



FORMS UPDATE: AMENDMENTS NOW ADDENDA

by 086004251 | Apr 27, 2023 | Uncategorized | 0 comments

Provided by Ashley Strauss-Martin, NMAR General Counsel

All forms in the NMAR Forms Library entitled “amendment” have been re-titled “addendum.” NMAR has **Form 2300 – General Addendum**, and **Form 2300A – General Amendment** has been removed from the NMAR Forms library.

NMAR traditionally had both amendments and addenda in the Forms Library. Some brokers believed that these documents served very different purposes. For example, some thought that you use an addendum with an offer – before contract formation, – and an amendment after contract formation (a distinction based on timing). While others thought that you would use an addendum to add language to a contract when the contract did not include any language on the subject matter, and an amendment to change language already existing in the contract (a distinction based on what was happening in the additional form).

Either belief was harmless enough, until it wasn’t. Some brokers were so adamant in their understanding of the use of the two forms that they would refuse to submit an amendment because it was written on an addendum and vice versa. Further, there were reported incidents of Qualifying Brokers refusing to pay their Associate Brokers because they used an addendum instead of an amendment. Of course, those reactions were problematic on several levels and stemmed from a complete misunderstanding of these

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forms. **Please note, both an amendment and an addendum can be used to add verbiage, remove verbiage, and amend verbiage in a contract.**

To address the common misunderstanding that an amendment and an addendum serve very different functions, a few years ago, NMAR combined the two names into the title of one form – the Amendment/Addendum. This caused greater confusion resulting in some brokers circling one of the words at the top of the page as if they were required to identify what the form was. **For the foregoing reasons, we have changed the term “amendment” to “addendum” on all NMAR forms.**

Another point of confusion has always been how to number amendments and addendums. We have eliminated the amendment issue, but how to number the various addenda continues to puzzle brokers. Do you number all Extension Addenda sequentially (1,2,3. etc.) and then all Resolution Addenda sequentially (1,2,3, etc.) and then all “other” addenda sequentially (1,2,3, etc.)? The answer is ‘NO’. **All addenda should be numbered sequentially.** To make this process easier, all addenda headings will be changed to read as follows:

New Mexico Association of Realtors® — 2023

Addendum No. __1__

Lead Based Paint Addendum

New Mexico Association of Realtors® — 2023

Addendum No. __2__

Buyer’s Sale Contingency Addendum

New Mexico Association of Realtors® — 2023

Addendum No. __3__

Resolution Addendum to Notice of Objection No. __1__

New Mexico Association of Realtors® — 2023

Addendum No. __4__

Extension Agreement Addendum

As indicated, all addenda should be numbered sequentially, regardless of the type of addendum that it is. NMAR is working on the revised headings now. This new approach should make the numbering sequence more obvious, though education will continue to be the key. The revised titles will also allow

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the parties, brokers, title companies, and lenders to more quickly identify the order in which the various addenda were executed.

Questions? Contact the NMAR Legal Hotline

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Openings

FORMS UPDATE: AMENDMENTS NOW ADDENDA

Legal Hotline Closed

2023 REALTORS[®] Legislative Meetings

NMAR Office Closed for President's Day

JUN 10:00 am - 12:00 pm

13 Professional Development Committee

JUN 12:00 pm - 2:00 pm

16 ROTY Selection Lunch

JUN All day

19 Juneteenth – NMAR Closed

JUN June 20 - June 22

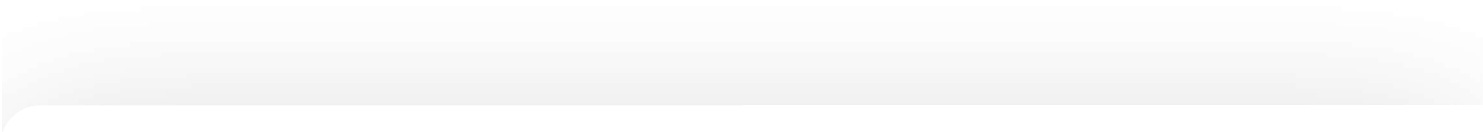
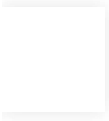
20 State AE Meeting

JUN 1:00 pm - 2:00 pm

26 AE Training

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New Mexico Association of REALTORS®
549 S Guadalupe Street
Santa Fe, NM 87501

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