2024

Legal Update



nysar

New York State Association of REALTORS®, Inc.

Legal Hotline

Monday-Friday

9:00a.m.-4:00p.m.

518-436-9727

nysar
Your home for success.

COMPLYING WITH THE NAR SETTLEMENT

nysar
Your home for success.

Resources

- NAR
- NYSAR
- Local board/association/MLS

nysar
Your home for success.

Resources

- Disinformation superhighway…Do not rely on non-authoratative sources disseminating the wrong information
  - Youtube
  - Blogs
  - Other social media

nysar
Your home for success.

Resources

NYSAR Statewide Forms and Written Guide to Using the NEW NYSAR Statewide Forms
https://www.nysar.com/legal/forms/

NYSAR Statewide Forms Video Tutorials
https://www.nysar.com/legal/forms/2024-statewide-forms-video-tutorials/

NYSAR Guide to Complying with the NAR Antitrust Settlement
https://www.nysar.com/legal/antitrust-lawsuit-resources/a-nysar-guide-to-complying-with-the-nar-antitrust-settlement/

nysar
Your home for success.

What Are They?

- Two different lawsuits: Sitzer/Burnett and Moehrl
- The lawsuits claim that NAR rules violate antitrust laws and inflate the fees paid to buyer's agents by requiring a listing agent to compensate a buyer's agent for listing a property on the MLS.
- Brokers are colluding by offering cooperating compensation on the MLS

nysar
Your home for success.

August 17th*

- The August 17th date mandate by NAR for MLS to implement the changes.
- Your MLS may implement these changes any time before August 17th.

nysar
Your home for success.

Implementation Dates

Global	7/30
Greater Capital	
Southern Adirondack	
SIBOR	8/5
ACVMLS	8/7
OneKey	8/8
GBAR	8/12
Elmira-Corning	8/12
Col Gr N Dutchess	8/14

Alliance	8/15
Buffalo	
Chautauqua-Cattaraugus	
Cortland	
Ithaca	
Jefferson-Lewis	
Mohawk Valley	
Otsego-Delaware	
Rochester	
Syracuse	

nysar
Your home for success.

Terms

- Compensation offers moved off the MLS: NAR has agreed to put in place a new rule prohibiting offers of compensation on the MLS. Offers of compensation could continue to be an option consumers can pursue off-MLS through negotiation and consultation with real estate professionals. And sellers can offer buyer seller concessions on an MLS (for example—concessions for buyer closing costs). This change will go into on the date your MLS implements the changes but no later than August 17th, 2024.

nysar
Your home for success.

Seller Concessions

Q. 74. Is there an NAR MLS policy about seller concessions?

A. No, MLSs will continue to have local discretion on seller concessions. This includes determining what local rules to have about seller concessions, except under the settlement an MLS must ensure that the seller concessions are not limited to or conditioned upon the retention of or payment to a cooperating broker, buyer broker, or other buyer representative.

nysar
Your home for success.

Seller Concessions

- “seller concessions are not limited to or conditioned upon the retention of or payment to a cooperating broker, buyer broker, or other buyer representative.”
- In other words, a listing agent should not be telling a seller that a seller concession is only to be used to pay the buyer’s agent.
- Must not say or imply that seller concessions are only available to a buyer for the payment of buyer agent compensation
- It may be suspect if most seller concessions were for the same amount as the buyer’s agent compensation.

nysar
Your home for success.

Terms

Written agreements for MLS Participants acting for buyers: While NAR has been advocating for the use of written agreements for years, in this settlement we have agreed to require MLS Participants working with buyers to enter into written agreements with their buyers before touring a home. This change will go into effect on your MLS implementation date.

MLS Policy Changes

- On your MLS implementation date, NAR's mandatory MLS policy changes, which implement the settlement's required practice changes, will take effect.
- The settlement requires NAR to implement the practice changes no later than the date of class notice. Through the preliminary settlement approval process, we now know the earliest date of class notice is August 17, 2024.
- Additionally, to comply with NAR's mandatory national MLS policies, REALTOR® MLSs must implement the practice changes by August 17.
- NAR shared these practice changes in early May to provide a three-month window for NAR members and MLSs to prepare to implement these changes.

nysar
Your home for success.

MLS Policy Changes

- Eliminate and prohibit any requirement of offers of compensation in the MLS between listing brokers or sellers to buyer brokers or other buyer representatives.
- Retain, and define, "cooperation" for MLS Participation.
- Eliminate and prohibit MLS Participants, Subscribers, and sellers from making any offers of compensation in the MLS to buyer brokers or other buyer representatives.
- Require the MLS to eliminate all broker compensation fields and compensation information in the MLS.
- Require the MLS to not create, facilitate, or support any non-MLS mechanism (including by providing listing information to an internet aggregator's website for such purpose) for Participants, Subscribers, or sellers to make offers of compensation to buyer brokers or other buyer representatives.

MLS Policy Changes

- Prohibit the use of MLS data or data feeds to directly or indirectly establish or maintain a platform of offers of compensation from multiple brokers or other buyer representatives. Such use must result with the MLS terminating the Participant's access to any MLS data and data feeds.
- Reinforce that MLS Participants and Subscribers must not, and MLSs must not enable the ability to filter out or restrict MLS listings that are communicated to customers or clients based on the existence or level of compensation offered to the cooperating broker or the name of a brokerage or agent.
- Require compensation disclosures to sellers, and prospective sellers and buyers.
- Require MLS Participants working with a buyer to enter into a written agreement with the buyer prior to touring a home.

nysar
Your home for success.

Use of a Written Agreement with Buyer

- The practice change requiring written agreements with buyers is triggered by two conditions: it only applies to MLS Participants “working with” buyers and is triggered by “touring a home.”
- The “working with” language is intended to distinguish MLS Participants who provide brokerage services to a buyer—such as identifying potential properties, arranging for the buyer to tour a property, performing or facilitating negotiations on behalf of the buyer, presenting offers by the buyer, or other services for the buyer—from MLS Participants who simply market their services or just talk to a buyer—like at an open house or by providing an unrepresented buyer access to a house they have listed.

nysar
Your home for success.

Use of a Written Agreement with Buyer

- Written buyer agreements are required before a buyer tours a home for sale listed on the MLS.
- Touring a home means when the buyer and/or the MLS Participant, or other agent, at the direction of the MLS Participant working with the buyer, enter the house. This includes when the MLS Participant or other agent, at the direction of the MLS Participant, working with the buyer enters the home to provide a live, virtual tour to a buyer not physically present.
- A “home” means a residential property consisting of not less than one nor more than four residential dwelling units.

nysar
Your home for success.

“Working with” Buyers and “Touring a Home”

- For the purpose of simplification, NYSAR is recommending using “triggers” that currently exist
- It is NYSAR’s opinion that a written buyer agreement should be entered into immediately after the signing of the agency disclosure form
- This is the same requirement for the listing side
- RPL 443(3)(a) A listing agent shall provide the (agency) disclosure form set forth in subdivision four of this section to a seller or landlord prior to entering into a listing agreement with the seller or landlord

nysar
Your home for success.

“Working with” Buyers and “Touring a Home”

- This also benefits the licensee as they have an agreement for the payment of compensation upon the creation of the agency relationship
- Waiting to enter into the written buyer compensation agreement may leave the buyer broker in a position where the buyer and broker are unable to agree upon an amount of compensation
- You need to make sure you are not providing services for free

Use of a Written Agreement with Buyer

- If the MLS Participant is working only as an agent, subagent or brokers agent of the seller, then the participant is not “working with the buyer.”
- In that scenario, an agreement is not required because the participant is performing work for the seller and not the buyer.
- The same is applicable to open houses
- Licensees hosting an open house are acting for the seller and no written buyer agreement is needed

nysar
Your home for success.

Use of a Written Agreement with Buyer

- Authorized dual agents and designated agents, on the other hand, work with the buyer (and the seller)
- Buyer or seller agency relationships existed prior to entering dual/designated.
- Non-agency relationships (transactional broker) with a buyer must also have a written agreement
  - NYSAR does not recommend non-agency relationships

nysar
Your home for success.

Use of a Written Agreement with Buyer

- The written agreement must include:
- A specific and conspicuous disclosure of the amount or rate of compensation the Participant will receive or how this amount will be determined, to the extent that the Participant will receive compensation from any source.
- The amount of compensation in a manner that is objectively ascertainable and not open-ended.
- A term that prohibits the Participant from receiving compensation for brokerage services from any source that exceeds the amount or rate agreed to in the agreement with the buyer; and
- A conspicuous statement that broker fees and commissions are not set by law and are fully negotiable.

nysar
Your home for success.

Use of a Written Agreement with Buyer

- Nothing would prohibit the buyer's agent and the buyer from amending the original written agreement later including modifying the amount of compensation.
- This can include both a decrease or increase in the amount of compensation

nysar
Your home for success.

Use of a Written Agreement with Buyer

- Any Realtor “working with a buyer” must have a written agreement in place before “touring” (showing) a home. “working with a buyer” includes buyer’s agents, dual agents, dual agents with designated sales agents and transactional brokers.
- If a member does not obtain a written agreement with a buyer, they should not be “working” with that buyer and may subject themselves to discipline from the MLS for violating the written agreement requirement. There are no exceptions for members if a buyer refuses to sign a written agreement.

nysar
Your home for success.

Use of a Written Agreement with Buyer

- If a listing broker asks the buyer's agent for a copy of the written agreement, the buyer's agent is under no obligation to provide a copy and the listing agent cannot take an adverse action against a buyer's agent for refusing to do so.
- Regardless, the buyer's agent would not be able to provide a copy of the agreement without the permission of the buyer.
- This also applies to either side of a transaction asking for the agency disclosure, listing agreements, Housing and Anti-Discrimination Disclosure Form.

Use of a Written Agreement with Buyer

- If you are acting on behalf of a buyer you need a written agreement
- Failure to have a written agreement may subject you to MLS discipline
- **There are no exceptions/exemptions**

nysar
Your home for success.

Compensation

- Nothing prohibits a broker from listing any cooperating compensation being offered on their own brokers website/social media
- Brokers must not be listing cooperating compensation being offered by other brokers
- Realtor® associations are prohibited from creating a website that lists cooperating compensation
- MLS members should not be utilizing other means through an MLS to show that cooperating compensation is being offered

nysar
Your home for success.

Forms

- Exclusive Buyer Agency Compensation Agreement-amended
  - f/k/a Exclusive Right to Represent
- Non-Exclusive Buyer Agency Compensation Agreement-new
- Exclusive Right to Sell-amended
- Cooperating Broker Compensation Agreement with Listing Broker-new
- Cooperating Broker Compensation Agreement with Seller-new

nysar
Your home for success.

Buyer Agent Compensation-Today

- Buyer agents must discuss compensation during buyer agent interview
- Compensation should be agreed to prior to entering into a buyer agency relationship
- You should have been having these discussions with buyers already

nysar
Your home for success.

What Should We Do

- Use of an exclusive or non-exclusive buyer agency compensation agreement should become a standard practice prior to implementation by your MLS
- Brokers need to review their NYS SOP if they want to mandate exclusive buyer agreement
- Brokers may also use a non-exclusive commission agreement without amending their SOP
- Brokers should educate their associated licensees as to the different ways in which buyer agents can collect commissions

nysar
Your home for success.

How Can Buyers Agents Get Compensated

- Seller may offer compensation to a cooperating broker:
  - Directly
  - Through the listing broker
  - As part of the acceptance of a purchase offer that includes compensation
- Buyer agrees that buyer's broker can request compensation from seller/listing agent and can include compensation from seller in purchase offer
- Buyer agrees to compensate buyer agent themselves
- Any combination of the above
- If buyer refuses to compensate buyer's agent as part of the written agreement, you do not have to work with them

nysar
Your home for success.

Cooperating Compensation

- Cooperating compensation is offered from one broker to another broker
- Cooperating compensation is not being offered to licensees for an in-house transaction (dual/designated)

nysar
Your home for success.

Disclosure of Compensation from Multiple Parties

19 NYCRR §175.7 Compensation

A real estate broker shall make it clear for which party he is acting and he shall not receive compensation from more than one party except with the full knowledge and consent of the broker's client.

nysar
Your home for success.

Agreements in Place Prior to Implementation Date

Brokers and their associated licensees that have an agreement in place prior to your MLS implementation date that does not comply with the requirements of the settlement will need to have the seller or buyer sign a compliant form or an addendum or supplement modifying the non-compliant form to be in compliance.

nysar
Your home for success.

Current Offers of Compensation on MLS

- For properties that were listed on the MLS prior to your MLS implementation date where cooperating compensation is being offered, such cooperating compensation can be paid if the binding contract of sale is executed before your MLS implementation date , the cooperating broker should be able to rely upon the offer of compensation even if closing occurs after your MLS implementation date .
- If a binding contract of sale is not executed before your MLS implementation date , the offer on an MLS will not be valid and buyers and cooperating brokers may wish to protect themselves in writing with the listing broker or seller through a written broker compensation agreement or by including the offer of compensation in the sales contract.

NYS Broker SOP Law and the use of Written Agreements

- NYS law requires brokers to post their SOP on their website etc.
- Many brokers have been asking how the settlement impacts the SOP law
- There is no change in how the SOP law is applied
- The SOP law applies only to “whether an exclusive broker agreement is required”
- Unless the broker now requires an exclusive, there is no need to amend the SOP
- Non-exclusive buyer broker agreements are not covered under the SOP law
- Nothing prevents a broker from adding it to their SOP, but it is not required
- Individual licensees/teams are prohibited from setting their own SOP
- Must be broker wide

nysar
Your home for success.

Dual/Designated Agency

- NYS DOS Legal Memorandum LI12:

  Dual agency typically arises in the following way: a real estate broker employs two salespeople, one who works for the buyer as a buyer's agent and the other who works for the seller as a seller's agent. The real estate broker and his salespeople are "one and the same" entity when analyzing whether dual agency exists. As soon as the buyer's agent introduces the buyer to property in which the seller is represented by the seller's agent, dual agency arises.

nysar
Your home for success.

Dual/Designated Agency

- NYS DOS Legal Memorandum LI12:

  The relationship of agent and principal is fiduciary in nature, '...founded on trust or confidence reposed by one person in the integrity and fidelity of another.' Included in the fundamental duties of such a fiduciary are good faith and undivided loyalty, and full and fair disclosure. Such duties are imposed upon real estate licensees by license law, rules and regulations, contract law, the principals of the law of agency, and tort law. The object of these rigorous standards of performance is to secure fidelity from the agent to the principal and to insure the transaction of the business of the agency to the best advantage of the principal.

nysar
Your home for success.

Dual/Designated Agency

- NYSAR Advanced Informed Consent to Dual Agency:

In Dual Agency, the Broker is acting as agent for both Seller and Buyer in the transaction. Broker shall make every reasonable effort to remain impartial to Seller and Buyer. Seller or Buyer acknowledge that, prior to Dual Agency arising, Broker acted as agent of the Seller and acted as agent of the Buyer.

nysar
Your home for success.

Dual/Designated Agency

- NYSAR Advanced Informed Consent to Dual Agency with Designated Sales Agent:

In Dual Agency with Designated Sales Agents, the Principal Broker is acting as a “Dual Agent” for both Seller and Buyer in the transaction. As a “Dual Agent”, the Principal Broker shall remain impartial to Seller and Buyer. Seller or Buyer acknowledge that, prior to Dual Agency with Designated Sales Agents arising, the Principal Broker acted as the agent of the Seller and acted as the agent of the Buyer.

nysar
Your home for success.

Dual/Designated Agency

- Buyer agency must have been entered into prior to the buyer showing interest in a property listed by the brokerage
- Listing agents or other licensees of the same brokerage contacted by unrepresented buyers directly or through an open house to view a property listed by the brokerage should not be using that as an opportunity to enter into a buyer agency relationship for that property
- Buyer would remain unrepresented or may seek buyer representation from another brokerage
- OK to enter into buyer agency for other properties

nysar
Your home for success.

Dual/Designated Agency

- Buyer agency must have been entered into prior to the buyer showing interest in a property listed by the brokerage
- Listing agents or other licensees of the same brokerage contacted by unrepresented buyers directly or through an open house to view a property listed by the brokerage should not be using that as an opportunity to enter into a buyer agency relationship for that property
- Buyer would remain unrepresented or may seek buyer representation from another brokerage
- OK to enter into buyer agency for other properties

nysar
Your home for success.

NYSAR STATEWIDE FORMS

nysar
Your home for success.

Forms

- Exclusive Buyer Agency Compensation Agreement-amended
  - f/k/a Exclusive Right to Represent
- Non-Exclusive Buyer Agency Compensation Agreement-new
- Exclusive Right to Sell-amended
- Cooperating Broker Compensation Agreement with Listing Broker-new
- Cooperating Broker Compensation Agreement with Seller-new

nysar
Your home for success.

Forms

- Current forms have been amended to comply with settlement
- New forms were published to comply with settlement
- Forms released on 7/1/2024
- NYSAR provided a guide to filling out the forms
- NYSAR will be providing video series on using the forms

nysar
Your home for success.

Exclusive Buyer Agency Compensation Agreement-amended

Required disclosure of compensation

_____/_____PLEASE INITIAL: Compensation is not set by law or any Realtor® association or MLS and that compensation to BROKER is fully negotiable between the BUYER and the BROKER.

nysar
Your home for success.

Exclusive Buyer Agency Compensation Agreement-amended

BUYER agrees that the BROKER shall receive compensation if BUYER or any other person acting on BUYER's behalf buys, exchanges for, obtains an option on, or leases real property located and/or shown by the BROKER to the BUYER. BUYER agrees that BROKER shall be compensated $ _____ or _____% of the purchase price of the property or _____% of the aggregate rental of the Lease and all options as exercised or $ _____, which sum shall become due and payable when BROKER brings about a meeting of the minds between BUYER and the seller/lessor. BROKER is authorized to have the agreed upon compensation paid by the Seller or the Listing Broker under the Purchase Agreement or otherwise except as set forth in section 4(c) or 4(d). However, to the extent that the agreed upon compensation is not paid to BROKER by the Seller or the Listing Broker, BUYER shall be fully responsible to BROKER for the difference between the agreed upon compensation and any amount received by BROKER from the Seller and/or Listing Broker. If BUYER and BROKER agree to dual agency or dual agency with designated sales agents (see section 4(c) and 4(d)), the BUYER shall be responsible for compensating the BROKER the full amount set forth above. BROKER may not receive compensation from any source that exceeds the amount or rate agreed to with the BUYER unless the BROKER and BUYER have agreed to the additional compensation in writing.

Exclusive Buyer Agency Compensation Agreement-amended

BUYER agrees that the BROKER shall receive compensation if BUYER or any other person acting on BUYER's behalf buys, exchanges for, obtains an option on, or leases real property located and/or shown by the BROKER to the BUYER. BUYER agrees that BROKER shall be compensated $ _____ or _____% of the purchase price of the property or _____% of the aggregate rental of the Lease and all options as exercised or $ _____, which sum shall become due and payable when BROKER brings about a meeting of the minds between BUYER and the seller/lessor. BROKER is authorized to have the agreed upon compensation paid by the Seller or the Listing Broker under the Purchase Agreement or otherwise except as set forth in section 4(c) or 4(d). However, to the extent that the agreed upon compensation is not paid to BROKER by the Seller or the Listing Broker, BUYER shall be fully responsible to BROKER for the difference between the agreed upon compensation and any amount received by BROKER from the Seller and/or Listing Broker. If BUYER and BROKER agree to dual agency or dual agency with designated sales agents (see section 4(c) and 4(d)), the BUYER shall be responsible for compensating the BROKER the full amount set forth above. BROKER may not receive compensation from any source that exceeds the amount or rate agreed to with the BUYER unless the BROKER and BUYER have agreed to the additional compensation in writing.

nysar
Your home for success.

Exclusive Buyer Agency Compensation Agreement-amended

BUYER agrees that the BROKER shall receive compensation if BUYER or any other person acting on BUYER's behalf buys, exchanges for, obtains an option on, or leases real property located and/or shown by the BROKER to the BUYER. BUYER agrees that BROKER shall be compensated $ _____ or _____% of the purchase price of the property or _____% of the aggregate rental of the Lease and all options as exercised or $ _____, which sum shall become due and payable when BROKER brings about a meeting of the minds between BUYER and the seller/lessor. BROKER is authorized to have the agreed upon compensation paid by the Seller or the Listing Broker under the Purchase Agreement or otherwise except as set forth in section 4(c) or 4(d). However, to the extent that the agreed upon compensation is not paid to BROKER by the Seller or the Listing Broker, BUYER shall be fully responsible to BROKER for the difference between the agreed upon compensation and any amount received by BROKER from the Seller and/or Listing Broker. If BUYER and BROKER agree to dual agency or dual agency with designated sales agents (see section 4(c) and 4(d)), the BUYER shall be responsible for compensating the BROKER the full amount set forth above. BROKER may not receive compensation from any source that exceeds the amount or rate agreed to with the BUYER unless the BROKER and BUYER have agreed to the additional compensation in writing.

nysar
Your home for success.

Exclusive Buyer Agency Compensation Agreement-amended

BUYER agrees that the BROKER shall receive compensation if BUYER or any other person acting on BUYER's behalf buys, exchanges for, obtains an option on, or leases real property located and/or shown by the BROKER to the BUYER. BUYER agrees that BROKER shall be compensated $ _____ or _____% of the purchase price of the property or _____% of the aggregate rental of the Lease and all options as exercised or $ _____, which sum shall become due and payable when BROKER brings about a meeting of the minds between BUYER and the seller/lessor. BROKER is authorized to have the agreed upon compensation paid by the Seller or the Listing Broker under the Purchase Agreement or otherwise except as set forth in section 4(c) or 4(d). However, to the extent that the agreed upon compensation is not paid to BROKER by the Seller or the Listing Broker, BUYER shall be fully responsible to BROKER for the difference between the agreed upon compensation and any amount received by BROKER from the Seller and/or Listing Broker. If BUYER and BROKER agree to dual agency or dual agency with designated sales agents (see section 4(c) and 4(d)), the BUYER shall be responsible for compensating the BROKER the full amount set forth above. BROKER may not receive compensation from any source that exceeds the amount or rate agreed to with the BUYER unless the BROKER and BUYER have agreed to the additional compensation in writing.

nysar
Your home for success.

Exclusive Buyer Agency Compensation Agreement-amended

BUYER agrees that the BROKER shall receive compensation if BUYER or any other person acting on BUYER's behalf buys, exchanges for, obtains an option on, or leases real property located and/or shown by the BROKER to the BUYER. BUYER agrees that BROKER shall be compensated $ _____ or _____% of the purchase price of the property or _____% of the aggregate rental of the Lease and all options as exercised or $ _____, which sum shall become due and payable when BROKER brings about a meeting of the minds between BUYER and the seller/lessor. BROKER is authorized to have the agreed upon compensation paid by the Seller or the Listing Broker under the Purchase Agreement or otherwise except as set forth in section 4(c) or 4(d). However, to the extent that the agreed upon compensation is not paid to BROKER by the Seller or the Listing Broker, BUYER shall be fully responsible to BROKER for the difference between the agreed upon compensation and any amount received by BROKER from the Seller and/or Listing Broker. If BUYER and BROKER agree to dual agency or dual agency with designated sales agents (see section 4(c) and 4(d)), the BUYER shall be responsible for compensating the BROKER the full amount set forth above. BROKER may not receive compensation from any source that exceeds the amount or rate agreed to with the BUYER unless the BROKER and BUYER have agreed to the additional compensation in writing.

nysar
Your home for success.

Exclusive Buyer Agency Compensation Agreement-amended

4**. IN-HOUSE SALES** If BUYER expresses interest in property owned by a seller who has an agency relationship with BROKER ["seller's broker"], a conflict has arisen. The BROKER shall immediately advise both the BUYER client and seller client of the pertinent facts including the fact that a dual agency situation has arisen, and that the following options are available:

a. BROKER and BUYER could dissolve their agency relationship. BUYER may then seek to retain another broker, and/or an attorney, or may represent themself. This would release BUYER from their obligations under this AGREEMENT for that property only. BROKER may continue to act as Agent for Seller.

b. BROKER and seller could dissolve their agency relationship. The seller may then seek to retain another broker, and/or an attorney, or may represent (her)himself. This would release the seller from any listing agreement which was entered into with BROKER. BROKER may continue to act as agent for BUYER.

For transactions where the BUYER chooses (a) or (b), the brokerage compensation will be paid by the seller in accordance with the listing agreement with the seller, unless different arrangements have been agreed upon. Compensation or fees owed under this AGREEMENT are not applicable in scenario a or b above as this AGREEMENT would not be in effect for any representation other than Buyer Agency, Dual Agency or Dual Agency with Designated Sales Agent. The BUYER, seller and BROKER shall memorialize the option of their mutual choice by executing a statutory agency disclosure notice. If there is no mutual agreement, the proposed transaction between BUYER and seller shall not be pursued.

c. With fully informed consent, BUYER and seller may elect to continue with the brokerage firm serving as a consensual dual agent which is the exception to the general rule that agents serve one principal. In dual agency, the BROKER and its agents have a duty of fairness to both the BUYER and seller. As a dual agent, the firm and its agents cannot furnish undivided loyalty to either party. As a dual agent, the firm and its licensee agents have a duty not to disclose confidential information given by one principal to the other principal, such as the price one is willing to pay or accept. Such information may already be known to the firm and its agents. If the information is of such a nature that the agent cannot fairly give advice without disclosing it, the agent cannot properly continue to act as an agent.

d. With fully informed consent, BUYER and seller may elect to continue with the brokerage firm serving as a consensual dual agent with designated sales agents. The BROKER of the firm will be a dual agent and the seller and BUYER will have different agents of the firm advocate on their behalf. The designated sales agent for the BUYER will function as the buyer's agent representing the interests of and advocating on behalf of the BUYER and the designated sales agent for the seller will function as the seller's agent representing the interests of and advocating on behalf of the seller in the negotiations between the BUYER and seller. A designated sales agent cannot provide the full range of fiduciary duties to the BUYER or seller. The designated sales agent must explain that like the dual agent under whose supervision they function, they cannot provide undivided loyalty.

For transactions where the BUYER and BROKER agree to Dual Agency or Dual Agency with Designated Sales Agent, the BUYER and BROKER agree that the BUYER will be obligated to compensate the BROKER the full amount of compensation pursuant to section 1 of this agreement as the BROKER may not request compensation from the seller or listing broker.

nysar
Your home for success.

Exclusive Buyer Agency Compensation Agreement-amended

4**. IN-HOUSE SALES** If BUYER expresses interest in property owned by a seller who has an agency relationship with BROKER ["seller's broker"], a conflict has arisen. The BROKER shall immediately advise both the BUYER client and seller client of the pertinent facts including the fact that a dual agency situation has arisen, and that the following options are available:

a. BROKER and BUYER could dissolve their agency relationship. BUYER may then seek to retain another broker, and/or an attorney, or may represent themself. This would release BUYER from their obligations under this AGREEMENT for that property only. BROKER may continue to act as Agent for Seller.

b. BROKER and seller could dissolve their agency relationship. The seller may then seek to retain another broker, and/or an attorney, or may represent (her)himself. This would release the seller from any listing agreement which was entered into with BROKER. BROKER may continue to act as agent for BUYER.

For transactions where the BUYER chooses (a) or (b), the brokerage compensation will be paid by the seller in accordance with the listing agreement with the seller, unless different arrangements have been agreed upon. Compensation or fees owed under this AGREEMENT are not applicable in scenario a or b above as this AGREEMENT would not be in effect for any representation other than Buyer Agency, Dual Agency or Dual Agency with Designated Sales Agent. The BUYER, seller and BROKER shall memorialize the option of their mutual choice by executing a statutory agency disclosure notice. If there is no mutual agreement, the proposed transaction between BUYER and seller shall not be pursued.

nysar
Your home for success.

Exclusive Buyer Agency Compensation Agreement-amended

4**. IN-HOUSE SALES** If BUYER expresses interest in property owned by a seller who has an agency relationship with BROKER ["seller's broker"], a conflict has arisen. The BROKER shall immediately advise both the BUYER client and seller client of the pertinent facts including the fact that a dual agency situation has arisen, and that the following options are available:

a. BROKER and BUYER could dissolve their agency relationship. BUYER may then seek to retain another broker, and/or an attorney, or may represent themself. This would release BUYER from their obligations under this AGREEMENT for that property only. BROKER may continue to act as Agent for Seller.

b. BROKER and seller could dissolve their agency relationship. The seller may then seek to retain another broker, and/or an attorney, or may represent (her)himself. This would release the seller from any listing agreement which was entered into with BROKER. BROKER may continue to act as agent for BUYER.

For transactions where the BUYER chooses (a) or (b), the brokerage compensation will be paid by the seller in accordance with the listing agreement with the seller, unless different arrangements have been agreed upon. Compensation or fees owed under this AGREEMENT are not applicable in scenario a or b above as this AGREEMENT would not be in effect for any representation other than Buyer Agency, Dual Agency or Dual Agency with Designated Sales Agent. The BUYER, seller and BROKER shall memorialize the option of their mutual choice by executing a statutory agency disclosure notice. If there is no mutual agreement, the proposed transaction between BUYER and seller shall not be pursued.

nysar
Your home for success.

Exclusive Buyer Agency Compensation Agreement-amended

4**. IN-HOUSE SALES** If BUYER expresses interest in property owned by a seller who has an agency relationship with BROKER ["seller's broker"], a conflict has arisen. The BROKER shall immediately advise both the BUYER client and seller client of the pertinent facts including the fact that a dual agency situation has arisen, and that the following options are available:

c. With fully informed consent, BUYER and seller may elect to continue with the brokerage firm serving as a consensual dual agent which is the exception to the general rule that agents serve one principal. In dual agency, the BROKER and its agents have a duty of fairness to both the BUYER and seller. As a dual agent, the firm and its agents cannot furnish undivided loyalty to either party. As a dual agent, the firm and its licensee agents have a duty not to disclose confidential information given by one principal to the other principal, such as the price one is willing to pay or accept. Such information may already be known to the firm and its agents. If the information is of such a nature that the agent cannot fairly give advice without disclosing it, the agent cannot properly continue to act as an agent.

d. With fully informed consent, BUYER and seller may elect to continue with the brokerage firm serving as a consensual dual agent with designated sales agents. The BROKER of the firm will be a dual agent and the seller and BUYER will have different agents of the firm advocate on their behalf. The designated sales agent for the BUYER will function as the buyer's agent representing the interests of and advocating on behalf of the BUYER and the designated sales agent for the seller will function as the seller's agent representing the interests of and advocating on behalf of the seller in the negotiations between the BUYER and seller. A designated sales agent cannot provide the full range of fiduciary duties to the BUYER or seller. The designated sales agent must explain that like the dual agent under whose supervision they function, they cannot provide undivided loyalty.

For transactions where the BUYER and BROKER agree to Dual Agency or Dual Agency with Designated Sales Agent, the BUYER and BROKER agree that the BUYER will be obligated to compensate the BROKER the full amount of compensation pursuant to section 1 of this agreement as the BROKER may not request compensation from the seller or listing broker.

nysar
Your home for success.

Exclusive Buyer Agency Compensation Agreement-amended

4**. IN-HOUSE SALES** If BUYER expresses interest in property owned by a seller who has an agency relationship with BROKER ["seller's broker"], a conflict has arisen. The BROKER shall immediately advise both the BUYER client and seller client of the pertinent facts including the fact that a dual agency situation has arisen, and that the following options are available:

c. With fully informed consent, BUYER and seller may elect to continue with the brokerage firm serving as a consensual dual agent which is the exception to the general rule that agents serve one principal. In dual agency, the BROKER and its agents have a duty of fairness to both the BUYER and seller. As a dual agent, the firm and its agents cannot furnish undivided loyalty to either party. As a dual agent, the firm and its licensee agents have a duty not to disclose confidential information given by one principal to the other principal, such as the price one is willing to pay or accept. Such information may already be known to the firm and its agents. If the information is of such a nature that the agent cannot fairly give advice without disclosing it, the agent cannot properly continue to act as an agent.

d. With fully informed consent, BUYER and seller may elect to continue with the brokerage firm serving as a consensual dual agent with designated sales agents. The BROKER of the firm will be a dual agent and the seller and BUYER will have different agents of the firm advocate on their behalf. The designated sales agent for the BUYER will function as the buyer's agent representing the interests of and advocating on behalf of the BUYER and the designated sales agent for the seller will function as the seller's agent representing the interests of and advocating on behalf of the seller in the negotiations between the BUYER and seller. A designated sales agent cannot provide the full range of fiduciary duties to the BUYER or seller. The designated sales agent must explain that like the dual agent under whose supervision they function, they cannot provide undivided loyalty.

For transactions where the BUYER and BROKER agree to Dual Agency or Dual Agency with Designated Sales Agent, the BUYER and BROKER agree that the BUYER will be obligated to compensate the BROKER the full amount of compensation pursuant to section 1 of this agreement as the BROKER may not request compensation from the seller or listing broker.

nysar
Your home for success.

Dispute Resolution-Mediation/Arbitration

10. DISPUTE RESOLUTION:

a. The parties agree that any dispute concerning the terms and conditions of this Agreement that cannot be amicably resolved between them shall first be submitted to mediation proceedings conducted in accordance with the rules of the National Association of Realtors® and the local Realtor® association – or, if that association does not provide for mediation, by a mediator mutually agreed upon by the parties. Mediation fees and costs, if any, shall be divided equally among the parties involved.

b. If the dispute is not timely resolved through mediation, either party may submit the dispute to binding arbitration before the local Realtor® association in accordance with the procedure set forth in the National Association of Realtors® Code of Ethics and Arbitration Manual. Each party shall bear its own fees and costs, and the fees of the arbitration.

c. The parties agree that arbitration as set forth above shall be the exclusive procedure for resolution of all disputes that cannot be resolved through mediation. Each party hereby waives the right to bring any lawsuit relating to any transaction covered by this Agreement and further waives the right to join, or be part of, any class action or any other legal action relating to claims arising from any such transaction.

d. Notwithstanding any provision to the contrary contained in this Agreement, if Broker is held to be liable for any matter arising from this Agreement, the maximum liability of Broker shall not exceed the aggregate amount received by Broker in connection with the transaction in question, not including filing or related administrative fees.

Non-Exclusive Buyer Agency Compensation Agreement-New

- New form
- Not every buyer will want to sign an exclusive agreement
- Similar to the Exclusive Buyer Agency Compensation Agreement
- Unlike the exclusive agreement, this would only be applicable to properties that were “located or shown” to the buyer by the broker
- Form provides spaces to fill in property addresses
- Required compensation disclosure and dispute resolution section is the same as the exclusive

nysar
Your home for success.

Non-Exclusive Buyer Agency Compensation Agreement-New

BUYER agrees that the BROKER shall receive compensation if BUYER or any other person acting on BUYER's behalf buys, exchanges for, obtains an option on, or leases real property located and/or shown by the BROKER to the BUYER. A list of such properties located or shown by BROKER and covered under this AGREEMENT may be listed below and/or by an addendum. BUYER agrees that BROKER shall be compensated $ _____ or _____% of the purchase price of the property or _____% of the aggregate rental of the Lease and all options as exercised or $ _____, which sum shall become due and payable when BROKER brings about a meeting of the minds between BUYER and the seller/lessor. BROKER is authorized to have the agreed upon compensation paid by the Seller or the Listing Broker under the Purchase Agreement or otherwise except as set forth in section 4(c) or 4(d). However, to the extent that the agreed upon compensation is not paid to BROKER by the Seller or the Listing Broker, BUYER shall be fully responsible to BROKER for the difference between the agreed upon compensation and any amount received by BROKER from the Seller and/or Listing Broker. If BUYER and BROKER agree to dual agency or dual agency with designated sales agents (see section 4(c) and 4(d)), the BUYER shall be responsible for compensating the BROKER the full amount set forth above. BROKER may not receive compensation from any source that exceeds the amount or rate agreed to with the BUYER unless the BROKER and BUYER have agreed to the additional compensation in writing.

nysar
Your home for success.

Non-Exclusive Buyer Agency Compensation Agreement-New

BUYER agrees that the BROKER shall receive compensation if BUYER or any other person acting on BUYER's behalf buys, exchanges for, obtains an option on, or leases real property located and/or shown by the BROKER to the BUYER. A list of such properties located or shown by BROKER and covered under this AGREEMENT may be listed below and/or by an addendum. BUYER agrees that BROKER shall be compensated $ _____ or _____% of the purchase price of the property or _____% of the aggregate rental of the Lease and all options as exercised or $ _____, which sum shall become due and payable when BROKER brings about a meeting of the minds between BUYER and the seller/lessor. BROKER is authorized to have the agreed upon compensation paid by the Seller or the Listing Broker under the Purchase Agreement or otherwise except as set forth in section 4(c) or 4(d). However, to the extent that the agreed upon compensation is not paid to BROKER by the Seller or the Listing Broker, BUYER shall be fully responsible to BROKER for the difference between the agreed upon compensation and any amount received by BROKER from the Seller and/or Listing Broker. If BUYER and BROKER agree to dual agency or dual agency with designated sales agents (see section 4(c) and 4(d)), the BUYER shall be responsible for compensating the BROKER the full amount set forth above. BROKER may not receive compensation from any source that exceeds the amount or rate agreed to with the BUYER unless the BROKER and BUYER have agreed to the additional compensation in writing.

nysar
Your home for success.

Non-Exclusive Buyer Agency Compensation Agreement-New

BUYER agrees that the BROKER shall receive compensation if BUYER or any other person acting on BUYER's behalf buys, exchanges for, obtains an option on, or leases real property located and/or shown by the BROKER to the BUYER. A list of such properties located or shown by BROKER and covered under this AGREEMENT may be listed below and/or by an addendum. BUYER agrees that BROKER shall be compensated $ _____ or _____% of the purchase price of the property or _____% of the aggregate rental of the Lease and all options as exercised or $ _____, which sum shall become due and payable when BROKER brings about a meeting of the minds between BUYER and the seller/lessor. BROKER is authorized to have the agreed upon compensation paid by the Seller or the Listing Broker under the Purchase Agreement or otherwise except as set forth in section 4(c) or 4(d). However, to the extent that the agreed upon compensation is not paid to BROKER by the Seller or the Listing Broker, BUYER shall be fully responsible to BROKER for the difference between the agreed upon compensation and any amount received by BROKER from the Seller and/or Listing Broker. If BUYER and BROKER agree to dual agency or dual agency with designated sales agents (see section 4(c) and 4(d)), the BUYER shall be responsible for compensating the BROKER the full amount set forth above. BROKER may not receive compensation from any source that exceeds the amount or rate agreed to with the BUYER unless the BROKER and BUYER have agreed to the additional compensation in writing.

nysar
Your home for success.

Non-Exclusive Buyer Agency Compensation Agreement-New

BUYER agrees that the BROKER shall receive compensation if BUYER or any other person acting on BUYER's behalf buys, exchanges for, obtains an option on, or leases real property located and/or shown by the BROKER to the BUYER. A list of such properties located or shown by BROKER and covered under this AGREEMENT may be listed below and/or by an addendum. BUYER agrees that BROKER shall be compensated $ _____ or _____% of the purchase price of the property or _____% of the aggregate rental of the Lease and all options as exercised or $ _____, which sum shall become due and payable when BROKER brings about a meeting of the minds between BUYER and the seller/lessor. BROKER is authorized to have the agreed upon compensation paid by the Seller or the Listing Broker under the Purchase Agreement or otherwise except as set forth in section 4(c) or 4(d). However, to the extent that the agreed upon compensation is not paid to BROKER by the Seller or the Listing Broker, BUYER shall be fully responsible to BROKER for the difference between the agreed upon compensation and any amount received by BROKER from the Seller and/or Listing Broker. If BUYER and BROKER agree to dual agency or dual agency with designated sales agents (see section 4(c) and 4(d)), the BUYER shall be responsible for compensating the BROKER the full amount set forth above. BROKER may not receive compensation from any source that exceeds the amount or rate agreed to with the BUYER unless the BROKER and BUYER have agreed to the additional compensation in writing.

nysar
Your home for success.

Exclusive Right to Sell-Amended

- Amened to comply with settlement
- Any reference to required cooperating compensation removed
- Required compensation disclosure included and expanded
- Compensation section replaced
- Cooperating compensation section added
- Dispute resolution section is the same as the other forms

nysar
Your home for success.

Exclusive Right to Sell-Amended

9. _____/_____PLEASE INITIAL: SELLER understands that compensation is not set by law or any Realtor® association or MLS and that compensation is fully negotiable between the SELLER and the LISTING BROKER. An offer of compensation to the COOPERATING BROKER who produces the buyer for the listed property is not required. However, SELLER may choose to offer compensation directly to the COOPERATING BROKER or through the LISTING BROKER to the COOPERATING BROKER. A SELLER may receive requests for compensation from a COOPERATING BROKER as part of the purchase offer or separately. The SELLER has the right to accept, deny or negotiate the amount of compensation being requested by the COOPERATING BROKER

nysar
Your home for success.

Exclusive Right to Sell-Amended

9. _____/_____PLEASE INITIAL: SELLER understands that compensation is not set by law or any Realtor® association or MLS and that compensation is fully negotiable between the SELLER and the LISTING BROKER. An offer of compensation to the COOPERATING BROKER who produces the buyer for the listed property is not required. However, SELLER may choose to offer compensation directly to the COOPERATING BROKER or through the LISTING BROKER to the COOPERATING BROKER. A SELLER may receive requests for compensation from a COOPERATING BROKER as part of the purchase offer or separately. The SELLER has the right to accept, deny or negotiate the amount of compensation being requested by the COOPERATING BROKER

nysar
Your home for success.

Exclusive Right to Sell-Amended

9. _____/_____PLEASE INITIAL: SELLER understands that compensation is not set by law or any Realtor® association or MLS and that compensation is fully negotiable between the SELLER and the LISTING BROKER. An offer of compensation to the COOPERATING BROKER who produces the buyer for the listed property is not required. However, SELLER may choose to offer compensation directly to the COOPERATING BROKER or through the LISTING BROKER to the COOPERATING BROKER. A SELLER may receive requests for compensation from a COOPERATING BROKER as part of the purchase offer or separately. The SELLER has the right to accept, deny or negotiate the amount of compensation being requested by the COOPERATING BROKER

nysar
Your home for success.

Exclusive Right to Sell-Amended

(A) LISTING BROKER COMPENSATION.

SELLER shall pay the LISTING BROKER compensation of _____ percent (%) of the selling price or a fee of _____ dollars ($) at closing whichever is the greater sum unless otherwise modified in paragraph 9(B).

In the event of dual agency, dual agency with designated sales agent or an unrepresented buyer, SELLER shall pay the LISTING BROKER compensation of _____ percent (%) of the selling price or a fee of _____ dollars ($) at closing whichever is the greater sum. (for an explanation of the types of agency, please see the NYS Agency Disclosure Form).

Said total compensation shall be earned and payable under any of the following conditions: (a) If the LISTING BROKER or COOPERATING BROKER produces a buyer ready, willing and able to purchase the PROPERTY on such terms and conditions acceptable to the SELLER; (b) If through the LISTING BROKER or COOPERATING BROKER's efforts a buyer and the SELLER reach an agreement upon all the essential terms of a transaction; (c) If the PROPERTY is sold or rented during the term of this LISTING AGREEMENT whether or not the sale or rental is a result of the LISTING BROKER'S efforts and even if the PROPERTY is sold as a result of the efforts of the SELLER or any other broker or agent not acting under this LISTING AGREEMENT; (d) If the LISTING BROKER or COOPERATING BROKER is the procuring cause of a transaction. If within _____ days after the expiration of the LISTING PERIOD, SELLER accepts a purchase offer on the PROPERTY from any person to whom the PROPERTY has been shown during the LISTING PERIOD, SELLER will pay LISTING BROKER the aforementioned compensation as if LISTING BROKER had made the sale provided the PROPERTY goes to closing. The preceding sentence shall not apply if during said period, SELLER lists the PROPERTY with another real estate broker.

nysar
Your home for success.

Exclusive Right to Sell-Amended

(A) LISTING BROKER COMPENSATION.

SELLER shall pay the LISTING BROKER compensation of _____ percent (%) of the selling price or a fee of _____ dollars ($) at closing whichever is the greater sum unless otherwise modified in paragraph 9(B).

In the event of dual agency, dual agency with designated sales agent or an unrepresented buyer, SELLER shall pay the LISTING BROKER compensation of _____ percent (%) of the selling price or a fee of _____ dollars ($) at closing whichever is the greater sum. (for an explanation of the types of agency, please see the NYS Agency Disclosure Form).

Said total compensation shall be earned and payable under any of the following conditions: (a) If the LISTING BROKER or COOPERATING BROKER produces a buyer ready, willing and able to purchase the PROPERTY on such terms and conditions acceptable to the SELLER; (b) If through the LISTING BROKER or COOPERATING BROKER's efforts a buyer and the SELLER reach an agreement upon all the essential terms of a transaction; (c) If the PROPERTY is sold or rented during the term of this LISTING AGREEMENT whether or not the sale or rental is a result of the LISTING BROKER'S efforts and even if the PROPERTY is sold as a result of the efforts of the SELLER or any other broker or agent not acting under this LISTING AGREEMENT; (d) If the LISTING BROKER or COOPERATING BROKER is the procuring cause of a transaction. If within _____ days after the expiration of the LISTING PERIOD, SELLER accepts a purchase offer on the PROPERTY from any person to whom the PROPERTY has been shown during the LISTING PERIOD, SELLER will pay LISTING BROKER the aforementioned compensation as if LISTING BROKER had made the sale provided the PROPERTY goes to closing. The preceding sentence shall not apply if during said period, SELLER lists the PROPERTY with another real estate broker.

nysar
Your home for success.

Exclusive Right to Sell-Amended

(A) LISTING BROKER COMPENSATION.

SELLER shall pay the LISTING BROKER compensation of _____ percent (%) of the selling price or a fee of _____ dollars ($) at closing whichever is the greater sum unless otherwise modified in paragraph 9(B).

In the event of dual agency, dual agency with designated sales agent or an unrepresented buyer, SELLER shall pay the LISTING BROKER compensation of _____ percent (%) of the selling price or a fee of _____ dollars ($) at closing whichever is the greater sum. (for an explanation of the types of agency, please see the NYS Agency Disclosure Form).

Said total compensation shall be earned and payable under any of the following conditions: (a) If the LISTING BROKER or COOPERATING BROKER produces a buyer ready, willing and able to purchase the PROPERTY on such terms and conditions acceptable to the SELLER; (b) If through the LISTING BROKER or COOPERATING BROKER's efforts a buyer and the SELLER reach an agreement upon all the essential terms of a transaction; (c) If the PROPERTY is sold or rented during the term of this LISTING AGREEMENT whether or not the sale or rental is a result of the LISTING BROKER'S efforts and even if the PROPERTY is sold as a result of the efforts of the SELLER or any other broker or agent not acting under this LISTING AGREEMENT; (d) If the LISTING BROKER or COOPERATING BROKER is the procuring cause of a transaction. If within _____ days after the expiration of the LISTING PERIOD, SELLER accepts a purchase offer on the PROPERTY from any person to whom the PROPERTY has been shown during the LISTING PERIOD, SELLER will pay LISTING BROKER the aforementioned compensation as if LISTING BROKER had made the sale provided the PROPERTY goes to closing. The preceding sentence shall not apply if during said period, SELLER lists the PROPERTY with another real estate broker.

nysar
Your home for success.

Exclusive Right to Sell-Amended

(A) LISTING BROKER COMPENSATION.

SELLER shall pay the LISTING BROKER compensation of _____ percent (%) of the selling price or a fee of _____ dollars ($) at closing whichever is the greater sum unless otherwise modified in paragraph 9(B).

In the event of dual agency, dual agency with designated sales agent or an unrepresented buyer, SELLER shall pay the LISTING BROKER compensation of _____ percent (%) of the selling price or a fee of _____ dollars ($) at closing whichever is the greater sum. (for an explanation of the types of agency, please see the NYS Agency Disclosure Form).

Said total compensation shall be earned and payable under any of the following conditions: (a) If the LISTING BROKER or COOPERATING BROKER produces a buyer ready, willing and able to purchase the PROPERTY on such terms and conditions acceptable to the SELLER; (b) If through the LISTING BROKER or COOPERATING BROKER's efforts a buyer and the SELLER reach an agreement upon all the essential terms of a transaction; (c) If the PROPERTY is sold or rented during the term of this LISTING AGREEMENT whether or not the sale or rental is a result of the LISTING BROKER'S efforts and even if the PROPERTY is sold as a result of the efforts of the SELLER or any other broker or agent not acting under this LISTING AGREEMENT; (d) If the LISTING BROKER or COOPERATING BROKER is the procuring cause of a transaction. If within _____ days after the expiration of the LISTING PERIOD, SELLER accepts a purchase offer on the PROPERTY from any person to whom the PROPERTY has been shown during the LISTING PERIOD, SELLER will pay LISTING BROKER the aforementioned compensation as if LISTING BROKER had made the sale provided the PROPERTY goes to closing. The preceding sentence shall not apply if during said period, SELLER lists the PROPERTY with another real estate broker.

nysar
Your home for success.

Exclusive Right to Sell-Amended

(B) COOPERATING COMPENSATION (please initial one below)

_____/_____ PLEASE INITIAL: SELLER **IS NOT** offering compensation to COOPERATING BROKERS *(please continue to part C of this section)*

SELLER **IS** offering compensation to COOPERATING BROKERS (*please initial one of the following and fill in paragraph below*):

____/____ SELLER is offering compensation directly to COOPERATING BROKERS

____/____SELLER is authorizing LISTING BROKER to offer cooperating compensation to COOPERATING BROKER

In addition to the compensation offered to the LISTING BROKER under paragraph 9(A), SELLER will offer compensation to COOPERATING BROKERS directly or through the LISTING BROKER, as SELLER has indicated above, who is the procuring cause of the PROPERTY sale/transfer during the LISTING PERIOD as set forth in paragraph 9(A). SELLER agrees to the following offers of compensation to COOPERATING BROKERS:

BUYER'S AGENT: _____ percent (%) of the selling price or a fee of _____ dollars ($) at closing;

BROKER'S AGENT: _____ percent (%) of the selling price or a fee of _____ dollars ($) at closing;

SUB AGENT: _____ percent (%) of the selling price or a fee of _____ dollars ($) at closing;
(for an explanation of the types of agency, please see the NYS Agency Disclosure Form).

nysar
Your home for success.

Exclusive Right to Sell-Amended

(B) COOPERATING COMPENSATION (please initial one below)

_____/_____ PLEASE INITIAL: SELLER **IS NOT** offering compensation to COOPERATING BROKERS *(please continue to part C of this section)*

SELLER **IS** offering compensation to COOPERATING BROKERS (*please initial one of the following and fill in paragraph below*):

____/____ SELLER is offering compensation directly to COOPERATING BROKERS

____/____SELLER is authorizing LISTING BROKER to offer cooperating compensation to COOPERATING BROKER

In addition to the compensation offered to the LISTING BROKER under paragraph 9(A), SELLER will offer compensation to COOPERATING BROKERS directly or through the LISTING BROKER, as SELLER has indicated above, who is the procuring cause of the PROPERTY sale/transfer during the LISTING PERIOD as set forth in paragraph 9(A). SELLER agrees to the following offers of compensation to COOPERATING BROKERS:

BUYER'S AGENT: _____ percent (%) of the selling price or a fee of _____ dollars ($) at closing;

BROKER'S AGENT: _____ percent (%) of the selling price or a fee of _____ dollars ($) at closing;

SUB AGENT: _____ percent (%) of the selling price or a fee of _____ dollars ($) at closing;
(for an explanation of the types of agency, please see the NYS Agency Disclosure Form).

nysar
Your home for success.

Exclusive Right to Sell-Amended

(B) COOPERATING COMPENSATION (please initial one below)

_____/_____ PLEASE INITIAL: SELLER **IS NOT** offering compensation to COOPERATING BROKERS *(please continue to part C of this section)*

SELLER **IS** offering compensation to COOPERATING BROKERS (*please initial one of the following and fill in paragraph below*):

____/____ SELLER is offering compensation directly to COOPERATING BROKERS

____/____SELLER is authorizing LISTING BROKER to offer cooperating compensation to COOPERATING BROKER

In addition to the compensation offered to the LISTING BROKER under paragraph 9(A), SELLER will offer compensation to COOPERATING BROKERS directly or through the LISTING BROKER, as SELLER has indicated above, who is the procuring cause of the PROPERTY sale/transfer during the LISTING PERIOD as set forth in paragraph 9(A). SELLER agrees to the following offers of compensation to COOPERATING BROKERS:

BUYER'S AGENT: _____ percent (%) of the selling price or a fee of _____ dollars ($) at closing;

BROKER'S AGENT: _____ percent (%) of the selling price or a fee of _____ dollars ($) at closing;

SUB AGENT: _____ percent (%) of the selling price or a fee of _____ dollars ($) at closing;
(for an explanation of the types of agency, please see the NYS Agency Disclosure Form).

nysar
Your home for success.

Exclusive Right to Sell-Amended

(B) COOPERATING COMPENSATION (please initial one below)

_____/_____ PLEASE INITIAL: SELLER **IS NOT** offering compensation to COOPERATING BROKERS *(please continue to part C of this section)*

SELLER **IS** offering compensation to COOPERATING BROKERS (*please initial one of the following and fill in paragraph below*):

____/____ SELLER is offering compensation directly to COOPERATING BROKERS

____/____SELLER is authorizing LISTING BROKER to offer cooperating compensation to COOPERATING BROKER

In addition to the compensation offered to the LISTING BROKER under paragraph 9(A), SELLER will offer compensation to COOPERATING BROKERS directly or through the LISTING BROKER, as SELLER has indicated above, who is the procuring cause of the PROPERTY sale/transfer during the LISTING PERIOD as set forth in paragraph 9(A). SELLER agrees to the following offers of compensation to COOPERATING BROKERS:

BUYER'S AGENT: _____ percent (%) of the selling price or a fee of _____ dollars ($) at closing;

BROKER'S AGENT: _____ percent (%) of the selling price or a fee of _____ dollars ($) at closing;

SUB AGENT: _____ percent (%) of the selling price or a fee of _____ dollars ($) at closing;
(for an explanation of the types of agency, please see the NYS Agency Disclosure Form).

nysar
Your home for success.

Exclusive Right to Sell-Amended

10. _____/_____ PLEASE INITIAL Seller Concessions. SELLER agrees to pay a fixed amount or percentage of the Purchase Price at Closing, toward buyer's loan closing fees, prepaid expenses, and/or other permitted closing costs to be paid by buyer or which are ordinarily deemed a buyer's expense.

nysar
Your home for success.

Broker Office Policy for Dual/Designated

- Both buyer representation agreements require the buyer to pay if dual/designated
- ERTS has option for seller to pay for dual/designated
- It is up to the broker to implement office policy on how dual/designated will be paid
- 19 NYCRR 175.7 requires disclosure and agreement if compensated by multiple parties

nysar
Your home for success.

Cooperating Broker Compensation Agreement with Seller-New

- New form
- Buyer broker must be authorized by buyer to be compensated by seller
- Used when seller agrees to pay compensation to cooperating broker directly
- Buyer broker can also use form to request compensation from seller
  - May be provided to listing broker directly
  - May be included as part of purchase offer
- Seller is permitted to compensate sub agent and broker agent
- Licensee must be authorized by seller to act as sub agent or broker agent (contact listing broker)
- Licensees acting as sub agent or broker agent may not request additional compensation from seller
- Dispute resolution section is the same as other forms

nysar
Your home for success.

Cooperating Broker Compensation Agreement with Seller-New

The COOPERATING BROKER is acting as a:

_____ BUYER'S AGENT

SELLER understands that COOPERATING BROKER is acting as a BUYER'S AGENT acting in the best interest of the BUYER(S), the COOPERATING BROKER is not representing SELLER. COOPERATING BROKER has been authorized by the BUYER to receive the cooperating compensation set forth below from the SELLER.

_____ SUB-AGENT

SELLER understands that the COOPERATING BROKER is acting as a SELLER'S AGENT acting in the best interest of the SELLER.

_____ BROKER'S AGENT

SELLER understands that the COOPERATING BROKER is acting as a BROKER'S AGENT acting in the best interest of the LISTING BROKER.

nysar
Your home for success.

Cooperating Broker Compensation Agreement with Seller-New

SELLER understands that this Contract is only a compensation agreement for selling SELLER'S Property to the aforementioned prospective BUYER. SELLER is not listing SELLER'S Property with COOPERATING BROKER. SELLER understands that SELLER can sell SELLER'S Property to other buyers even though this Contract has not expired. This agreement does not authorize COOPERATING BROKER to show the property to any other prospective BUYERS, nor obligate SELLER to pay compensation to COOPERATING BROKER, except in connection with a sale of the property to this BUYER.

nysar
Your home for success.

Cooperating Broker Compensation Agreement with Seller-New

_____/_____PLEASE INITIAL: COMPENSATION: SELLER understands that compensation is not set by law or any Realtor® association or MLS and that compensation is fully negotiable between the SELLER and the COOPERATING BROKER.

nysar
Your home for success.

Cooperating Broker Compensation Agreement with Seller-New

The undersigned SELLER agree(s) to pay to the undersigned COOPERATING BROKER, compensation in an amount equal to _____% of the sales price or $ _____ for the sale of the above described property shown to the BUYER(S), if a contract is ratified between the parties within _____ days of showing. Such compensation shall be paid at closing.

nysar
Your home for success.

Cooperating Broker Compensation Agreement with Listing Broker-New

- New form
- Compensation disclosure (negotiable) is not required as it is not a consumer form
- Form replaces “contract” that was formed through MLS participation and offer of cooperating compensation
- Used when seller agrees to pay compensation to cooperating broker through listing broker
- Buyer broker must be authorized by buyer to be compensated by listing broker
- Buyer broker must contact listing broker to inquire if there is an offer of cooperating compensation
- Buyer broker should not use form unless confirming listing broker is offering cooperating compensation
- Seller is permitted to compensate sub agent and broker agent through listing broker
- Licensee must be authorized by seller to act as sub agent or broker agent (contact listing broker)
- Licensees acting as sub agent or broker agent may not request additional compensation from seller
- Dispute resolution section is different from other forms and based on Article 17 of the Code of Ethics.

Cooperating Broker Compensation Agreement with Listing Broker-New

The LISTING BROKER has been authorized by the SELLER to offer the COOPERATING COMPENSATION listed below to the COOPERATING BROKER.

The COOPERATING BROKER is acting as a:

_____ BUYER'S AGENT

_____ SUB-AGENT

_____ BROKER'S AGENT

nysar
Your home for success.

Cooperating Broker Compensation Agreement with Listing Broker-New

The LISTING BROKER and COOPERATING BROKER understand that this Contract is only a COOPERATING COMPENSATION agreement for selling SELLER'S PROPERTY to the aforementioned prospective BUYER.

nysar
Your home for success.

Cooperating Broker Compensation Agreement with Listing Broker-New

COOPERATING COMPENSATION: The undersigned LISTING BROKER agrees to pay to the undersigned COOPERATING BROKER, compensation in an amount equal to _____% of the sales price or $ _____ for the sale of the above described property to the BUYER(S), if a contract is ratified between the parties within _____ days of showing. Such compensation shall be paid at closing.

nysar
Your home for success.

Cooperating Broker Compensation Agreement with Listing Broker-New

Dispute Resolution: The parties agree that any dispute concerning the terms and conditions of this Agreement that cannot be amicably resolved between them shall first be submitted to mediation proceedings conducted in accordance with the rules of the National Association of Realtors® and the local Realtor® association – or, if the dispute is not timely resolved through mediation or the local Realtor association does not offer mediation, by arbitration in accordance with the Code of Ethics and Arbitration Manual of the National Association of Realtors® and the local Realtor® association.

nysar
Your home for success.

Resources

NYSAR Guide to Complying with the NAR Antitrust Settlement
https://www.nysar.com/legal/antitrust-lawsuit-resources/a-nysar-guide-to-complying-with-the-nar-antitrust-settlement/

NYSAR Statewide Forms and A Guide to Using the NEW NYSAR Statewide Forms
https://www.nysar.com/legal/forms/

NYSAR
https://www.nysar.com/legal/antitrust-lawsuit-resources/

NAR
https://www.nar.realtor/the-facts

nysar
Your home for success.