**Ever Existing**” (now or in the past) on the Property. Disclosure is required, whether the problem has been fully or partially rectified or not.”

13.2 Within the “**Access and Parking**” the disclosures called for in Part L include the same items as the Residential SPD whether the Seller is aware of any access problems, whether any roads, trails, etc. going through the Property has been used by others beside the Seller (so the Buyer may investigate whether there may be a prescriptive easement established), whether the Property boundaries touch a public road, whether there is an existing or proposed transportation project that is expected to affect the Property, any boundary disputes or unrecorded easements over the Property, whether the governmental or private association has requirements for curbs, any gravel or paving requirements or limitations as well as landscaping requirements.

### **14 Part M: ENVIRONMENTAL CONDITIONS**

14.1 The “**Environmental Conditions**” Disclosure in Part M is to specify if the problems are or were “**Ever Existing**” (now or in the past) on the Property. Disclosure is required, whether the problem has been fully or partially rectified or not.”

14.2 Within the “**Environmental Conditions**” the disclosures called for in Part M include the same items as the Residential SPD (excluding “animals in the residence). This part is for the Seller to specify whether the Seller is aware of any environmental problems, i.e., hazardous materials, bad chemicals, asbestos, pesticides, etc., whether there were or are any storage tanks (above or below ground) on the Property; below ground transmission lines, if the Property is or has a dump, land fill on or next to the Property, any monitoring



equipment for oil or other wells, sliding, settling, upheaval or other movement or instability of the ground as well as expansive soils on the Property, mine shafts, tunnels, abandoned wells on the Property. This part also inquires on geological hazards or sensitive areas, flood plains and wetlands, diseased or dead trees, environmental assessments and reports, any mining or oil and gas wells or work on the Property and the catchall any other environmental problems with the Property.

## **15 Part N: OTHER DISCLOSURES – GENERAL**

15.1 The “**Other Disclosures – General**” Disclosure in Part N **varies by item** whether it encompasses “**Ever Existing**” (now or in the past) on the Property or is restricted to **Now existing**.

15.2 Within the “**Other Disclosures – General**” the disclosures called for in Part M include if there is one or more leases now in effect on all or part of the Property (written or oral), any reports or studies on the Property including, buildings, site, roof, soils or engineering; any insurance claims made regarding the Property, any plans or specification for the existing buildings, whether there has been a “meth lab” on the Property in the past (unless remediated to state standards), governmental special improvements that have been approved, but not yet installed (i.e. a lien that may attach to the Property); whether any signage is owned or lease and public or private restrictions on signage that are known to the Seller to be a problem. NOTE: See the earlier discussion in the Residential SPD which is identical to on Item 9 of Part N, “Pending” litigation or dispute resolution proceeding.

## **III: LAND – AGRICULTURAL**

### **16 Part O: CROPS, LIVESTOCK & LEASES**

16.1 The “**Crops, Livestock & Leases**” Disclosure in Part O is to have the Seller make disclosure of matters “**Now Existing**.”

16.2 Within this Part, “**Crops, Livestock & Leases**,” the disclosures called for in Part O all related to agricultural aspect of the use of the Property, that is, crops grown on the Property, whether the Seller is the sole owner of the crops, or if there is a share to a tenant farmer (sharing of crops), whether livestock is currently on the Property, and whether or not any land is leased **from** others including the State of Colorado, Bureau of Land Management or other Federal or private parties.

### **17 Part P: NOXIOUS WEEDS**

17.1 The “**Noxious Weeds**” Disclosure in Part P **varies by item** whether it encompasses “**Ever Existing**” (now or in the past) on the Property or is restricted to “**Now Existing**”.

17.2 Within this Part, “**Noxious Weeds**,” the disclosures called for in Part P starts with the introductory item that is educational designed to inform the Buyer of the existence and affect of the **Colorado Noxious Weed Management Act**. That the Noxious Weed Management Act authorizes the local and county governments to impose obligations on the owner of Property to implement a weed management plan to eradicate infested properties and to make the area weed-free. The authority under the Noxious Weed Management Act extends not only to ranchers, farmers but also to owners of acreage to implement and adhere to a plan to control the noxious weeds so additional acreage is not lost to weeds that have spread to other properties.

17.3 Within this Part, “**Noxious Weeds**,” the disclosures called for in Part P Items 1 through and including 5 includes matters “**Ever Existing**” (now or in the past) on the Property and whether: (1) Noxious Weeds have been identified on the Property, (2) there has been any “weed enforcement actions” taken due to Noxious Weeds on the Property (3) there is a Noxious Weeds Management Plan (4) the Noxious Weeds Management Plan has been implemented (5) Herbicides have been applied on the Property.

## **18 Part Q: OTHER DISCLOSURES – LAND - CONSERVATION**

18.1 The “**Other Disclosures – Land - Conservation**” Disclosure in Part Q is limited to “**Now Existing**”.

18.2 Within this Part, “**Other Disclosures – Land - Conservation**,” the disclosures call for the Seller to identify whether any part of the Property is subject to any governmental program like the Reserve Program (CRP), Wetlands Reserve Program (WRP); and whether the Property has a Conservation Easement burdening and protecting the Property.

## **19 ADVISORIES**

The advisories, General, to Seller, to Buyer are identical to the advisories in the Residential SPD.

19.1 The **Advisories - General** The first sentence confirms to both Buyer and Seller that the Brokers are not a guarantor of the disclosures within the SPD.

19.2 The **Advisories - General** The last sentence emphasizes to the Buyer that the SPD alone is not adequate to inform the Buyer of the condition and problems with the Property. Rather, the Buyer should have the Property inspected.

19.3 The **Advisory to Seller** is an acknowledgement of the Broker's statutory obligation to disclose to the Buyer adverse material facts the Broker has knowledge of. The advisory gives various areas that Broker must make disclosure to the Buyer; i.e., structural defects, soil conditions, nonconforming uses and variances, etc.

19.4 The **Advisory to Seller** no longer contains an agreement by the Seller that the Broker has authority to disclose adverse material facts actually known by Broker about the Property. The Listing Contract and Real Estate Brokerage Disclosure Act requires the Broker to disclose known adverse material facts.

19.5 The **Advisory to Buyer** is much longer and detailed on various areas and matters the Buyer should investigate and confirm.

19.5.1 The first item in the **Advisory to Buyer** is for the Buyer to (1) inspect the Property, (2) obtain Expert assistance to completely assess and evaluate the Property including physical aspects of the Property's condition, mold, rodents, allowable use of the Property, access, utilities, environmental matters that affect the Property, noxious weeds and all other matters that may affect the use or ownership important to the Buyer.

19.5.2 The second item in the **Advisory to Buyer** clarifies that a Seller is to make disclosure of adverse matters the Seller has **actual** knowledge of, not what the Seller "should have known" about the condition of the Property, and no duty of the Seller to investigate or inspect the Property before making any of the disclosures.

19.5.3 The third item in the **Advisory to Buyer** recommends that the Buyer confer with governmental agencies (local, state and national) in addition to engaging other "experts" to evaluate and inspect the Property.

19.5.4 The fourth item in the **Advisory to Buyer** recommends that the Buyer obtain a Survey to assist in identifying the boundaries of the Property, confirming the location and ownership of fences, driveways and similar items.

19.5.5 The fifth item in the **Advisory to Buyer** cautions the Buyer that "Inclusions" are governed by the Contract, not the SPD form.

19.5.6 The sixth item in the **Advisory to Buyer** cautions the Buyer that it is the Buyer, not the Seller who can determine whether the Property will work for the Buyer



and the Buyer's intended use of the Property. Further, the condition of any improvements or the Property itself may change (after the date of the Contract or Closing). As a result, the Seller's indication that an item is "working" is not a warranty or guarantee that it will continue to do so.

## II. EXTENSION AGREEMENT WITH CONDITIONAL TERMINATION

~~(ET49-6-17)~~ This form was NOT adopted.

See the discussion at the end of this part giving additional information explaining the CREC did NOT adopt the proposed Extension with Conditional Termination. The draft is included to assist an attorney in preparing a document that extends the specified deadline and contains the Conditional Termination.

Background, rationale, purpose and intent of Draft or Sample Extension with Conditional Termination follows.

The Extension Agreement With Conditional Termination was to be a new form that is separate from the Amend/Extend Agreement. It was intended to be used when a Buyer seeks to extend specified dates or deadlines and (as a fail safe) adds a notice of termination, conditional on the Seller **not** supplying the Seller's agreement to an amendment extension, etc.) by the specified Objection deadline. If the Seller agrees to this extension of the deadline, it amends the Contract.

Often a Buyer's right to terminate the Contract by the specified deadline quickly approaches but there is insufficient time allowed to obtain confirmation of whether the Buyer's concern is an accurate assessment of whether there is an underlying problem or not. For example, a Buyer may have a Loan Objection Deadline, Appraisal Objection Deadline, Inspection Objection Deadline, however, the needed bids may not be available by the deadline to determine the cost of remediation, cost of repairs to the Property, etc., in just a few days.

If the Buyer does not want to risk loss of the Earnest Money Deposit if the Buyer cannot or chooses not to close, it is necessary for the Buyer to supply a Notice to Terminate on or before the applicable deadline.

The **Extension Agreement with Conditional Termination** does **not** address every instance the Buyer (or the Seller) has a right to terminate. Rather, the form contains the most common instances when a Buyer seeks to extend a date or deadline to keep the transaction alive but has a relative immediate Objection deadline nearing. The areas where an extension of the Objection date or deadline included in the Extension Agreement are: **(1) Inspection (2) Loan (3) Title (4) Survey (5) Appraisal. Closing and Possession** are included as they



may be impacted by an extension of the specified dates or deadlines. Changes to other provisions, dates and deadlines should be made using the Agreement to Amend/Extend Contract; the Amend/Extend form does not contain a notice to terminate.

**Assumed Facts.** However, if (1) the Seller agrees to amend the Contract (on substantive matters or merely extending the respective deadline); and (2) the Buyer would prefer to keep the transaction alive, rather than terminate, (3) but the Buyer does not want to risk the loss of the Earnest Money Deposit; and (4) the Buyer needs to obtain the information to determine if the Buyer is comfortable in consummating the transaction or to terminate, the transaction needs to be documented to accomplish these goals.

When a Buyer is faced with an upcoming objection deadline, but would prefer to purchase the Property if the missing information is obtained and the Buyer is comfortable with proceeding on with the transaction, the question is how can the Buyer protect his Earnest Money Deposit when there is no indication one way or the other whether the Seller will agree to amend the Contract, which usually takes the form of the Seller agreeing to additional time beyond the contracted deadlines.

**Solution.** The real solution to this common problem is to have the Brokers talk to each other and determine if both parties are willing to arrive at a mutually satisfactory resolution. During the interim, to assist in this discussion the Extension Agreement with Conditional Termination a boxed in area entitled "conditional notice to terminate" was created. The Buyer's Notice to Terminate is a nullity if the Seller accepts the extension of the dates or deadlines which is an amendment to the Contract provided the Buyer receives a copy of the Extension Agreement with Conditional Termination on or before the Amend/Extend Deadline (which will correspond to be no later than the Objection Deadline. If the Buyer does not receive the signed Extension Agreement with Conditional Termination on or before the Amend/Extend Deadline (which, as noted, is the deadline that is on or before the Objection Deadline), the Buyer's Notice to Terminate terminates the Contract, and if the Buyer had a right to timely terminate, the Earnest Money Deposit is not at risk.

If the Seller does not want to make any change to the Contract, including extending any deadlines, the Seller is free to elect not to agree to extend the dates or deadlines in which case the Contract will terminate, and the Buyer is entitled to obtain the return of the Buyer's Earnest Money Deposit; the Seller may then put the Property back on the market or otherwise proceed to sell the Property to someone else.

The language for the Conditional Termination states:

**NOTICE TO TERMINATE**

4. The Contract terminates unless Buyer receives, on or before the **Amend/Extend Deadline** in § 5 below, a copy of this document signed by Buyer and Seller confirming agreement to the amendments in this document.

Buyer's basis for termination is the respective Objection Deadline section of the Contract proposed to be amended in this document.

5. This proposal to amend the Contract expires, except for § 4, Notice to Terminate, unless accepted in writing by Seller and Buyer as evidenced by their signatures below and the offering party to this document receives notice of such acceptance on or before  
(Amend/Extend Deadline).

Date

The main reason for the Commission not adopting the Extension and Conditional Termination was concern over the competency of brokers using such a form and resulting in the Buyer not having the protection or giving up rights or benefits they may otherwise have. Due to the CREC as of June 19, 2017 consisting of 4 Commissioners, as the 5<sup>th</sup> Commissioner has not been appointed, 2 of the Commissioners were in favor of the form as it was needed and 2 Commissioners requested this form be "tabled."

Some of the stated reasons for not adopting the form were: (1) concern over the competency of some brokers; (2) the form does not contain all the instances a Buyer may terminate (3) the form is "confusing" (4) there is no stated right for a Buyer to "waive" or "withdraw" the termination (4) the Buyer's rights could be inadvertently jeopardized (5) if the objection is based on "Title" the time allotted a Buyer could potentially be less than granted by the Contract. (See § 8.2 and § 8.3, Record Title and Off-Record Title if the Seller fails to supply the Title Commitment or Title Documents the Buyer has the EARLIER of Closing or 10 days from receipt of the documents to object); (6) the form does not suggest the Buyer may "negotiate" with the Seller and enter into a Resolution.

**Failure of the CREC to adopt the form will not have the problem disappear. The Brokers will need to continue to create their own language in the Amend/Extend or have counsel prepare the transaction specific document for one of the parties or prepare a form for the Broker to use (complying with the Statute S.B. 17-215 and Rules of the Commission.**

**Accordingly, the draft form is included in the Appendix to be of assistance in the Attorney's preparation of an Extension and Conditional Termination.**

### **III. CREC – STANDARD FORMS – S.B. 17-215**

The Colorado Real Estate Commission (CREC) of the Division of Real Estate's Sunset Bill extended the life of the CREC until September 1, 2026. S.B. 17-215 was sent to the Governor's Office on May 1, 2017 and signed by the Governor on June 1, 2017. The Act became effective on June 30, 2017.. In addition to its extension, change the license renewal from a 3-year anniversary date renewal to an Annual calendar year renewal, among other changes, it amends § 12-61-803 (4), C.R.S. by statutorily defining a "Standard Form" that a real estate broker may complete as Standard forms:

1. Forms to convey **Personal Property** as part of the real estate transaction; (apparently encompassing: Personal Property Contracts, Bills of Sale).
2. Current forms promulgated by the CREC (**Commission-Approved Forms**).

3. Forms drafted by a licensed **Colorado Attorney representing the Broker**
  - a. Contains the Name of the attorney or law firm; and
  - b. Contains the Name of the Broker for whom the form was prepared.
4. Forms **provided by a party** to the transaction (Seller, Buyer, Landlord, Tenant)
  - a. Broker to retain Written confirmation the form was provided by a party to the transaction.
5. Forms issued (by the CREC?) with the Written approval of the **Colorado Bar Association**
  - a. Specifically Designated for use by Brokers; and
  - b. Complies with Guidelines and Conditions specified by Colo. Bar Association.
6. **Disclosure forms**
  - a. That do NOT waive or create any Rights or Obligations; and
  - b. Information on the “real estate” in the transaction; or
  - c. Geographic area the real estate is located
7. **Title Company** (providing the Closing) prescribed form
8. **Letter of Intent** prepared by a Broker
  - a. LOI must state that it is NON-BINDING
  - b. Does not create a Right or Obligation
  - c. IF the Letter of Intent (LOI) provides for a period of **Exclusivity**, either the CREC must adopt such a form or counsel is engaged to draft the LOI for the specific transaction.
  - d. IF the LOI has a **confidentiality** provision, likewise CREC must adopt or counsel is engaged to draft the LOI for the specific transaction.
9. Brokers Use of **Commission-Approved Forms**
  - a. **Commission-Approved Form Exists**; and
  - b. Is “appropriate” to the transaction
10. Broker Limited to Filling in Transaction-Specific Information
  - a. Party supplied forms
  - b. Government forms
11. Broker may “**advise**” the parties to the “effects” of the form appropriate for the transaction and circumstances in which the form is used:
  - a. **Colorado Attorney prepared forms** for the Broker



- b. **Colorado Bar Association forms**
- c. **Disclosure forms**

**12. Broker Must advise the parties:**

- a. The Forms have **important legal consequences**; and
- b. The parties should **consult with legal counsel before signing**

#### **IV. CONCLUSION**

This paper highlights the more significant changes to the Colorado Real Estate Commission's revised forms considered in 2017 that will become mandatory for Real Estate Brokers as of January 1, 2018. All of the existing forms, as well as the draft are available on the Commission's website.

**<http://www.dora.state.co.us/real-estate/>**

**(then click on Real Estate Contracts and Forms)**

The Colorado Real Estate Commission's address:

**Division of Real Estate  
1560 Broadway, Suite 925  
Denver, CO 80202**

**Attachments of the following DRAFTS:**

- A. Clean version of **Seller's Property Disclosure (Residential) SPD19-6-17.**
- B. Clean version of **Seller's Property Disclosure (Land) SPD19L-6-17**
- C. Clean version of **Extension Agreement with Conditional Termination ~~ET49-6-17~~**  
**The CREC did NOT adopt this form.**



# DRAFT

The printed portions of this form, except differentiated additions, have been approved by the Colorado Real Estate Commission.  
(SPD19-6-17) (Mandatory 1-18) **DRAFT #18 6-19-17**

**THIS FORM HAS IMPORTANT LEGAL CONSEQUENCES AND THE PARTIES SHOULD CONSULT LEGAL AND TAX OR OTHER COUNSEL BEFORE SIGNING.**

## SELLER'S PROPERTY DISCLOSURE (RESIDENTIAL)

**THIS DISCLOSURE SHOULD BE COMPLETED BY SELLER, NOT BY BROKER.**

Seller states that the information contained in this Disclosure is correct to **Seller's CURRENT ACTUAL KNOWLEDGE** as of this Date. **Any changes must be disclosed by Seller to Buyer promptly after discovery. Seller's failure to disclose a known material defect may result in legal liability.** If Seller has knowledge of an adverse material fact affecting the Property or occupants, it must be disclosed whether there is a specific item on this form or not. If the Property is part of a Common Interest Community, this Disclosure is limited to the Property or unit itself, except as stated in Section O. Broker may deliver a copy of this Disclosure to prospective buyers.

**Note:** The Contract to Buy and Sell Real Estate, not this Disclosure form, determines whether an item is included or excluded; if there is an inconsistency between this form and the Contract, the Contract controls.

Date: \_\_\_\_\_

Property Address: \_\_\_\_\_

Seller: \_\_\_\_\_

Year Built: \_\_\_\_\_

### I. IMPROVEMENTS

A.	STRUCTURAL CONDITIONS If you know of any of the following problems <b>EVER EXISTING</b> check the "Yes" column:	Yes	Comments
1	Structural problems		
2	Moisture and/or water problems		
3	Damage due to termites, other insects, birds, animals or rodents		
4	Damage due to hail, wind, fire, flood or other casualty		
5	Cracks, heaving or settling problems		
6	Exterior wall or window problems		
7	Exterior Artificial Stucco (EIFS)		
8			
9			

B.	ROOF If you know of any of the following problems <b>EVER EXISTING</b> check the "Yes" column:	Yes	Comments
1	Roof leak		
2	Damage to roof		
3	Skylight problems		
4	Gutter or downspout problems		
5	Other Roof problems		
6			
7			

# DRAFT

B-1.	ROOF - Other Information: Do you know of the following on the Property:	Yes	Comments
1	Roof under warranty until _____ Transferable _____		
2	Roof work done while under current roof warranty		
3	Roof material: _____ Age _____		
4			
5			

C.	APPLIANCES If you know of any problems NOW EXISTING with the following check the "Yes" column:	Yes	Age If Known	Comments
1	Built-in vacuum system & accessories			
2	Clothes dryer			
3	Clothes washer			
4	Dishwasher			
5	Disposal			
6	Freezer			
7	Gas grill			
8	Hood			
9	Microwave oven			
10	Oven			
11	Range			
12	Refrigerator			
13	T.V. antenna: <input type="checkbox"/> Owned <input type="checkbox"/> Leased			
14	Satellite system or DSS dish: <input type="checkbox"/> Owned <input type="checkbox"/> Leased			
15	Trash compactor			
16				
17				

D.	ELECTRICAL & TELECOMMUNICATIONS If you know of any problems NOW EXISTING with the following check the "Yes" column:	Yes	Age If Known	Comments
1	Security system: <input type="checkbox"/> Owned <input type="checkbox"/> Leased			
2	Smoke/fire detectors: <input type="checkbox"/> Battery <input type="checkbox"/> Hardwire			
3	Carbon Monoxide Alarm: <input type="checkbox"/> Battery <input type="checkbox"/> Hardwire			
4	Light fixtures			
5	Switches & outlets			
6	Electrical Service			
7	Telecommunications (T1, fiber, cable, satellite)			
8	Inside telephone wiring & blocks/jacks			
9	Ceiling fans			
10	Garage door opener and remote control			
11	Intercom/doorbell			
12	In-wall speakers			
13				
14				

D-1.	ELECTRICAL & TELECOMMUNICATIONS – Other Information Do you know of the following on the Property:	Yes	Age If Known	Comments
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# DRAFT

1	220 volt service			
2	Landscape lighting			
3	Aluminum wiring at the outlets (110)			
4	Electrical Service: Amps ____			
5	Garage door control(s) # ____			
6				
7				

E.	<b>MECHANICAL</b> If you know of any problems <b>NOW EXISTING</b> with the following <b>check the "Yes" column:</b>	Yes	Age If Known	Comments
1	Overhead doors (including garage doors)			
2	Entry gate system			
3	Elevator			
4				
5				

F.	<b>VENTILATION, AIR, HEAT</b> If you know of any problems <b>NOW EXISTING</b> with the following <b>check the "Yes" column:</b>	Yes	Age If Known	Comments
1	Heating System			
2	Air conditioning:			
	Evaporative cooler			
	Window units			
	Central			
3	Attic/whole house fan			
4	Vent fans			
5	Humidifier			
6	Air purifier			
7	Fireplace			
8	Fireplace insert			
9	Heating Stove			
10	Fuel tanks			
11				
12				

F-1.	<b>VENTILATION, AIR, HEAT - Other Information</b> Do you know of the following on the Property:	Comments
1	Heating system (including furnace): Type ____ Fuel ____ Type ____ Fuel ____	
2	Fireplace: Type ____ Fuel ____	
3	Fireplace insert	
4	Heating Stove: Type ____ Fuel ____	
5	When was fireplace/wood stove, chimney/flue last cleaned: Date: ____ <input type="checkbox"/> Do not know	
6	Fuel tanks: <input type="checkbox"/> Owned <input type="checkbox"/> Leased	
7	Radiant heating system: <input type="checkbox"/> Interior <input type="checkbox"/> Exterior Type ____	
8		
9		



# DRAFT

G.	<b>WATER</b> If you know of any problems <b>NOW EXISTING</b> with the following check the "Yes" column:	Yes	Age If Known	Comments
1	Water system (including lines and water pressure)			
2	Water heater(s):			
3	Water filter system			
4	Water softener			
5	Well			
6	Water System Pump			
7	Sauna			
8	Hot tub or spa			
9	Steam room/shower			
10	Pool			
11	Underground sprinkler system			
12	Fire sprinkler system			
13	Backflow prevention device:			
14	Irrigation System			
15	Irrigation pump			
16				
17				

G-1.	<b>WATER – Other Information</b> Do you know of the following on the Property:	Yes	Age If Known	Comments
1	Water heater: Number of _____ Fuel type _____ Capacity _____			
2	Water filter system: <input type="checkbox"/> Owned <input type="checkbox"/> Leased			
3	Water softener: <input type="checkbox"/> Owned <input type="checkbox"/> Leased			
4	Well Metered			
5	Well – Date of last Inspection _____			
6	Galvanized pipe			
7	Polybutylene pipe			
8				
9				

H.	<b>SOURCE OF WATER &amp; WATER SUPPLY</b> Do you know of the following on the Property:
1	<p>Type of water supply: <input type="checkbox"/> Public <input type="checkbox"/> Community <input type="checkbox"/> Well <input type="checkbox"/> Shared Well <input type="checkbox"/> Cistern <input type="checkbox"/> None</p> <p>If the Property is served by a Well, a copy of the Well Permit <input type="checkbox"/> <b>Is</b> <input type="checkbox"/> <b>Is Not attached</b>. Well Permit #: _____</p> <p><input type="checkbox"/> Drilling Records <input type="checkbox"/> Are <input type="checkbox"/> Are not attached. Shared Well Agreement <input type="checkbox"/> <b>Yes</b> <input type="checkbox"/> <b>No</b>.</p> <p>The <b>Water Provider</b> for the Property can be contacted at:</p> <p>Name: _____ Address: _____</p> <p>Web Site: _____ Phone No.: _____</p> <p><input type="checkbox"/> There is neither a Well nor a Water Provider for the Property. The source of potable water for the Property is [describe source]:</p> <p><b>SOME WATER PROVIDERS RELY, TO VARYING DEGREES, ON NONRENEWABLE GROUND WATER. YOU MAY WISH TO CONTACT YOUR PROVIDER (OR INVESTIGATE THE DESCRIBED SOURCE) TO DETERMINE THE LONG-TERM SUFFICIENCY OF THE PROVIDER'S WATER SUPPLIES.</b></p>



# DRAFT

I.	<b>SEWER</b> If you know of any problems <b>NOW EXISTING</b> with the following <b>check the "Yes" column:</b>	Yes	Age If Known	Comments
1	Sewage system (including sewer lines)			
2	Lift station (sewage ejector pump)			
3	Sump pump(s) # of _____			
4	Grey water storage/use			
5				

<b>I-1.</b>	<b>SEWER – Other Information</b> Do you know of the following on the Property:
1	Type of sanitary sewer service: <input type="checkbox"/> Public <input type="checkbox"/> Community <input type="checkbox"/> Septic System <input type="checkbox"/> None <input type="checkbox"/> Other _____ If the Property is served by an on-site septic system, supply to buyer a copy of the permit. Type of septic system: <input type="checkbox"/> Tank <input type="checkbox"/> Leach <input type="checkbox"/> Lagoon
2	If a septic system, date latest Individual Use Permit issued: _____
3	If a septic system, date of latest Inspection: _____
4	If a septic system, date of latest Pumping: _____
5	
6	

J.	<b>DRAINAGE AND FLOODING</b> If you know of any of the following <b>NOW EXISTING</b> on the Property <b>check the "Yes" column:</b>	Yes	Comments
1	Drainage, retention ponds		
2	Flooding or drainage problems		
3			
4			

K.	<b>OTHER DISCLOSURES – IMPROVEMENTS</b> If you know of any problems <b>NOW EXISTING</b> with the following <b>check the "Yes" column:</b>	Yes	Comments
1	Included fixtures and equipment		
2	Stains on carpet		
3	Floors and sub-floors		
4			
5			

## II. GENERAL

L.	<b>USE, ZONING &amp; LEGAL ISSUES</b> If you know of any of the following <b>EVER EXISTING</b> <b>check the "Yes" column:</b>	Yes	Comments
1	Zoning violation, variance, conditional use, violation of an enforceable PUD or non-conforming use		
2	Notice or threat of condemnation proceedings		
3	Notice of any adverse conditions from any governmental or quasi-governmental agency that have not been resolved		
4	Notice of zoning action related to the Property		
5	Building code, city or county violations		
6	Violation of restrictive covenants or owners' association rules or regulations		

# DRAFT

7	Any building or improvements constructed within the past one year from this Date without approval by the Association or its designated approving body		
8	Any additions or alterations made		
9	Other legal action		
10			
11			

M.	ACCESS & PARKING, If you know of any of the following EVER EXISTING check the "Yes" column:	Yes	Comments
1	Any access problems		
2	Roads, trails, paths or driveways through the Property used by others		
3	Public highway or county road bordering the Property		
4	Any proposed or existing transportation project that affects or is expected to affect the Property		
5	Encroachments, boundary disputes or unrecorded easements		
6	Shared or common areas with adjoining properties		
7	Requirements for curb, gravel/paving, landscaping		
8			
9			

N.	ENVIRONMENTAL CONDITIONS If you know of any of the following EVER EXISTING on any part of the Property check the "Yes" column:	Yes	Comments
1	Hazardous materials on the Property, such as radioactive, toxic, or biohazardous materials, asbestos, pesticides, herbicides, wastewater sludge, radon, methane, mill tailings, solvents or petroleum products		
2	Underground storage tanks		
3	Aboveground storage tanks		
4	Underground transmission lines		
5	Animals kept in the residence		
6	Property used as, situated on, or adjoining a dump, land fill or municipal solid waste land fill		
7	Monitoring wells or test equipment		
8	Sliding, settling, upheaval, movement or instability of earth or expansive soils on the Property		
9	Mine shafts, tunnels or abandoned wells on the Property		
10	Within governmentally designated geological hazard or sensitive area		
11	Within governmentally designated flood plain or wetland area		
12	Dead, diseased or infested trees or shrubs		
13	Environmental assessments, studies or reports done involving the physical condition of the Property		
14	Used for any mining, graveling, or other natural resource extraction operations such as oil and gas wells		
15	Tobacco smoke in interior of improvements of Property		
16	Other environmental problems		
17			
18			



# DRAFT

O.	COMMON INTEREST COMMUNITY – ASSOCIATION PROPERTY If you know of any of the following: check the “Yes” column	Yes	Comments
1	Property is part of an owners’ association		
2	Special assessments or increases in regular assessments approved by owners’ association but not yet implemented		
3	Has the Association made demand or commenced a lawsuit against a builder or contractor alleging defective construction of improvements of the Association Property (common area or property owned or controlled by the Association but outside the Seller’s Property or unit).		
4	Problems or defects in the Common Elements or Limited Common Elements of the Association Property.		
5			
6			

P.	OTHER DISCLOSURES – GENERAL If you know of any of the following: :	Yes	Comments
1	Any part of the Property leased to others (written or oral)		
2	Written reports of any building, site, roofing, soils or engineering investigations or studies of the Property		
3	Any property insurance claim submitted (whether paid or not)		
4	Structural, architectural and engineering plans and/or specifications for any existing improvements		
5	Property was previously used as a methamphetamine laboratory and not remediated to state standards		
6	Government special improvements approved, but not yet installed, that may become a lien against the Property		
7	Pending: (1) litigation or (2) other dispute resolution proceeding regarding the Property.		
8			
9			

Seller and Buyer understand that the real estate brokers do not warrant or guarantee the above information on the Property. Property inspection services may be purchased and are advisable. This form is **not** intended as a substitute for an inspection of the Property.

## ADVISORY TO SELLER:

**Seller acknowledges that** Broker will disclose to any prospective buyer all adverse material facts actually known by Broker, including but not limited to adverse material facts pertaining to the physical condition of the Property, any material defects in the Property, and any environmental hazards affecting the Property. These types of disclosures may include such matters as structural defects, soil conditions, violations of health, zoning or building laws, and nonconforming uses and zoning variances.

The information contained in this Disclosure has been furnished by Seller, who certifies it was answered truthfully, based on **Seller’s CURRENT ACTUAL KNOWLEDGE**.

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

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

# DRAFT

## ADVISORY TO BUYER:

1. Even though Seller has answered the above questions to Seller's current actual knowledge, Buyer should thoroughly inspect the Property and obtain expert assistance to accurately and fully evaluate the Property to confirm the status of the following matters:
  - a. the physical condition of the Property;
  - b. the presence of mold or other biological hazards;
  - c. the presence of rodents, insects and vermin including termites;
  - d. the legal use of the Property and legal access to the Property;
  - e. the availability and source of water, sewer, and utilities;
  - f. the environmental and geological condition of the Property;
  - g. the presence of noxious weeds; and
  - h. any other matters that may affect Buyer's use and ownership of the Property that are important to Buyer as Buyer decides whether to purchase the Property.
2. Seller states that the information is correct to "Seller's current actual knowledge" as of the date of this form. The term "current actual knowledge" is intended to limit Seller's disclosure only to facts actually known by the Seller and does not include "constructive knowledge" or "common knowledge" or what Seller "should have known" about the Property. The Seller has no duty to inspect the Property when this Disclosure is filled in and signed.
3. Valuable information may be obtained from various local/state/federal agencies, and other experts may assist Buyer by performing more specific evaluations and inspections of the Property.
4. Boundaries, location and ownership of fences, driveways, hedges, and similar features of the Property may become the subjects of a dispute between a property owner and a neighbor. A survey may be used to determine the likelihood of such problems.
5. Whether any item is included or excluded is determined by the contract between Buyer and Seller and not this Seller's Property Disclosure.
6. Seller does not warrant that the Property is fit for Buyer's intended purposes or use of the Property. Disclosure of the condition of an item is not to be construed as a warranty of its continued operability or as a representation or warranty that such item is fit for Buyer's intended purposes.
7. Buyer receipts for a copy of this Disclosure.

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Buyer

---

Date

---

Buyer

---

Date



# DRAFT

The printed portions of this form, except differentiated additions, have been approved by the Colorado Real Estate Commission.  
(SPD19L-6-17) (Mandatory 1-18) **DRAFT #18 6-19-17**

**THIS FORM HAS IMPORTANT LEGAL CONSEQUENCES AND THE PARTIES SHOULD CONSULT LEGAL AND TAX OR OTHER COUNSEL BEFORE SIGNING.**

## SELLER'S PROPERTY DISCLOSURE

☐ **LAND Supplement to Residential)**

☐ **LAND – With Improvements)**

☐ **LAND – Without Improvements)**

**THIS DISCLOSURE SHOULD BE COMPLETED BY SELLER, NOT BY BROKER.**

Seller states that the information contained in this Disclosure is correct to **Seller's CURRENT ACTUAL KNOWLEDGE** as of this Date. **Any changes must be disclosed by Seller to Buyer promptly after discovery. Seller's failure to disclose a known material defect may result in legal liability.** If Seller has knowledge of an adverse material fact affecting the Property or occupants, it must be disclosed whether there is a specific item on this form or not. .

**Note:** If an item is not present at the Property or if an item is not to be included in the sale, mark the "N/A" column. The **Contract to Buy and Sell Real Estate, not this Disclosure form**, determines whether an item is included or excluded; if there is an inconsistency between this form and the Contract, the Contract controls.

Date: \_\_\_\_\_

Property Address: \_\_\_\_\_

Seller: \_\_\_\_\_

Year Built: \_\_\_\_\_

### I. IMPROVEMENTS

☐ **If this box is checked, there are no structures or improvements on the Property; do not complete Parts A-E.**

A.	STRUCTURAL CONDITIONS If you know of any of the following problems <b>EVER EXISTING</b> check the "Yes" column:	Yes	Comments
1	Structural problems		
2	Moisture and/or water problems		
3	Damage due to termites, other insects, birds, animals or rodents		
4	Damage due to hail, wind, fire, flood or other casualty		
5	Cracks, heaving or settling problems		
6			
7			

B.	ROOF If you know of any of the following problems <b>EVER EXISTING</b> check the "Yes" column:	Yes	Comments
1	Roof leak		

# DRAFT

2	Damage to roof		
3	Skylight problems		
4	Gutter or downspout problems		
5	Other Roof problems		

<b>B-1.</b>	<b>ROOF – Other Information:</b> Do you know of the following on the Property:	<b>Yes</b>	<b>Comments</b>
1	Roof under warranty until _____. Transferable _____		
2	Roof work done while under current roof warranty		
3	Roof material: ____ Age ____		
4			
5			

<b>C.</b>	<b>ELECTRICAL &amp; TELECOMMUNICATIONS</b> If you know of any problems <b>NOW EXISTING</b> with the following <b>check the “Yes” column:</b>	<b>Yes</b>	<b>Comments</b>
1			
2			

<b>C-1.</b>	<b>ELECTRICAL &amp; TELECOMMUNICATIONS – Other Information:</b> Do you know of the following on the Property:	<b>Yes</b>	<b>Comments</b>
1	220 volt service		
2	Aluminum wiring at the outlets (110)		
3	Electrical Service: Amps		
4	Garage door control(s) #		
5			
6			

<b>D.</b>	<b>MECHANICAL</b> If you know of any problems <b>NOW EXISTING</b> with the following <b>check the “Yes” column:</b>	<b>Yes</b>	<b>Comments</b>
1			
2			

<b>E.</b>	<b>VENTILATION, AIR, HEAT</b> If you know of any problems <b>NOW EXISTING</b> with the following <b>check the “Yes” column:</b>	<b>Yes</b>	<b>Comments</b>
1	Heating System		
2			
3			

<b>E-1</b>	<b>VENTILATION, AIR, HEAT - Other Information</b> Do you know of the following on the Property:	<b>Yes</b>	<b>Age If Known</b>	<b>Comments</b>
1	Heating system: Type _____ Fuel _____ Type _____ Fuel _____			
2				
3				

<b>F.</b>	<b>WATER SUPPLY</b> Do you know of the following on the Property:
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# DRAFT

1	<p>Type of water supply: <input type="checkbox"/> Public <input type="checkbox"/> Community <input type="checkbox"/> Well <input type="checkbox"/> Shared Well <input type="checkbox"/> Cistern <input type="checkbox"/> None</p> <p>If the Property is served by a Well, a copy of the Well Permit <input type="checkbox"/> Is <input type="checkbox"/> Is Not attached. Well Permit #: _____</p> <p><input type="checkbox"/> Drilling Records <input type="checkbox"/> Are <input type="checkbox"/> Are not attached. Shared Well Agreement <input type="checkbox"/> Yes <input type="checkbox"/> No.</p>
---	-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

G.	WATER If you know of any problems NOW EXISTING with the following check the "Yes" column:	Yes	Age If Known	Comments
1	Water system (including lines and water pressure)			
2	Water heater(s)			
3	Water filter system			
4	Water softener			
5	Well			
6	Water System Pump			
9				
10				

G-1.	WATER – Other Information Do you know of the following on the Property:	Yes	Age If Known	Comments
1	Water heater: Number of _____ Fuel type _____ Capacity _____			
4	Well Metered			
5	Well – Date of last Inspection _____			
6	Galvanized pipe			
7	Polybutylene pipe			
8				
9				

H.	SEWER If you know of any problems NOW EXISTING with the following check the "Yes" column:	Yes	Age If Known	Comments
1	Sewage system (including sewer lines)			
2	Lift station (sewage ejector pump)			
3	Sump pump(s) # of _____			
4	Grey water storage/use			
5				

H-1.	SEWER – Other Information Do you know of the following on the Property:
1	Type of sanitary sewer service: <input type="checkbox"/> Public <input type="checkbox"/> Community <input type="checkbox"/> Septic System <input type="checkbox"/> None <input type="checkbox"/> Other _____ If the Property is served by an on-site septic system, supply to buyer a copy of the permit. Type of septic system: <input type="checkbox"/> Tank <input type="checkbox"/> Leach <input type="checkbox"/> Lagoon
2	If a septic system, date latest Individual Use Permit issued: _____
3	If a septic system, date of latest Inspection: _____
4	If a septic system, date of latest Pumping: _____
5	
6	

I.	DRAINAGE AND FLOODING If you know of any of the following NOW EXISTING on the Property check the "Yes" column:	Yes	Comments
1	Drainage, retention ponds		



# DRAFT

2	Flooding or drainage problems		
3			
4			

J.	OTHER DISCLOSURES – INCLUSIONS Do you know of any problems <b>NOW EXISTING</b> with the following	Yes	Comments
1	Included fixtures and equipment		
2	Stains on carpet		
3	Floors and sub-floors		
4			
5			

## II. GENERAL

K.	USE, ZONING & LEGAL ISSUES If you know of any of the following <b>EVER EXISTING</b> check the "Yes" column:	Yes	Comments
1	Zoning violation, variance, conditional use, violation of an enforceable PUD or non-conforming use		
2	Notice or threat of condemnation proceedings		
3	Notice of any adverse conditions from any governmental or quasi-governmental agency that have not been resolved		
4	Notice of zoning action related to the Property		
5	Building code, city or county violations		
6	Violation of restrictive covenants or owners' association rules or regulations		
7	Any building or improvements constructed within the past one year from this Date without approval by the Association or the designated approving body		
8	Any additions or alterations made		
9	Notice of ADA complaint or report		
10	Other legal action		
11	Current use of the Property		
12			
13			

L.	ACCESS & PARKING, Do you know of any of the following <b>EVER EXISTING</b> :	Yes	Comments
1	Any access problems		
2	Roads, driveways, trails or paths through the Property used by others		
3	Public highway or county road bordering the Property		
4	Any proposed or existing transportation project that affects or is expected to affect the Property		
5	Encroachments, boundary disputes or unrecorded easements		
6	Shared or common areas with adjoining properties		
7	Requirements for curb, gravel/paving, landscaping		
8			
9			



# DRAFT

M.	ENVIRONMENTAL CONDITIONS Do you know of any of the following EVER EXISTING on any part of the Property:	Yes	Comments
1	Hazardous materials on the Property, such as radioactive, toxic, or biohazardous materials, asbestos, pesticides, herbicides, wastewater sludge, radon, methane, mill tailings, solvents or petroleum products		
2	Underground storage tanks		
3	Aboveground storage tanks		
4	Underground transmission lines		
5	Used as, situated on, or adjoining a dump, land fill or municipal solid waste land fill		
6	Monitoring wells or test equipment		
7	Sliding, settling, upheaval, movement or instability of earth or expansive soils on the Property		
8	Mine shafts, tunnels or abandoned wells on the Property		
9	Within governmentally designated geological hazard or sensitive area		
10	Within governmentally designated flood plain or wetland area		
11	Dead, diseased or infested trees or shrubs		
12	Environmental assessments, studies or reports done involving the physical condition of the Property		
13	Used for any mining, graveling, or other natural resource extraction operations such as oil and gas wells		
14	Other environmental problems		
15			
16			

N.	OTHER DISCLOSURES – GENERAL Do you know of any of the following:	Yes	Comments
1	Any part of the Property <b>now</b> leased to others (written or oral)		
2	Written reports of any building, site, roofing, soils or engineering investigations or studies of the Property		
3	Any property insurance claim ever submitted for the Property (whether paid or not)		
4	Structural, architectural and engineering plans and/or specifications for any existing improvements		
5	Property was previously used as a methamphetamine laboratory and not remediated to state standards		
6	Government special improvements approved, but not yet installed, that may become a lien against the Property		
7	Signs: <input type="checkbox"/> Owned <input type="checkbox"/> Leased		
8	Signs: Government or private restriction problems		
9	Pending: (1) litigation or (2) other dispute resolution proceeding regarding the Property.		
10			
11			

## III. LAND – AGRICULTURAL

# DRAFT

O.	<b>CROPS, LIVESTOCK &amp; LEASES</b> If you know of any of the following conditions that <b>NOW EXIST</b> check the "Yes" column:	Yes	Comments
1	Crops being grown on the Property		
2	Seller owns all crops		
3	Livestock on the Property		
4	Any land leased from others: <input type="checkbox"/> State <input type="checkbox"/> BLM <input type="checkbox"/> Federal <input type="checkbox"/> Private <input type="checkbox"/> Other _____		
5			
6			

P.	<b>NOXIOUS WEEDS</b> If you know of any of the following conditions <b>NOW EXIST</b> check the "Yes" column:	Yes	Comments
1	Have any noxious weeds on the Property been identified?		
2	Have there been any weed enforcement actions on the Property?		
3	Has a noxious weed management plan for the Property been entered into?		
4	Have noxious weed management actions been implemented?		
5	Have herbicides been applied?		

The Colorado Noxious Weed Management Act (35-5.5-101-119 C.R.S) enables County and City governments to implement noxious weeds management programs to reclaim infested acres and protect weed-free land. For a directory of county weed supervisors call 303-239-4173 or see: [www.colorado.gov/ag/weeds](http://www.colorado.gov/ag/weeds).

Q.	<b>OTHER DISCLOSURES – LAND - CONSERVATION</b> If you know of any of the following conditions that <b>NOW EXIST</b> check the "Yes" column:	Yes	Comments
1	Any part of the Property enrolled in any governmental programs such as Conservation Reserve Program (CRP), Wetlands Reserve Program (WRP), etc.		
2	Conservation easement		
3			
4			

Seller and Buyer understand that the real estate brokers do not warrant or guarantee the above information on the Property. Property inspection services may be purchased and are advisable. This form is **not** intended as a substitute for an inspection of the Property.

## ADVISORY TO SELLER:

**Seller acknowledges that** Broker will disclose to any prospective buyer all adverse material facts actually known by Broker, including but not limited to adverse material facts pertaining to the physical condition of the Property, any material defects in the Property, and any environmental hazards affecting the Property. These types of disclosures may include such matters as structural defects, soil conditions, violations of health, zoning or building laws, and nonconforming uses and zoning variances..

The information contained in this Disclosure has been furnished by Seller, who certifies it was answered truthfully, based on **Seller's CURRENT ACTUAL KNOWLEDGE**.

_____ Seller	_____ Date
_____ Seller	_____ Date

## ADVISORY TO BUYER:

1. Even though Seller has answered the above questions to Seller's current actual knowledge, Buyer should thoroughly inspect the Property and obtain expert assistance to accurately and fully evaluate the Property to confirm the status of the following matters:
  - a. the physical condition of the Property;
  - b. the presence of mold or other biological hazards;
  - c. the presence of rodents, insects and vermin including termites;

# DRAFT

- d. the legal use of the Property and legal access to the Property;
- e. the availability and source of water, sewer, and utilities;
- f. the environmental and geological condition of the Property;
- g. the presence of noxious weeds; and
- h. any other matters that may affect Buyer's use and ownership of the Property that are important to Buyer as Buyer decides whether to purchase the Property.

2. Seller states that the information is correct to "Seller's current actual knowledge" as of the date of this form. The term "current actual knowledge" is intended to limit Seller's disclosure only to facts actually known by the Seller and does not include "constructive knowledge" or "common knowledge" or what Seller "should have known" about the Property. The Seller has no duty to inspect the Property when this Disclosure is filled in and signed.

3. Valuable information may be obtained from various local/state/federal agencies, and other experts may assist Buyer by performing more specific evaluations and inspections of the Property.

4. Boundaries, location and ownership of fences, driveways, hedges, and similar features of the Property may become the subjects of a dispute between a property owner and a neighbor. A survey may be used to determine the likelihood of such problems.

5. Whether any item is included or excluded is determined by the contract between Buyer and Seller and not this Seller's Property Disclosure.

6. Seller does not warrant that the Property is fit for Buyer's intended purposes or use of the Property. Disclosure of the condition of an item is not to be construed as a warranty of its continued operability or as a representation or warranty that such item is fit for Buyer's intended purposes.

7. Buyer receipts for a copy of this Disclosure.

\_\_\_\_\_  
Buyer

\_\_\_\_\_  
Date

\_\_\_\_\_  
Buyer

\_\_\_\_\_  
Date





# DRAFT

The printed portions of this form, except differentiated additions, have been approved by the Colorado Real Estate Commission.  
(ET49-6-17) (Mandatory 1-18)

**DRAFT #12 6-15-17**

**THIS FORM HAS IMPORTANT LEGAL CONSEQUENCES AND THE PARTIES SHOULD CONSULT LEGAL AND TAX OR OTHER COUNSEL BEFORE SIGNING.**

## EXTENSION AGREEMENT WITH CONDITIONAL TERMINATION

Date: \_\_\_\_\_

1. This agreement amends the contract dated \_\_\_\_\_ (Contract), between \_\_\_\_\_  
(Seller), and \_\_\_\_\_  
(Buyer), relating to the sale and purchase of the following legally described real estate in the County of \_\_\_\_\_  
Colorado:

known as No. \_\_\_\_\_ (Property).  
Street Address City State Zip

**NOTE: If the table is omitted, or if any item is left blank or is marked in the "No Change" column, it means no change to the corresponding provision of the Contract. If any item is marked in the "Deleted" column, it means that the corresponding provision of the Contract to which reference is made is deleted.**

### 2. § 3. AMENDED DATES AND DEADLINES.

The new Date or Deadline as set forth below amends the Contract. Any amended Date or Deadline will be the earlier of Closing or the stated Date or Deadline.

#### 2.1 Inspection

Item No.	Reference		Amended Date or Deadline	No Change	Deleted
1	§ 10.2	Inspection Objection Deadline			
2	§ 10.3	Inspection Resolution Deadline			

#### 2.2 Loan

Item No.	Reference		Amended Date or Deadline	No Change	Deleted
3	§ 5.2	Loan Objection Deadline			

#### 2.3 Title

Item No.	Reference		Amended Date or Deadline	No Change	Deleted
4	§ 8.2	Record Title Objection Deadline			
5	§ 8.3	Off-Record Title Objection Deadline			
6	§ 8.4	Title Resolution Deadline			

# DRAFT

## 36 2.4 Survey

Item No.	Reference		Amended Date or Deadline	No Change	Deleted
7	§ 9.2	New ILC or New Survey Objection Deadline			
8	§ 9.3	New ILC or New Survey Resolution Deadline			

## 37 2.5 Appraisal

Item No.	Reference		Amended Date or Deadline	No Change	Deleted
9	§ 6.2	Appraisal Deadline			
10	§ 6.2	Appraisal Objection Deadline			
11	§ 6.2	Appraisal Resolution Deadline			

## 39 2.6 Closing and Possession

Item No.	Reference		Amended Date or Deadline	No Change	Deleted
12	§ 12.3	Closing Date			
13	§ 17	Possession Date			
14	§ 17	Possession Time			

## 41 3. All other terms and conditions of the Contract remain the same.

### 45 NOTICE TO TERMINATE

46 4. The Contract terminates unless Buyer receives, on or before the **Amend/Extend Deadline** in § 5 below, a copy of this  
47 document signed by Buyer and Seller confirming agreement to the amendments in this document.  
48 Buyer's basis for termination is the respective Objection Deadline section of the Contract proposed to be amended in this  
49 document.

50  
51 5. This proposal to amend the Contract expires, except for § 4, Notice to Terminate, unless accepted in writing by Seller and Buyer  
52 as evidenced by their signatures below and the offering party to this document receives notice of such acceptance on or before  
53 \_\_\_\_\_ (**Amend/Extend Deadline**).

54 Date

55 Buyer's Name: \_\_\_\_\_ Buyer's Name: \_\_\_\_\_

Buyer's Signature \_\_\_\_\_ Date \_\_\_\_\_

Buyer's Signature \_\_\_\_\_ Date \_\_\_\_\_

Seller's Name: \_\_\_\_\_

Seller's Name: \_\_\_\_\_

Seller's Signature \_\_\_\_\_ Date \_\_\_\_\_

Seller's Signature \_\_\_\_\_ Date \_\_\_\_\_

56

# NOT ADOPTED