



NEW AND REVISED FORMS

Rev. 07/15/24

On August 14, 2024, State-Wide Multiple Listing Service, Inc. will remove compensation fields and rules from MLS to comply with the proposed National Association of REALTORS® settlement agreement. To help members comply with the settlement agreement, MLS and the Rhode Island Association of REALTORS® have adopted new and revised forms and voted to remove an existing form, as recommended by the Forms Committee.

Although the settlement agreement does not prohibit listing brokers from offering compensation to cooperating brokers outside of MLS, the US Department of Justice continues to strongly oppose offers of compensation from listing brokers and sellers.

All of the forms were sent to the forms vendors during the last week of June. The vendors update at different times, so please be patient.

RIAR FORMS

■ **Exclusive Buyer Representation Agreement** - Remove references to compensation from listing brokers and includes additional disclosures from the proposed settlement agreement.

■ **Purchase and Sales Agreements** - Adds a section for a Professional Services Fee to the following forms to make it easier for a buyer to ask a seller to compensate a cooperating broker as part of negotiations.

- Condominium Conversion Purchase and Sales Agreement
- Condominium Resale Purchase and Sales Agreement
- New Construction Condominium Purchase and Sales Agreement
- Dwelling on Leased Land Purchase and Sales Agreement
- Multi-Unit Purchase and Sales Agreement
- Single Family Purchase and Sales Agreement
- Vacant Land Purchase and Sales Agreement
- New Construction Single/Multi Unit Purchase and Sales Agreement

■ **Letter of Intent** - Adds a section for a Professional Services Fee to make it easier for a buyer to request that a seller pay for some or part of the compensation for a cooperating broker.

■ **Compensation to Cooperating Brokerage Agreement** – This form for broker-to-broker compensation will be removed from RIAR forms platforms by August 14th. **REMOVED**

■ **Exclusive Tenant Representation Agreement** - Cooperating brokers and tenants can use this form to agree to professional services and compensation for a broker who is representing a tenant. This form follows the flow of an Exclusive Buyer Representation Agreement. **NEW**

- **Amendment to Exclusive Tenant Representation Agreement** – Cooperating brokers and tenants can use this form to make changes to an Exclusive Tenant Representation Agreement. **NEW**
- **Termination of Exclusive Tenant Representation Agreement** - Cooperating brokers and tenants can use this form to mutually terminate an Exclusive Tenant Representation Agreement. **NEW**
- **Amendment to Exclusive Buyer Representation Agreement** – Buyer representatives and buyers can use this form to agree to changes in professional services, expiration dates, compensation, and other sections of the agreement. Includes compensation warning language from the NAR settlement agreement. **NEW**
- **Cooperating Broker Rental Compensation Agreement** - Tenants can use this form to request compensation for a cooperating broker from a landlord. **NEW**
- **Exclusive Showing and Compensation Agreement (Transaction Facilitator)** - Cooperating brokers can use this when working with a buyer exclusively as a transaction facilitator. **NEW**
- **Non-Exclusive Showing and Compensation Agreement (Transaction Facilitator)** – Cooperating brokers can use this form when working with a buyer non-exclusively as a transaction facilitator. **NEW**

STATE-WIDE MLS FORMS

- **Listing Agreements** - Removes compensation to cooperating brokers from the listing agreements and adds compensation language required by the settlement agreement.
 - Exclusive Right to Sell Listing Agreement
 - Exclusive Right to Sell Listing Agreement - **LARGE FONT**
 - Exclusive Right of Brokerage Listing Agreement
 - Exclusive Right to Rent Listing Agreement
 - Exclusive Commercial Listing Agreement
- **Amendment to Listing Agreements** – Listing brokers and sellers can use this form to change the terms of any of the listing agreements for properties listed for sale. **NEW**
- **Amendment to Exclusive Right to Rent Listing Agreement** - Listing brokers and can use this form to amend the rental listing agreement. **NEW**

REALTORS® - for more information, please contact the Rhode Island Association of REALTORS® Legal Department at 401-432-6945 or email monica@rirealtors.org.

CHANGES TO MLS LISTING AGREEMENTS

MLS has approved changes to the following listing agreements.

▪**Listing Agreements** - Removes compensation to cooperating brokers from the listing agreements and adds compensation language required by the settlement agreement.

- Exclusive Right to Sell Listing Agreement
- Exclusive Right to Sell Listing Agreement - **LARGE FONT**
- Exclusive Right of Brokerage Listing Agreement
- Exclusive Right to Rent Listing Agreement
- Exclusive Commercial Listing Agreement

The Exclusive Right to Sell entitles a listing broker to compensation if anyone, including the seller, finds a buyer during the term of the listing agreement. The Exclusive Right of Brokerage entitles a listing broker to compensation only if the listing broker finds a buyer before the seller does. You're competing with your client to find a buyer.

6. The listing agreements include a new Professional Services Fee section, which will make it easier for a buyer to ask a seller to contribute towards compensation the cooperating broker as part of negotiations. Since these changes are new for lenders too, make sure to discuss compensation with the buyer's lender before submitting a purchase and sales agreement.

There are similar changes for rentals in the Exclusive Right to Rent Listing Agreement and Exclusive Commercial Listing Agreement

6. The bold compensation language is required by the settlement agreement.

6(a) Include the listing compensation only in this section.

6(e) The REALTOR® Code of Ethics requires REALTORS® to disclose if they are being paid by more than one party.

7. Use this new section to add more details about your listing compensation or enter "n/a". Either way, have the seller initial it.

8. This new section gives you an opportunity to inform a seller that a buyer may ask the seller to pay the cooperating broker and/or other concessions instead of your offering compensation to a cooperating broker.

After 8. All language about compensation to cooperating brokers will be removed to comply with the settlement agreement.

Have the seller initial it.

6. **COMPENSATION PROFESSIONAL SERVICES FEE TO LISTING BROKER:** Compensation is not fixed by law and is fully negotiable.

- a) Seller agrees to pay to Listing Broker as compensation for services: _____ percent of the gross sales price; \$ _____ dollars; or Other (please specify) _____ under the following conditions:
 - (1) if Listing Broker procures a ready, willing, and able buyer;
 - (2) if the property is sold by Listing Broker, or through any other person, including Seller, on the above terms or any other price and terms acceptable to Seller during the above time period or any extension of such time period;
 - (3) if within _____ calendar days of the expiration, including extensions, of this Exclusive Right to Sell Listing Agreement, the Property is sold, conveyed, or otherwise transferred to anyone with whom Listing Broker has had contact directly and/or indirectly prior to expiration of this listing. This section shall not apply if Seller enters into another valid listing agreement with another licensed real estate Listing Broker after the expiration of this Exclusive Right to Sell Listing Agreement;
 - (4) if completion of the sale is prevented by default of Seller, then upon such default;
 - (5) if the property is withdrawn from the market, transferred, conveyed, leased, rented, or made unmarketable by a voluntary act of Seller, without the consent of Listing Broker, during the above time period or any extension of such time period, compensation, in accordance with Section 6(a) above, to be based either on a list price or actual expenses relating to the subject property at the discretion of Listing Broker.
- b) **In the event of a potential buyer's default, which results in Seller being entitled to retain the Deposit, except as otherwise provided in this Agreement, Seller agrees to have Listing Broker retain _____ of the Deposit, which shall not be greater in amount than the amount of the commission stated above.**
- c) It is understood that, upon closing and recording of the Deed, Listing Broker may apply the Deposit(s) held in the escrow account to payment of the previously agreed Listing Brokerage fee. If the escrow funds are insufficient for the complete payment of the Listing Broker commission, such additional funds which are due are to be paid/accounted for prior to the recording of the Deed. In the event of exchange, Seller authorizes Listing Broker to assist all parties and collect compensation from them provided that there is full, written disclosure to all parties.
- d) In the event that Property is leased during the term of this Agreement, or during such extended period, the Seller agrees to pay Listing Broker a rental fee of _____ for the term of the lease(s), and a rental fee of _____ for each extension of the lease term, if any. If the lessee purchases the property within _____, Seller agrees to pay Listing Broker a fee of _____, in accordance with this Section.
- e) Brokerage Firm shall not accept compensation from more than one party, even if permitted by law, without disclosure to all parties and the informed consent of Seller.

7. **ADDITIONAL PROFESSIONAL SERVICES FEES -COMPENSATION PROVISIONS:**

SELLER'S INITIALS _____

8. **OTHER FEES:** Compensation is not fixed by law and is fully negotiable. A potential buyer may ask

SELLER'S INITIALS _____

Seller to compensate a broker who is assisting or representing the buyer or to contribute to the buyer's closing costs as a condition of the buyer's purchase of Property. Any such agreement must be in writing.

- ~~a) Listing Broker is authorized to compensate other brokers by offering them the following portion of the compensation that is stated in Section 6: (complete all that apply) _____ percent of the (check one) gross sales price or net sales price; \$ _____ dollars; or Other: _____;~~
- ~~b) Seller and Listing Broker agree that Listing Broker may offer the following exceptions. (Please list all exceptions from all of the above types of compensation.) _____~~

~~MLS Rule Section 7.6 states, "A listing broker may offer any Participant compensation other than the compensation indicated on any listing published by the MLS provided that the listing broker informs the other broker in writing in advance of his submitting an offer to purchase and provided that the modification in the specified compensation is not the result of any agreement among all or any other Participants or Subscribers in the MLS. Any superseding offer of compensation must be expressed as either a percentage of the gross sales price or as a flat dollar amount."~~

For more information, please contact the RIAR Legal Department at 401-432-6945 or email monica@rirealtors.org.

CHANGES TO RIAR EXCLUSIVE BUYER REPRESENTATION AGREEMENT

The National Association of REALTORS® settlement agreement requires buyers to sign a written agreement before “touring” any 1 – 4 unit dwelling that is listed in any MLS, including State-Wide MLS, that is covered by the settlement agreement, the Rhode Island Association of REALTORS® updated the Exclusive Buyer Representation Agreement in April. RIAR has now made two more key changes in Section 9 Professional Services Fees of the agreement. Eliminate refers to compensation from the cooperating broker. Even though the settlement agreement does not prohibit it, the U.S. Department of Justice strongly opposes all offers of compensation from a listing broker to a cooperating broker.

1. No longer allows a cooperating broker to accept compensation from a listing broker.
2. Adds that a brokerage cannot receive compensation that is higher than the amount or rate agreed to by the buyer, as required by the settlement agreement. If a buyer and you agree that your compensation is x but a seller is willing to pay y, a different amount, you’ll need to amend the Exclusive Buyer Representation Agreement if the buyer is willing. RIAR has created a new Amendment to Buyer Representation Agreement to help you do that.

9. PROFESSIONAL SERVICES FEE:

Compensation is not set by law and is fully negotiable.

- a. The following Professional Services Fee shall be owed to Brokerage Firm if Buyer enters into a contract to purchase a property to which Brokerage Firm introduces Buyer and/or assists Buyer with the purchase, during the term of this Agreement:
- i. The amount of \$ _____ dollars; or
 - ii. _____ percent of the total gross purchase price; or
 - iii. Other (*please specify*) _____.
- Buyer authorizes Brokerage Firm to collect the Professional Services Fee ~~that is offered to cooperating brokers by the listing broker; or in a separate, written agreement; or~~ from the Seller or from other parties as part of the purchase and sales agreement or other written agreement. Brokerage shall not receive any Professional Services Fees that exceeds the amount or rate agreed to by Buyer. Buyer agrees to cooperate with Brokerage Firm, including, but not limited to making the purchase and sales agreement subject to a Professional Services Fee. In the event that the amount being offered by these sources listed is less than the amount due, Buyer is responsible for paying Brokerage Firm the difference.

The term of the agreement can be for any length of time or limited to a specific property or properties.

If you or your brokerage has your own buyer contract, make sure that it complies with these requirements: [Written Buyer Agreements 101 \(nar.realtor\)](#) [Compensation Policy Resources - Rhode Island Association of REALTORS® \(rirealtors.org\)](#)

For more information, please contact the RIAR Legal Department at 401-432-6945 or email monica@rirealtors.org.

CHANGES TO RIAR PURCHASE AND SALES AGREEMENTS

RIAR Purchase and Sales Agreements include a new Professional Services Fee section, which will make it easier for a buyer to ask a seller to contribute compensation to the cooperating broker as part of negotiations. Since these changes are new for lenders too, make sure to discuss compensation with the buyer's lender before submitting a purchase and sales agreement. A closing attorney reported that he has had closings delayed because no one mentioned until the last minute that a buyer or seller planned to compensate a cooperating broker.

If the buyer does not need to ask a seller to contribute, enter 0 in Section (a).

18. PROFESSIONAL SERVICES FEE

- (a) This Agreement is subject to Seller paying the Cooperating Brokerage the following Professional Services Fee upon the closing and recording of the deed for transfer of Property. (**Check all that apply**)
- _____ Dollars (\$ _____).
- _____ % of the gross sales price.
- Other (specify) _____.
- (b) Buyer (*check one*) will will **not** compensate Cooperating Broker according to a separate buyer contract. Compensation shall be paid upon the closing and recording of the deed.
- (c) Cooperating Broker (*check one*) will will **not** receive compensation from more than one party to this transaction.
- (d) Cooperating Brokerage is intended to be a third-party beneficiary of this Agreement.

All of the forms were sent to forms vendors during the last week of June. The vendors update at different times, so please be patient. One vendor, dotloop, has already updated the purchase and sales agreements and some of the other forms.

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