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## 2024 Form Updates


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### Settlement Update

- **March 15, 2024**—NAR Announces Settlement—All litigation based on residential seller commissions
- **April 24, 2024**—Court Granted Preliminary Approval of Settlement
  - \$418 Million paid out over four years
  - No admission of wrongdoing
  - Agreement to change MLS rules and representation requirements



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### Rule Changes Effective August 17, 2024

#### Prohibition on offers of compensation on MLS

- No 'Offer of Compensation Field' on MLS
- No unilateral or conditional offers of compensation on MLS
- Cooperating Compensation still OK (Specifically legal in MN)
- Listing brokers can offer compensation on their private website, social media pages, signs, etc.
- Compensation contracts b/w brokers
- SOP 16-16 still prohibits making offers conditional on Listing Brokers offering compensation to Buyer Brokers
- Compensation paid by Seller to Buyer Broker is legal not an IPC for financing
- VA has amended its rule concerning Buyer broker compensation
- MLS rules enforced



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### Rule Changes Effective August 17, 2024

#### Required Buyer Representation Agreements Before Showings

- Must secure a written agreement (buyer rep, facilitator agreement) before “working with a buyer” (Showings) Not applicable to Open House Scenarios
- **Compensation must be clearly defined in the agreement**
- **You can't collect more compensation than defined in agreement (can take less)**
- No other requirements over time and terms of buyer rep agreements from this settlement. State requirements still in effect
- MLS rules will enforce



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### Forms Committee Actions

- Prior to March 15, Forms Committee had met and set a full agenda
- Emergency Meeting Scheduled March 20 to reset agenda
- Settlement Forms Sub-Committee established
- Sub-Committee Meets April 3
- Multiple Meetings with NAR and other state counsel
- Multiple Meetings with Forms Distributor
- May 15 Forms Committee Approval of changes
- Changes Approved by Board Executive Committee June 12, 2024




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### Goals for Form Changes

- **Make as few changes as possible**
  - Our Forms work and are utilized in more than 95% of residential transactions statewide
  - Reduce confusion, Keep it simple
  - We already had mandatory buyer representation documents (Other states did not)
  - We already had mandatory compensation disclosures (Other states did not)
  - Provide for changes from Settlement but give as many options as possible for the market to work
- **Be Legally Correct and in Compliance**
  - Compliance with Minnesota Law first and foremost
  - Be aware of changes in legislation and update accordingly
  - Compliance with new NAR settlement rules




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### Buyer Representation Agreements

#### NAR Settlement Impact

NAR rule changes prohibit buyer brokers from receiving compensation exceeding the amount agreed in the buyer representation contract

#### Updated Disclosure

MNR forms now include: “Broker may not receive compensation for brokerage services provided to buyer from any source that exceeds the amount or rate agreed to in this Contract”


#### Affected Forms

Updates apply to Exclusive and Nonexclusive Buyer Representation Contracts, and Facilitator Services Agreements for Buyers and Tenants.




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## Buyer Representation Agreements




**BUYER REPRESENTATION CONTRACT: EXCLUSIVE**


44. Page 2

45. Broker may not receive compensation for brokerage services provided to buyer from any source that exceeds the amount or rate agreed to in this Contract.

46. Buyer understands that Buyer does not have to pay Broker's compensation if Buyer signs another valid buyer representation contract or facilitator services agreement after the expiration or cancellation of this Contract, under which Buyer is obligated to compensate another licensed real estate broker.




## Listing Agreements



- 1 **Total Broker's Compensation**  
Broker's Compensation section retitled to "Total Broker's Compensation" for clarity
- 2 **Direct Buyer Broker Compensation**  
New language added to specify handling of listing broker's compensation if seller pays buyer broker directly.
- 3 **Cooperating Broker Compensation**  
"Compensation Disclosure" retitled to "Cooperating Broker Compensation" for clarity on offering and payment of cooperating compensation.

## Listing Contract: Exclusive Right to Sell



115. **TOTAL BROKER COMPENSATION:**

116. Seller agrees to pay Broker a retainer fee of \$ \_\_\_\_\_ at the commencement of this Contract, which fee should be kept by Broker whether or not Seller sells the Property. The retainer fee will apply toward satisfaction of any obligation to compensate Broker.

119. Seller shall pay Broker, as Broker's compensation, \_\_\_\_\_ percent (%) of the selling price or \$ \_\_\_\_\_, whichever is greater, if Seller sells or agrees to sell the Property during the term of this Contract.


122. If Seller agrees to pay buyer broker's compensation directly to buyer broker, then Seller's obligation to pay Broker's compensation as specified on lines 119-120 shall be reduced by the amount paid up to \$ \_\_\_\_\_.

124. or % \_\_\_\_\_ of the selling price.


125. Other: \_\_\_\_\_

126. \_\_\_\_\_

MNLCERG-3 (8/24)



## Listing Contract: Exclusive Right to Sell (cont.)



**LISTING CONTRACT: EXCLUSIVE RIGHT TO SELL**

127. Page 4

128. Property located at \_\_\_\_\_


129. **COOPERATING BROKER COMPENSATION:** Of the total Broker's compensation, Broker  SHALL  SHALL NOT offer \_\_\_\_\_ (Does not apply) compensation to cooperating brokers. If SHALL, the compensation to cooperating brokers shall be as follows:

131.  \_\_\_\_\_ % of the selling price or \$ \_\_\_\_\_, whichever is greater, to cooperating brokers representing buyer.

133.  \_\_\_\_\_ % of the selling price or \$ \_\_\_\_\_, whichever is greater, to cooperating brokers assisting buyer.

135.  Other: \_\_\_\_\_

136. \_\_\_\_\_




## Disclosure Statements

Notices/Other Defects/Materia Facts  
 Revised to allow disclosure of non-payable assessments

Combined Sections  
 New section combines "Other Defects/Material Facts/Additional Comments"

Cemetary Act Disclosure  
 Added to Seller's Disclosure Alternatives form



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## Disclosure Statement: Seller's Property Disclosure Statement

**211. G. NOTICES/ SPECIAL ASSESSMENTS:** The following questions are to be answered to the best of Seller's knowledge:

Seller  HAS  HAS NOT received a notice regarding **any** proposed, ongoing, or completed improvement project from **any** assessing authorities, the cost of which may be assessed, or is currently assessed, against the Property. If "HAS", please attach and/or explain:

212. \_\_\_\_\_


213. \_\_\_\_\_

214. \_\_\_\_\_

215. \_\_\_\_\_

216. \_\_\_\_\_

217. \_\_\_\_\_



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## Disclosure Statement: Seller's Property Disclosure Statement (cont.)

**319. R. OTHER DEFECTS/MATERIAL FACTS/ADDITIONAL COMMENTS:** Are there any other material facts that could adversely and significantly affect an ordinary buyer's use or enjoyment of the Property or any intended use of the Property?  Yes  No. If "Yes," explain:

320. \_\_\_\_\_

321. \_\_\_\_\_

322. \_\_\_\_\_


323. \_\_\_\_\_

324. \_\_\_\_\_

325. \_\_\_\_\_

326. \_\_\_\_\_

327. \_\_\_\_\_



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## Disclosure Statement: Seller's Disclosure Alternatives

**DISCLOSURE STATEMENT:  
SELLER'S DISCLOSURE ALTERNATIVES**

131. Page 4

132. Property located at \_\_\_\_\_

**133. G. CEMETERY ACT:** The following questions are to be answered to the best of Seller's knowledge:

134.  MN Statute 307.08 prohibits any damage or illegal molestation of human remains, burials or cemeteries. A person who intentionally, willfully and knowingly destroys, mutilates, injures, disturbs, or removes human skeletal remains or human burial grounds is guilty of a felony.

135.  Are you aware of any human remains, burials, or cemeteries located on the Property?  Yes  No

136.  If "Yes," please explain: \_\_\_\_\_


137.  All unidentified human remains or burials found outside of platted, recorded or identified cemeteries and in locations antequity greater than 50 years shall be dealt with according to the provisions of MN Statute 307.08, Subd. 1.

138. \_\_\_\_\_

139. \_\_\_\_\_


140. \_\_\_\_\_

141. \_\_\_\_\_



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## Purchase Agreements: Part 1



- 1** Mortgage Financing Contingency  
Bolded and capitalized "ANY REASON" and "FORFEITED TO SELLER" in the written statement section
- 2** DVA Funding Fee  
Included "not otherwise waived" phrase for clarity on potential fee waiver by lender
- 3** Deferred Taxes/Special Assessments  
Added language for buyer to assume non-payable assessments

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## Purchase Agreement: Mortgage Financing Contingency Changes

**PURCHASE AGREEMENT**

90. Page 3 Date \_\_\_\_\_

Property located at \_\_\_\_\_

91. Upon delivery of the Written Statement, if this Purchase Agreement does not close on the stated closing date for 92. **ANY REASON** relating to financing, including, but not limited to interest rate and discount points, if any, then Seller 93. may, at Seller's option, declare this Purchase Agreement canceled, in which case this Purchase Agreement is 94. canceled. If Seller declares this Purchase Agreement canceled, Buyer and Seller shall immediately sign a 95. Cancellation of Purchase Agreement confirming said cancellation and directing all earnest money paid here to 96. be **FORFEITED TO SELLER** as liquidated damages. In the alternative, Seller may seek all other remedies allowed by law. 97.

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## Purchase Agreement: DVA Funding Fee Section

142. **DVA FUNDING FEE** (DVA Financing only): Pursuant to federal regulations, a one-time Funding Fee based on loan 143. amount, not otherwise waived, must be paid at closing of this transaction as follows:

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## Purchase Agreement: Deferred Taxes/Special Assessments

232.  **BUYER SHALL ASSUME**  **SELLER SHALL PAY** on date of closing all other special assessments levied as 233. of the Date of this Purchase Agreement. **Notwithstanding the foregoing, Buyer shall assume any levied assessments** 234. that cannot be paid in the year of closing.

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## Purchase Agreements—Part 2

**Seller's Contributions**


New section "Seller's Contributions to Buyer's Broker's Compensation" added to specify seller's contribution to buyer's broker's compensation, if any

**Cemetery Act Disclosure**

Added to New Construction Purchase Agreement

**Contract for Deed Financing Addendum**

Updated to reflect changes in MN Statute 559A, replacing "Multiple Seller," with "Investor Seller"



## Purchase Agreement: Seller's Contribution to Buyer's Broker's Compensation

**405. SELLER'S CONTRIBUTION TO BUYER'S BROKER'S COMPENSATION:** Seller agrees to pay buyer's broker's compensation at closing, \_\_\_\_\_ percent (%) of the selling price or \$ \_\_\_\_\_, which is in addition to any Seller's contribution to Buyer's closing costs paid at closing. This amount is in addition to the listing broker's offer of cooperating compensation, if any.

MNPA-9 (8/24)

## Purchase Agreement: New Construction Cemetery Act Disclosure

**CEMETERY ACT:** The following questions are to be answered to the best of Builder's knowledge.

416. MN Statute 307.08 prohibits any damage or illegal molestation of human remains, burials or cemeteries. A person who intentionally, willfully and knowingly destroys, mutilates, injures, disturbs, or removes human skeletal remains or human burial grounds is guilty of a felony.

417. Are you aware of any human remains, burials, or cemeteries located on the Property?  Yes  No

418. If "Yes," please explain: \_\_\_\_\_

419. All unidentified human remains or burials found outside of platted, recorded or identified cemeteries and in contexts which indicate antiquity greater than 50 years shall be dealt with according to the provisions of MN Statute 307.08, Subd. 7.

420. \_\_\_\_\_

421. \_\_\_\_\_

422. \_\_\_\_\_

423. \_\_\_\_\_

## Addendum to Purchase Agreement: Contract for Deed Financing

**126. IMPORTANT INFORMATION ABOUT CONTRACTS FOR DEED:**

127. (A) Seller:  IS an Investor Seller of residential real property.  IS NOT an Investor Seller of residential real property.

128. \_\_\_\_\_

129. \_\_\_\_\_

130. \_\_\_\_\_

131. \_\_\_\_\_

132. MN Statute 559A.01, Subd. 5(b) provides that "an investor seller does not include a person entering into a contract for deed with the buyer, or in the event of a transfer or assignment of the seller's interest, the holder of the interest in the real property, or the transferee or assignee of the seller's interest in the real property, if the transferee or assignee has a primary residence for a continuous 12-month period at any time prior to the execution of the contract for deed." See MN Statute 559A.01, Subd. 5(b)(1)-(12) for the list of exceptions to the "Investor Seller" definition.

133. \_\_\_\_\_

134. \_\_\_\_\_

135. Minnesota law requires that an investor seller deliver to Buyer the disclosure statement entitled Important Information You Should Know About Contracts for Deed, which is attached to the front of this Purchase Agreement.

136. \_\_\_\_\_

137. \_\_\_\_\_

138. \_\_\_\_\_

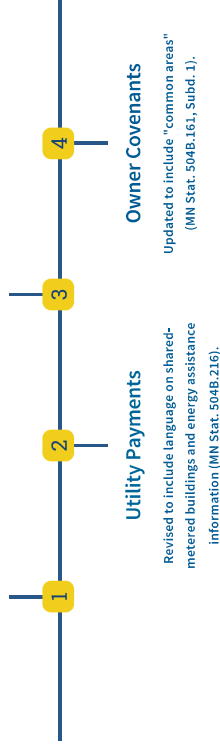
## Residential Lease Agreement Updates

### Service Animal Fees

Added disclosure prohibiting additional fees for service or support animals (MN Stat. 504B.113).

### Apportionment Billing

New section added to comply with MN Stat. 504B.216, Subd. 10.



## Lease Agreement: Service Animal Fees

54. Pursuant to MN Statute 504B.113, Subd. 3 (b), Owner is prohibited from requiring any additional fees, charges, or deposits for service or support animals.

## Lease Agreement: Utility Payments/ Apportionment Billing

88. If utilities Tenant is to pay for are provided or paid for by Owner, then Tenant shall pay Owner for such utilities upon demand in the amount due as if the demand were made at the time of the demand. The period during which the Lease is in effect shall be the period for which the demand is made.

89. Owner shall provide Tenant with a statement of the amount of utilities provided or paid for by Owner during the term of the Lease.

90. If the amount of utilities provided or paid for by Owner during the term of the Lease is a shared building, as defined in MN Statute 504B.216, then Owner shall comply with the requirements of MN Statute 504B.216. By September 30 of each year, Owner shall provide Tenant with a statement of the amount of utilities provided or paid for by Owner during the term of the Lease.

91. If the amount of utilities provided or paid for by Owner during the term of the Lease is a shared building, as defined in MN Statute 504B.216, then Owner shall provide Tenant with a statement of the amount of utilities provided or paid for by Owner during the term of the Lease.

92. If the amount of utilities provided or paid for by Owner during the term of the Lease is a shared building, as defined in MN Statute 504B.216, then Owner shall provide Tenant with a statement of the amount of utilities provided or paid for by Owner during the term of the Lease.

93. If the amount of utilities provided or paid for by Owner during the term of the Lease is a shared building, as defined in MN Statute 504B.216, then Owner shall provide Tenant with a statement of the amount of utilities provided or paid for by Owner during the term of the Lease.

94. If the amount of utilities provided or paid for by Owner during the term of the Lease is a shared building, as defined in MN Statute 504B.216, then Owner shall provide Tenant with a statement of the amount of utilities provided or paid for by Owner during the term of the Lease.

95. **APPORTIONMENT BILLING FORMULA DISCLOSURE:** Owner apportions utility service or nonusage charges for natural gas and/or water and sewer  YES  NO. If YES, see Addendum to Lease Agreement. Utility Bills which is attached to this Lease and is made part of this Lease.

96.

97.

## Lease Agreement Covenants

151. 14. **COVENANTS OF OWNER:** Owner covenants and promises that:

152. (a) the Premises and all common areas are fit for the use intended by the parties;

153. (b) Owner will make all necessary repairs to the Premises and all common areas during the term of the Lease, except where damage is caused by Tenant, any occupant and/or any guest or person under Tenant's or any occupant's direction or control;

154. (c) Owner shall keep the Premises up to applicable federal, state, and local codes, except where a code violation is caused by Tenant, any occupant and/or any guest or person under Tenant's or any occupant's direction or control, in which case Tenant shall correct the code violation at Tenant's sole cost. Tenant shall notify Owner in writing of any necessary repairs before engaging in such repair.

155.

156.

157.

158.

159.

# Form Revisions and New Forms



**Addendum/Amendment Form**

**Utility Bills Form**

**Important Information**

**Broker Compensation**

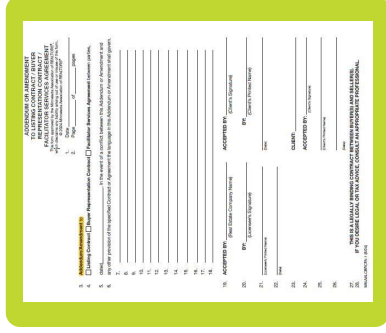
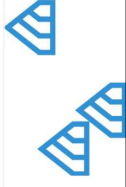
Simplified to one page, removed checkboxes.

New form for lease agreements, clarifying utility bill calculations.

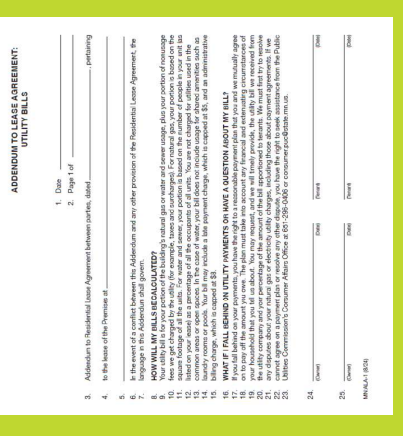
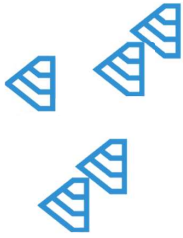
New disclosure for Investor Sellers using Contract for Deed Financing.

New forms for seller concessions and cooperating broker compensation agreements.

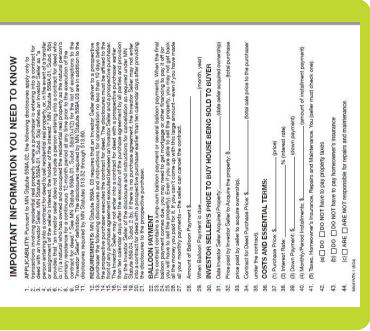
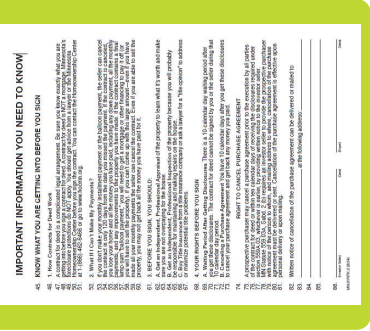
# Addendum or Amendment to Listing Contract/ Buyer Representation Contract/Facilitator Services Agreements



# Addendum to Lease Agreement: Utility Bills

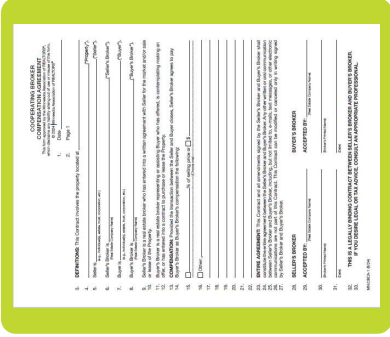


# Important Information You Need to Know





## Cooperating Broker Compensation Agreement





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## 2024 Commercial Forms Changes: Part 1

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- Mortgage Financing Contingency**  
Bold and capitalize key phrases in Commercial Purchase Agreement and Non-Residential Purchase Agreement
- Deferred Taxes/Special Assessments**  
Add language for buyer to assume levied assessments that cannot be paid in closing year, consistent with residential agreements
- Cemetery Act Disclosure**  
Include in Commercial and Vacant Land Purchase Agreements

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## 2024 Commercial Forms Changes: Part 2

**Form**

Commercial Purchase Agreement

Vacant Land (Non-Residential) Purchase Agreement

All Commercial Forms

**Change**

Add Chronic Wasting Disease question

Add Chronic Wasting Disease question

Update language for consistency with residential forms

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## 2024 Real Estate Form Updates

### Questions?

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