



## The Realty Association

1305 Murfreesboro Pike  
Nashville, TN 37217-2635  
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# INDEPENDENT CONTRACTOR'S AGREEMENT

1 This Independent Contractor's Agreement (ICA) is between **The Realty Association** (Realty Association, Inc.) and the  
2 independent contractor named on Line 177, identified from now on as the **Licensee**. The Licensee is a person with a real  
3 estate license issued by the State of Tennessee who wishes to use the services, facilities, programs, and opportunities  
4 offered by The Realty Association real estate brokerage office. The **effective start date** of the ICA will be the date signed  
5 by The Realty Association on Line 180. Either party may terminate this ICA at any time, with or without cause, by verbal  
6 or written notice. If termination is initiated, the **effective termination date** will be the date that The Realty Association  
7 signs the **TRANSFER, RELEASE AND CHANGE OF STATUS FORM** (TREC 1 Form) of the Tennessee Real Estate Commission.

### 8 9 **A. THE REALTY ASSOCIATION AGREES TO THE FOLLOWING:**

- 10 **A1.** To provide **brokerage support services** that exceed the requirements set forth by the Tennessee Real Estate  
11 Commission for supervision, training, adequate facilities, escrow accounting, file maintenance, and other services.  
12 **Broker supervision** is provided by principal and managing brokers. **Transaction Department and Closing**  
13 **Department services** assist with coordinating required paperwork, escrow accounting and file maintenance.  
14 **Training classes** are offered to all Realty Association agents.
- 15 **A2.** To provide **communications services** for the Licensee and the Licensee's customers and clients 7 days a week.  
16 The Realty Association passes all calls to the Licensee whose listing, sign, or ad has produced the call. **Front**  
17 **desk services** provided by live receptionists include greeting customers and clients, answering phones,  
18 transferring calls, text messaging, and handling mail and deliveries. **Appointment Center services** by live  
19 operators include setting up showings for in-house listings during regular business hours, email and text message  
20 notifications, and optional automated showing feedback requests. **Voice mail service** provides 24-hour voice  
21 mail with automatic notification of any messages received.
- 22 **A3.** To provide **information services** to the Licensee. Licensees have 24-hour access to all **company documents**  
23 **and forms** (<http://RealtyAssociation.com>), showing-activity and tracking reports, the **MLS**, tax information  
24 and other data. Licensee's **personal real estate website** includes hosting, personal subdomain name, full MLS  
25 search features, Licensee's featured listings, and the automatic generation of **listing flyers**. **MLS Tracker**  
26 **service** automatically searches for new listings that meet the buyer's criteria and notifies them by email.
- 27 **A4.** To **pay to Licensee 90%** of any commissions or fees received by The Realty Association on real estate  
28 transactions or dealings resulting from Licensee's activities. Once an individual Licensee has contributed a  
29 cumulative calendar-year total of \$12,000 to the company from the 10% portion of each commission, that  
30 Licensee will be paid **100%** of all commissions received until the end of that calendar year. The applicable year  
31 will be determined by the settlement date on the HUD-1. This benefit is calculated on a per Licensee basis for  
32 teams or partners. Commission checks are typically paid on the same business day received, from 9 to 6,  
33 Monday through Friday.

### 34 **B. THE LICENSEE AGREES TO THE FOLLOWING:**

- 35 **B1.** To abide by all rules, policies and procedures of The Realty Association as contained in the most recent version  
36 of the ICA, as well as in Announcements and FAQ's on the company Web site ([www.RealtyAssociation.com](http://www.RealtyAssociation.com)),  
37 in periodic Office Updates and emails, and in any other company policy manuals, documents, or publications.  
38 These additional sources of policy information (or notices of policy changes) are considered to be, by extension,  
39 a part of the ICA. Licensee further agrees to comply with supervision and training requirements of the principal  
40 and managing brokers, and to maintain and increase the good will and reputation of The Realty Association.

- 41 **B2.** To abide by all federal, state and local laws, rules and regulations, including, but not limited to, those governing  
42 real estate licensing, continuing education, advertising, signs, fair housing, Do Not Call lists, required and timely  
43 disclosures, paperwork requirements, and all matters relating to real estate transactions and real estate agency.
- 44 **B3.** To abide by all regulations, educational requirements, rules of ethical conduct, and standards of practice as  
45 established by the national (NAR), state (TAR), and local associations of REALTORS®.
- 46 **B4.** To abide by all rules and regulations of the Middle Tennessee Regional Multiple Listing Service (MTRMLS).
- 47 **B5.** To turn in all earnest-money deposits to the company as soon as an offer has become a contract, and to follow  
48 HUD and VA earnest money guidelines for those types of contracts.
- 49 **B6.** To use forms acceptable to The Realty Association for all real estate agreements, contracts, addenda, and status  
50 updates, and to make such agreements, contracts, addenda, and updates only in the name of The Realty  
51 Association. Licensee agrees to file such required paperwork with The Realty Association, including any  
52 commissions or fees received by the Licensee, within one business day of receipt (and whether or not any  
53 commission is being charged). Licensee further agrees that all required paperwork will have been filed with the  
54 office before the Licensee is paid any commissions.
- 55 **B7.** To promptly provide signed copies of all pertinent documents to appropriate parties. Licensee also agrees to wait  
56 to place a yard sign on a property until a listing agreement has been signed, and to include a personal name rider  
57 on the yard sign. Licensee further agrees to notify the office immediately when a sign is placed or a new listing is  
58 entered into the MLS, and to promptly provide the office with complete and updated showing instructions.
- 59 **B8.** To maintain the required Errors and Omissions insurance and to pay any deductibles that may apply. NOTE:  
60 because E&O does **not** cover personal interest transactions, The Realty Association advises that Licensee carry  
61 supplemental, comprehensive, general-liability insurance. And if the Licensee should leave the real estate business,  
62 The Realty Association advises that E&O Insurance be maintained for **at least** 3 additional years.
- 63 **B9.** To facilitate the correct handling of incoming calls by including Licensee's name in all ads, signs, promotional  
64 materials, and web pages, and by providing complete and current showing instructions for all Licensee's listings.
- 65 **B10.** To schedule use of the conference rooms through the office, and to restrict use of these rooms to meetings with  
66 customers or clients. Closings may be scheduled at the office if an attorney is presiding and the Licensee is present.
- 67 **B11.** To be responsible for the maintenance and disposition of keys to properties listed by Licensee. The use of  
68 electronic lock boxes is strongly recommended.
- 69 **B12.** To be responsible for the preparation, timely submission of, and payment for Licensee's own advertising.
- 70 **B13.** To stay informed about and meet all educational, Errors & Omissions insurance, or any other requirements for  
71 real estate license retention, and to do whatever is necessary, at Licensee's own expense, to keep Licensee's real  
72 estate license and E&O insurance in an active status.
- 73 **B14.** To provide **full** service to Licensee's customers and clients, and to respond promptly when called. Licensee also  
74 agrees to arrange for coverage by a fellow agent whenever the Licensee is going to be unavailable.
- 75 **B15.** To make available to the office a **current email address**, and a **phone number at which the Licensee can be**  
76 **reached**. The voice mail system will call Licensee's cell phone when the Licensee has a message.

## 77 C. LICENSEE'S FINANCIAL OBLIGATIONS:

78 **C1.** The licensee is responsible for the following expenses:

- 79 a. The Realty Association Service Fee (**\$150 per month**, includes RealTracs Multiple Listing Service Fee).  
80 b. Real estate licensing and transfer fees (paid to the Tennessee Real Estate Commission).  
81 c. Errors & Omissions (E&O) insurance as required by state law.  
82 d. Continuing education tuition and expenses.  
83 e. REALTOR® Association dues (paid annually to your local association) and any of their required fees.  
84 f. MLS electronic keypad and/or keycard (required for showings), and lock boxes.  
85 g. Personal advertising and promotion expenses.  
86 h. Personal business cards, yard signs, and sign riders.  
87 i. Personal copies/printouts (\$.07 per side), and faxes (\$.10 per page to send or receive).  
88 j. Licensee's portion of Business Taxes (currently equivalent to \$3.75 per \$1000 of gross commission paid).  
89 k. Personal cell phone, pager, long distance and 800 number expenses.  
90 l. Personal postage, letterhead, envelopes, maps, photos, and any home office expenses.  
91 m. Personal automobile insurance and expenses (Note: automobile liability insurance is mandatory).  
92 n. Personal health, life, accident, and worker's compensation insurance for self-employed contractors.

- o. Optional supplemental E&O (beyond the state requirement) or liability insurance.
- p. Personal legal and accounting services.
- q. Licensee's professional designation dues and fees.
- r. Supplemental personal secretarial services (contracted outside the office, if desired).
- s. Personal travel, food, lodging, and entertainment expenses.
- t. Personal taxes - including estimated income taxes, self-employment taxes, and the like.

**C2. Monthly Bill:** The Realty Association will email a monthly billing statement of applicable expenses to Licensee on or before the 10<sup>th</sup> day of each month, **due on or before the 25<sup>th</sup>. A valid credit or debit card must be kept on file.** Licensee's signature on the ICA authorizes use of this card to pay the monthly bill. The Realty Association **will bill Licensee's card automatically on the morning of the 25<sup>th</sup> of each month, unless payment has otherwise been received before the 25<sup>th</sup>.** If the monthly bill has not been paid on or before the 25<sup>th</sup>, **and** the Licensee's credit or debit card has been declined, a late penalty of \$25 will be assessed. Any past due amounts will be deducted from commissions paid to Licensee. In the event that the ICA is terminated, the card will be billed automatically on the termination date for any amounts due at that time.

#### **D. MISCELLANEOUS PROVISIONS:**

**D1. Independent Contractor:** Licensee is considered to be an Independent Contractor. Nothing contained in the ICA creates any relationship (employer/employee, joint venture, partner, shareholder) between the parties other than as set forth in the ICA. Licensee is neither considered nor defined as an "employee" with respect to the services performed for federal, state, tax, worker's compensation, or any other purpose. Licensee releases The Realty Association from any and all claims for work-related injuries. The Realty Association does not withhold any form of tax from commissions paid to Licensee. A 1099 form will be provided annually for the Licensee's income tax purposes. The success of Licensee in the real estate business is speculative and will depend on many factors including Licensee's independent business ability. Licensee has not relied on any representation, written, printed, or oral, express or implied, as to Licensee's potential success in the real estate business.

**D2. Commissions Charged to Clients:** Licensee is free to negotiate the commission charged to a client, provided that fair compensation is offered to the cooperating buyer's broker or facilitator (typically **3%** of the sales price), and that the Licensee provides **full service** to the client.

**D3. Commissions on Personal Financial Interest Transactions:** On any transactions where the Licensee (or their spouse) has any type of a **personal financial interest** in the property, The Realty Association will receive **as the company's portion** of the commission **the greater of either:**

- (a) 10% of the actual total commission received, **OR**
- (b) a **minimum of 10% of 3% (= .3%)** of the sales price, regardless of the actual amount of commission charged. This amount (to be shown as commission on the HUD-1 settlement statement) will also be credited towards the Licensee's calendar year annual cap (\$12,000) needed to receive 100% commissions (see **A4**).

**Personal Residence Exemption:** On the purchase or sale of the Licensee's primary personal residence (where the Licensee is going to owner-occupy or was the last occupant), Licensee is free to waive or reduce commission without incurring a minimum commission charge. However, any commissions actually received are still subject to the 90/10 split (this simplifies bookkeeping and allows the tracking of contributions to the \$12,000 annual cap).

**D4. Expenditures:** Licensee has **no authority** to charge **any** expenditure to The Realty Association for **any** purpose, or to bind The Realty Association by any financial promise or representations to any party. All advertising expenses are paid directly by Licensee to the appropriate vendor. The Realty Association is not liable for any expenses incurred by Licensee.

**D5. Legal Actions, Arbitration, and Collections:** If Licensee becomes involved in or plans to initiate any legal action or arbitration that involves The Realty Association, Licensee agrees to consult with the company's principal broker **before and during the course of** such litigation or arbitration, and to be responsible for any related costs incurred, including the fees of the company's attorney. Should any claims, complaints, violations, litigation or arbitration involving The Realty Association arise from the activities of Licensee, Licensee agrees to hold The Realty Association harmless and to pay all attorneys' fees, court costs, E & O deductibles, filing fees, arbitration fees, damages, penalties, fines, awards, claims, judgments and all other costs and expenses incurred by The Realty Association in defending or satisfying any such claim. Any such unpaid costs and expenses owed to The Realty Association, including any pending claims from litigation, E&O, or arbitration, will be deducted from commissions to which Licensee is otherwise entitled. Licensee is responsible for and promises to pay any and all costs incurred by The Realty Association in the collection of amounts due under the terms of the ICA. **Note: This paragraph will survive the ICA in the event Licensee is no longer with the firm.**

- 147 **D6. High-risk Activities, Unprofessional Business Practices, and Conflicts of Interest:** Licensee is prohibited from  
 148 activities and practices that could be considered to be high-risk, unprofessional, or a possible conflict of interest.  
 149 These include, but are not limited to: dual agency, limited-service listings, the collecting of upfront fees or  
 150 commissions, "side agreements", "silent seconds", commission advances, acting as power of attorney for a non-  
 151 relative, "sandwich" deals, equitable title listings, contract assignments, cash rebates or gifts, repair escrow  
 152 agreements, certain lease purchases, "getting around" or concealing the triggering of a due-on-sale clause, etc.
- 153 **D7. Business Brokerage, Mortgage Lending, and Other Businesses:** Licensee is required to use proper  
 154 disclosures and procedures when participating in business brokerage, mortgage lending, insurance sales, or  
 155 other businesses. Licensee must keep any such business completely separated from the Licensee's real estate  
 156 business. The sale of a business or the inventory must not be included with the sale of the real estate.
- 157 **D8. Property Management and Rental Properties:** Licensee is prohibited from engaging in **any form** of property  
 158 management **for other parties**. Residential rentals may be listed in the MLS as a convenience to an owner, but  
 159 only if the Licensee's personal number is entered as the "Appt Phone." This is the only type of residential rental  
 160 advertisement permitted for other parties. Licensee may manage **personal** rental properties (where the Licensee  
 161 has a *personal financial interest*) at Licensee's own risk and expense. Licensee must disclose that Licensee is an  
 162 "owner-agent" by using the exact words "owner-agent" in all lease agreements and advertising. Licensee further  
 163 agrees to use Licensee's own name, and home or cell phone number in all advertising for personal rental properties.
- 164 **D9. Leases, Commercial Sales, and Field of Competence:** Real estate leases, commercial sales, and other  
 165 specialized sales are permitted if within the Licensee's field of competence. Licensee "*shall not undertake to*  
 166 *provide specialized professional services concerning a type of property or service that is outside their field of*  
 167 *competence unless they engage the assistance of one who is competent on such types of property or service...*"  
 168 (Article 11, REALTOR® Code of Ethics).
- 169 **D10. Service Failures:** In the event of a Licensee's absence, negligence, or other service failure, The Realty  
 170 Association, at its sole discretion, will have full and unlimited authority to terminate, reassign, refer, or  
 171 renegotiate agreements, or to assign a company representative to cover the service failure at a charge of \$150  
 172 per hour.
- 173 **D11. Transfer or Termination and the Effect on Existing Contracts:** In the event of termination of the ICA by  
 174 either party, The Realty Association will release (by terminating) Licensee's current listing agreements and  
 175 buyer agency agreements. If there are any pending purchase agreements, the Licensee must make necessary  
 176 arrangements to assign them to another agent with The Realty Association. Any compensation agreed to be paid  
 177 to the Licensee under such arrangements will be paid 90% to the Licensee when received by The Realty  
 178 Association. Both the release and payments are subject to any existing referral agreements, and to the other  
 179 terms of the ICA.

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180 **Licensee's Full Name (printed):** \_\_\_\_\_

181  \_\_\_\_\_  
*Licensee Signature* *Date & Time*

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182 **The Realty Association:**

183  \_\_\_\_\_  
*Signature for The Realty Association* *Date & Time*

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# Licensee's Personal Data

184 Licensee's Full Name: \_\_\_\_\_

185 Date Joined The Realty Association: \_\_\_\_\_

186 Home Address: \_\_\_\_\_

187 \_\_\_\_\_

188 Does Licensee live less than fifty (50) miles from The Realty Association Office?      Yes      No

189 Home Phone Number: \_\_\_\_\_ Cell Phone Number: \_\_\_\_\_

190 Other Contact Number(s): \_\_\_\_\_

191 Email Address: \_\_\_\_\_

192 Preferred method of contact and sequence (example: cell, home, text message, voice mail): \_\_\_\_\_

193 \_\_\_\_\_

194 Emergency Contact Name and Numbers: \_\_\_\_\_

195      Credit or      Debit Card Number \_\_\_\_\_ Expiration Date: \_\_\_\_\_

196 Billing Address (if different than Home Address): \_\_\_\_\_

197 Social Security Number (for IRS tax purposes): \_\_\_\_\_

198 Member of the following local Association of REALTORS (or will join): \_\_\_\_\_

## **If transferring from another real estate company:**

199 MLS User Name: \_\_\_\_\_ MLS Password: \_\_\_\_\_

200 HUD (BidSelect) User Name: \_\_\_\_\_ HUD Password: \_\_\_\_\_

201 Does Licensee have any pending purchase agreements?      Yes      No

202 If Yes, will prior company supervise these transactions through closing?      Yes      No      N/A

203 Does Licensee plan to transfer any real estate listings from a prior company?      Yes      No

204 Does Licensee have any existing referral agreements in effect?      Yes      No

**Please provide a copy of your Tennessee Driver's License.**