



## 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 193, identified hereafter as the **licensee**. The licensee is a person with a real estate  
3 license issued by the State of Tennessee who wishes to use the services, facilities, programs, and opportunities offered by  
4 The Realty Association real estate brokerage office. The **effective start date** of the ICA will be the signature date on  
5 Line 196. Either party may terminate this ICA at any time, with or without cause, by verbal or written notice. If  
6 termination is initiated, the **effective termination date** will be the date that The Realty Association signs the **TRANSFER,**  
7 **RELEASE AND CHANGE OF STATUS FORM** (TREC 1 Form) of the Tennessee Real Estate Commission.

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

- 9 **A1.** To provide **broker support services** that meet or exceed the requirements for supervision, training, adequate  
10 facilities, escrow accounting, file maintenance, and other services set forth by the Tennessee Real Estate  
11 Commission.
- 12 **A2.** To provide **communications services** for the licensee and the licensee's customers and clients. This includes  
13 greeting customers and clients, answering phones, transferring calls, dispatching messages and deliveries,  
14 setting up showings for in-house listings during regular business hours, and providing 24-hour voice mail  
15 services.
- 16 **A3.** To provide **information resources** to the licensee. This includes 24-hour access to company documents and  
17 forms, MLS, licensee's personal Web site, and licensee's listing flyers.
- 18 **A4.** To **pay to licensee 90%** of any commissions or fees received by The Realty Association on real estate  
19 transactions or dealings resulting from licensee's activities. Once an individual licensee has contributed a  
20 cumulative calendar-year total of \$12,000 to the company from the 10% portion of each commission, that  
21 licensee will be paid **100%** of all commissions received until the end of that calendar year. The applicable year  
22 will be determined by the settlement date on the HUD-1. This benefit is calculated on a per licensee basis for  
23 teams or partners. Commission checks are typically paid on the same business day that they are received (9 to 6,  
24 Monday through Friday), **provided that all required paperwork has been filed with the office.** Any expenses  
25 owed to The Realty Association (including any pending claims from litigation, E&O, arbitration, etc.) will be  
26 deducted from the commission check.

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

- 28 **B1.** To abide by all rules, policies and procedures of The Realty Association as contained in the ICA, as well as in  
29 Announcements and FAQ's on the company Web site ([www.RealtyAssociation.com](http://www.RealtyAssociation.com)), in periodic Office  
30 Updates and emails, and in any other company policy manuals, documents, or publications. These additional  
31 sources of policy information (or notices of policy changes) are considered to be, by extension, a part of the  
32 ICA. Licensee further agrees to comply with supervision and training requirements of the principal and  
33 managing brokers, and to maintain and increase the good will and reputation of The Realty Association.
- 34 **B2.** To abide by all federal, state, and local laws and regulations governing real estate transactions, including, but  
35 not limited to, advertising, signs, licensing, required and timely disclosures, and paperwork requirements.
- 36 **B3.** To abide by all regulations, educational requirements, rules of ethical conduct, and standards of practice as  
37 established by the national (NAR), state (TAR), and local associations of REALTORS®.
- 38 **B4.** To abide by all rules and regulations of the Middle Tennessee Regional Multiple Listing Service (MTRMLS).
- 39 **B5.** To turn in all earnest-money deposits to the company as soon as an offer has become a contract, and to follow  
40 HUD and VA earnest money guidelines for those types of contracts.
- 41 **B6.** To promptly provide signed copies of all pertinent documents to appropriate parties.

- 42 **B7.** To use forms acceptable to The Realty Association for all real estate agreements, contracts, addenda, and status  
43 updates, and to make such agreements, contracts, addenda, and updates only in the name of The Realty  
44 Association. Licensee agrees to file such required paperwork with The Realty Association, including any  
45 commissions or fees received by the licensee, within one business day of receipt. Licensee further agrees to file  
46 such required paperwork with the company **whether or not any commission was received** on that transaction.
- 47 **B8.** To maintain the required Errors and Omissions insurance and to pay any deductibles that may apply. NOTE:  
48 because E&O does **not** cover personal interest transactions, The Realty Association advises that licensee carry  
49 supplemental, comprehensive, general-liability insurance. And if the licensee should leave the real estate business,  
50 The Realty Association advises that tail-end E&O Insurance be maintained for **at least** 3 additional years.
- 51 **B9.** To pay any and all fines, awards, judgments, penalties, etc., assessed against The Realty Association because of  
52 licensee's actions.
- 53 **B10.** To facilitate the correct handling of incoming calls by including licensee's name in all ads, signs, promotional  
54 materials, and web pages. Licensee also agrees to wait to place a yard sign on a property until a listing agreement  
55 has been signed, and to include a personal name rider on the yard sign. Licensee further agrees to notify the  
56 office immediately when a sign is placed or a new listing is entered into the MLS, and to promptly provide the  
57 office with complete and updated showing instructions.
- 58 **B11.** To schedule use of the conference rooms through the office, and to restrict use of these rooms to meetings with  
59 customers or clients, and to schedule any closings at the closing attorney's, title company's or lender's location.
- 60 **B12.** To be responsible for the maintenance and disposition of keys to properties listed by licensee. (NOTE: the use  
61 of electronic lock boxes is strongly recommended whenever possible. The front desk does not handle keys.)
- 62 **B13.** To be responsible for the preparation, timely submission of, and payment for licensee's own advertising.
- 63 **B14.** To stay informed about and meet all educational requirements, Errors & Omissions insurance requirements, or  
64 any other requirements for real estate license retention, and to do whatever is necessary, at licensee's own  
65 expense, to keep licensee's real estate license and E&O insurance in an active status.
- 66 **B15.** To provide **full** service to licensee's customers and clients, and to respond promptly when called. Licensee also  
67 agrees to arrange for coverage by a fellow agent whenever the licensee is going to be unavailable. (Note: The  
68 Realty Association passes all calls to the licensee whose listing, sign, advertisement, or other marketing material  
69 has produced the call.) **The licensee agrees to make available to the office a phone number at which the  
70 licensee can be reached at any time.** (Note: The voice mail system will call licensee's cell phone when they  
71 have a message. Licensee should not find it necessary to call the front desk for messages.)
- 72 **B16.** To complete The Realty Association's *Fundamentals of Real Estate* training program at the Broker's direction  
73 and in a timely manner, at no additional cost to the licensee.

## 74 **C. LICENSEE'S FINANCIAL OBLIGATIONS:**

75 **C1. Expenses:** The following personal expenses are the sole responsibility of licensee:

- 76 a. The Realty Association's monthly Membership Fee of \$150 (see **C2**).
- 77 b. REALTOR® Association dues (paid annually to your local association) and any of their required fees.
- 78 c. Real estate licensing and transfer fees (paid to the Tennessee Real Estate Commission).
- 79 d. Continuing education expenses and professional designation dues and fees.
- 80 e. Errors & Omissions (E&O) and optional supplemental liability insurance.
- 81 f. Taxes—including estimated income taxes, self-employment taxes, and the like.
- 82 g. Legal and accounting services.
- 83 h. Health, life, accident, and worker's compensation insurance for self-employed contractors.
- 84 i. Automobile insurance and expenses (Note: automobile liability insurance is mandatory).
- 85 j. Travel, food, lodging, and entertainment expenses.
- 86 k. Personal advertising and promotion expenses.
- 87 l. Business cards, yard signs, personal name riders, and other sign riders.
- 88 m. Cell phone and pager expenses.
- 89 n. Long distance and 800 number phone services.
- 90 o. Copies/printouts (\$.07 per side), and faxes (\$.10 per page to send or receive).
- 91 p. Postage, letterhead, envelopes, maps, photos, and any home office expenses.
- 92 q. MLS electronic keypad and/or keycard (required for showings), and lock boxes.
- 93 r. Personal secretarial services (contracted outside the office, if desired).
- 94 s. Personal portion of City, County and State Business Taxes (currently 3/8 of 1% of gross commissions),  
95 equivalent to \$3.80 per \$1000 of commission paid (charged on monthly office bill).

- 96 **C2. Membership Fee:** A monthly Membership Fee of **\$150.00** is payable to The Realty Association. **Included** in  
97 the fee are all in-house basic services (provided by brokers and staff) **and** the following:
- 98 a. **Multiple Listing Service** (RealTracs) monthly dues including at-home Internet access, e-mail, etc.
  - 99 b. **Courthouse Retrieval System** tax and mortgage information, tax maps, sales data, etc.
  - 100 c. **Call Center** services. Includes setting up all in-house showings, notifications, and automated follow-ups.
  - 101 d. **Voicemail** service with automatic notification of any messages received.
  - 102 e. **Personal Web Page** and hosting with all of licensee's current listings and personal subdomain name.
  - 103 f. **Listing Flyers** automatically generated on licensee's personal Web site.
  - 104 g. **MLS Tracker** searches for new listings that meet the buyer's criteria with automatic e-mail notification.
  - 105 h. **Training Classes** offered in-house to all Realty Association agents.
- 106 **C3. Monthly Bill:** The Realty Association will present a statement of applicable expenses to licensee on or before the  
107 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**, and The  
108 Realty Association **will bill licensee's card automatically on the 25<sup>th</sup> of each month, unless payment has**  
109 **otherwise been received before the 25<sup>th</sup>**. Licensee's signature on the ICA authorizes use of this card to pay the  
110 monthly bill on the 25<sup>th</sup>, or the final bill upon termination.
- 111 **C4. Penalties:** If no payment has been received on or before the 25<sup>th</sup> and licensee's credit or debit card has been  
112 declined, a late penalty of \$25 will be assessed. In addition, an interest charge of 1.75% per month will be  
113 assessed on any amounts remaining unpaid. Interest will continue to accrue until payment has been made in full.  
114 The full amount of any expenses owed to The Realty Association will be deducted from any commissions to  
115 which licensee is otherwise entitled. If payment has not been made within 30 calendar days of the original due  
116 date, The Realty Association, with written or verbal notice to licensee, may terminate the ICA and send  
117 licensee's real estate license back to the Tennessee Real Estate Commission.
- 118 **C5. Collection Expenses:** Licensee is responsible for and promises to pay any and all costs, including court costs,  
119 litigation expenses, and reasonable attorneys' fees incurred by The Realty Association in the collection of  
120 amounts due under the terms of the ICA.

121 **D. MISCELLANEOUS PROVISIONS:**

- 122 **D1. Independent Contractor:** Licensee is considered an Independent Contractor and is free to utilize licensee's  
123 entire time, energy, efforts and skill, as licensee sees fit. Licensee is not required to keep definite office hours,  
124 adhere to sales quotas or participate in floor duty (there is none). Nothing contained in the ICA creates any  
125 relationship (employer/employee, joint venture, partner, shareholder) between the parties other than as set forth in  
126 the ICA. Licensee is neither considered nor defined as an "employee" with respect to the services performed for  
127 federal, state, tax, worker's compensation, or any other purpose. Licensee releases The Realty Association from  
128 any and all claims for work-related injuries. The Realty Association does not withhold any form of tax from  
129 commissions paid to licensee (business taxes are charged on the monthly office bill - see **C1.s**). A 1099 form will  
130 be provided annually for the licensee's income tax purposes.
- 131 **D2. Legal Actions, Litigation and Arbitration:** Should any claims, complaints, litigation or arbitration involving  
132 The Realty Association arise from the activities of licensee, licensee agrees to hold The Realty Association  
133 harmless and to pay all attorneys' fees, court costs, damages, E & O deductibles, filing fees, arbitration fees, and  
134 all other costs and expenses incurred by The Realty Association in defending or satisfying any claim, judgment,  
135 award, penalty or other costs assessed against The Realty Association because of licensee's activities. If  
136 licensee initiates any legal action or arbitration that involves The Realty Association, licensee agrees to consult  
137 with (and pay the costs of) the company's attorney **before** initiating and **during the course of** such litigation or  
138 arbitration. In-house disputes will be resolved by binding arbitration by the managing brokers of The Realty  
139 Association. **Note: This paragraph will survive the ICA in the event licensee is no longer with the firm.**
- 140 **D3. Commissions Charged to Clients:** Licensee is free to negotiate the commission charged to a client, provided  
141 that the fee offered to the cooperating buyer's broker or facilitator is **3%** of the sales price, and that the licensee  
142 provides full service to the client.
- 143 **D4. Commissions on Personal Transactions:** On any transactions where the licensee (or their spouse) has any type  
144 of a **personal financial interest** in the property (on buyer or seller side), The Realty Association will receive **as**  
145 **the company's portion** of the commission (shown on the HUD-1 settlement statement) **the greater of either:**
- 146 (a) 10% of the actual total commission received, **OR**
  - 147 (b) a minimum of 10% of 3% (= **.3%**) of the sales price, regardless of the actual amount of commission  
148 charged, up to a maximum cap of \$2,000 to the company per personal financial interest transaction. This  
149 amount will also be credited towards the licensee's calendar year annual cap (\$12,000) needed to receive  
150 100% commissions (see **A4**).

- 151 **D5. Expenditures:** Licensee has **no authority** to charge **any** expenditure to The Realty Association for **any**  
 152 purpose, or to bind The Realty Association by any financial promise or representations to any party. The Realty  
 153 Association is not liable for any expenses incurred by licensee.
- 154 **D6. Leases, Commercial Sales, and Field of Competence:** Real estate leases, commercial sales, and other  
 155 specialized sales are permitted if within the licensee's field of competence. Licensee "*shall not undertake to*  
 156 *provide specialized professional services concerning a type of property or service that is outside their field of*  
 157 *competence unless they engage the assistance of one who is competent on such types of property or service...*"  
 158 (Article 11, REALTOR® Code of Ethics).
- 159 **D7. Property Management and Rental Properties:** Licensee is prohibited from engaging in **any form** of property  
 160 management **for other parties**. Residential rentals may be listed in the MLS as a convenience to an owner, but  
 161 only if the licensee's personal number is entered as the "Appt Phone." This is the only type of residential rental  
 162 advertisement permitted for other parties. Licensee may manage **personal** rental properties (where the licensee  
 163 has a *personal financial interest*) at licensee's own risk and expense. Licensee must disclose that licensee is an  
 164 "owner-agent" by using the exact words "owner-agent" in all lease agreements and advertising. Licensee further  
 165 agrees to use licensee's own name and home or cell phone number in all advertising for personal rental properties.
- 166 **D8. Mortgage Lending, Business Brokerage, and Other Businesses:** Licensee is required to use proper  
 167 disclosures and procedures when participating in mortgage lending, business brokerage, insurance sales, or  
 168 other businesses. Licensee must keep any such business completely separated from the licensee's real estate  
 169 business. The sale of a business or the inventory must not be included with the sale of the real estate.
- 170 **D9. High-risk or Unprofessional Business Practices, and Conflicts of Interest:** Licensee is prohibited from activities  
 171 and practices that could be construed to be a conflict of interest, unprofessional, or high-risk. These include, but  
 172 are not limited to, dual agency, limited-service listings, commission advances, acting as power of attorney for a  
 173 non-relative, "sandwich" deals, equitable title listings, contract assignments, repair escrow agreements, etc.
- 174 **D10. Service Failures:** In the event of a licensee's absence, unavailability, negligence, or other service failure, The  
 175 Realty Association, at its sole discretion, will have full and unlimited authority to terminate, reassign, or  
 176 renegotiate agreements, or to assign a company representative to cover the service failure. The licensee will be  
 177 billed \$150 per hour (including drive time) plus mileage @ \$0.49/mile for this coverage, or charged an  
 178 alternative assessment in the form of a referral fee or other costs to be determined by the company. In no case  
 179 will The Realty Association be liable to the licensee for any commissions.
- 180 **D11. Effect of Termination or Transfer on Pending Contracts and Agreements:** In the event of termination of  
 181 the ICA by either party, The Realty Association will completely release licensee's current listings and buyer  
 182 agency agreements to licensee's new broker. In addition, The Realty Association will pay licensee 90% of any  
 183 commission received by The Realty Association on the licensee's transactions that were under contract  
 184 (pending) prior to the termination date. Both the release and payments are **subject to the following conditions:**
- 185 a. Any fees (or pending claims) owed to The Realty Association will have been paid in full.
  - 186 b. Licensee will be actively licensed with another full-service real estate brokerage firm.
  - 187 c. Licensee will handle the pending business in a professional and satisfactory manner (see **D10**).
  - 188 d. Termination was not due to a Service Failure by licensee (see **D10**).
- 189 **Note:** Pending commission income cannot be assigned or paid to any unlicensed person or entity.
- 190 **D12. Business Success:** The success of licensee in the real estate business is speculative and will depend on many  
 191 factors including, primarily, licensee's independent business ability. Licensee has not relied on any representation,  
 192 written, printed, or oral, express or implied, as to licensee's potential success in the real estate business.

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

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

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195 **The Realty Association:**

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

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# Licensee's Personal Data

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

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

199 Home Address: \_\_\_\_\_

200 \_\_\_\_\_

201 Licensee lives less than fifty (50) miles from The Realty Association Office:                      Yes                      No

202 Home Phone Number: \_\_\_\_\_ Cell Phone Number: \_\_\_\_\_

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

204 Preferred Order for Calls (example: cell 1<sup>st</sup>, home 2<sup>nd</sup>, etc.): \_\_\_\_\_

205 E-mail Address: \_\_\_\_\_

206 Birth Date: \_\_\_\_\_ Social Security Number: \_\_\_\_\_

207 Tennessee Real Estate License Number: \_\_\_\_\_

208 MLS User Name (for current users): \_\_\_\_\_ MLS Password: \_\_\_\_\_

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

210 Credit or Debit Card Type:      Visa                      MasterCard                      Discover                      American Express

211 Credit or Debit Card Number: \_\_\_\_\_

212 Credit or Debit Card Expiration Date: \_\_\_\_\_

213 Tennessee Driver's License Number: \_\_\_\_\_

214 Emergency Contact Name: \_\_\_\_\_

215 Emergency Contact Number(s): \_\_\_\_\_