

## Objective:

To approve the following new forms and revise the NVAR Standard Forms Library as follows:

1. **K1209 – Sales Contract for Unimproved Land & K1321 – Residential Sales Contract.** These forms were modified to highlight the notice to Seller regarding Buyer's choice of settlement agent. Language throughout these forms were updated to ensure consistency with the Virginia Code, including references to the RESAA, the Residential Property Disclosure Act, and the Resale Disclosure Act, the latter removing the need for separate paragraphs for properties within common interest communities. Solar panels and electric vehicle charging stations were added to the "Conveyances" paragraph in the Residential Sales Contract. The options to select the new Solar Panel Addendum and "Other" were added to the final "Additions" paragraph of the Residential Sales Contract.
2. **K1307 – Seller's Estimated Cost of Settlement.** The Net Sheet was updated to reflect costs in accordance with the Virginia Code. Recording Releases were updated to \$51, including e-file, and the Regional Congestion Relief Fee and WMATA Capital Fee were updated to a total of \$2.00 per \$1,000 of sales price, meaning \$1/each, for properties in certain jurisdictions.
3. **K1359 – Conventional Financing Contingency, K1339 – VA Financing Contingency, K1340 – FHA Financing Contingency, & K1372 – USDA Financing Contingency.** These forms were updated to remove redundant language from the appraisal contingency paragraphs.
4. **K1344 – Contingencies and Clauses Addendum.** To ensure consistency across standard forms, blanks for initials were removed from this form. The reference to the Virginia Real Estate Cooperative Act was updated to reflect the current code section.
5. **K1348 – Pet Addendum.** This form was updated to add an option for a Nonrefundable Pet Fee. Initial lines were removed from this form and additional blanks were added for the parties' signature lines.
6. **K1354 – Lease – VRLTA.** Paragraph 4 for "Rent" in this form was updated to add rows for the nonrefundable pet fee in accordance with the Pet Addendum and an option for other applicable fees. The definition of "rent" was updated to clarify that pet rent is included in place of pet fees.
7. **K1353 – Appraisal, No Financing Contingency.** This form was updated to remove redundant language in accordance with the changes to the other appraisal contingencies. An appraisal deadline was added to the Appraisal Contingency Plus Gap Guaranty to correct a discrepancy between the two appraisal contingencies in this form.
8. **K1385 – Optional Listing Information Sheet & K1393 – Optional Buyer Cover Sheet.** These forms were updated to clarify lender letters as "prequalification or preapproval" letters. The "Conveyances" section of the Listing Information Sheet was updated to reflect the additions of electric vehicle charging stations and solar panels. The options to add internet and cable providers were added to the "Utilities" section of the Listing Information Sheet.
9. **K1389 – Extension of Review Period for COA/POAA Addendum.** This form was modified in accordance with the new Virginia Resale Disclosure Act, changing the name to "Extension of Review Period for Common Interest Community Resale Certificate Addendum" and clarifying that there is only one right of cancellation under the Resale Disclosure Act regardless of which common interest community the property falls under.

10. **K1390 – Understanding Your Rights Under the VA COA/POAA Act.** This form was substantially modified to ensure consistency with the new Virginia Resale Disclosure Act, changing then name to “Understanding Your Rights Under the Resale Disclosure Act.” The information regarding the contents of the resale certificate and the buyer’s right of cancellation were completely rewritten in accordance with the code and all references to the disclosure packet were removed.
11. **K1400 – Solar Panel Addendum to Listing Agreement.** This is a new form created to reflect a need in the region for proper conveyance of properties with solar energy collection devices (“solar panels”). Sellers will now be obligated to provide any documentation they have regarding solar panels on their property to the listing agent at the time of execution of the listing agreement, including information about ownership status and financing. This form will assist listing agents in becoming better prepared to handle transactions involving solar panel conveyances; however, we have added a disclaimer to all brokerage representation agreements that Brokers are not expected to be solar panel experts.
12. **K1401 – Solar Panel Contingency Addendum to Sales Contract.** This is a new addendum for sales contracts which creates the option of a new contingency for Buyers. Upon ratification of the sales contract, Sellers are obligated to deliver documentation regarding any solar panels on their property to Buyers within a negotiable timeframe to allow for Buyers to understand the technology and required services they may be purchasing. Should the information found in these documents be unacceptable to Buyer, Buyer has the option to void the sales contract. Further, for solar panels which are subject to an existing loan, lease, or other similar financing (collectively, “loan”) at the time of sale, the Seller will provide documentation regarding the loan to the Buyer. The parties will also have the opportunity to negotiate whether the Seller will pay off the remainder of the loan by settlement or if the Buyer will assume the loan. Should the information found in either the loan documents or the solar panel documents be unacceptable to Buyer, the Buyer has the option to void the sales contract.
13. **K1336 - Exclusive Right to Sell Listing Agreement, K1337 – Exclusive Agency Listing Agreement, K1281 – Exclusive Right to Lease, & K1355 – Exclusive Right to Sell Unimproved Land.** These forms were substantially modified. The most significant change is the new option for Brokers to terminate listing agreements in the event their Sellers or Landlords are not cooperating. This change requires the creation of two new forms, described hereinbelow.
  - a. The Committee researched why listing agreements never had an option for Brokers to terminate listing agreements and discovered [Virginia Code § 54.1-2137](#), which allows for termination of the brokerage relationship upon default, expiration, or mutual release.
  - b. According to [Virginia Code § 54.1-2130](#), there are two types of relationships which are formed by brokerage representation agreements: (1) agency relationships, and (2) brokerage/contractual relationships. In order to terminate a brokerage representation agreement, both relationships must be terminated to completely relieve both parties of any obligations or duties they may have to each other.
  - c. The brokerage representation agreements in the forms library were all updated to include the statutory definitions for the two types of relationships created by virtue of these agreements, found at the bottom in a new “Definitions” paragraph.
  - d. The Seller or Landlord’s option to terminate the agreement early, in Paragraph 12(F), was updated to require the client deliver written notice to the Broker to terminate the agency relationship. The client would have the option to use the new form: **Notice to Terminate Brokerage Representation Agreement**. After payment of the negotiable early termination fee, the parties would then sign the new form **Release of Brokerage Representation Agreement** to terminate the brokerage relationship between the parties and relieve the contractual obligations and duties owed to each other.
  - e. These forms were modified to add Seller or Landlord Duties.

- f. Pursuant to such duties, a “Seller Default” or “Landlord Default” paragraph was added to outline what is to occur when the client is in breach of such duties. Here, the Broker would have the option to terminate the brokerage representation agreement early by delivering the new Notice to terminate the agency relationship, and then execution of the new Release by both parties to terminate the brokerage relationship. This paragraph addresses the Broker’s duties upon termination.
- g. Paragraph 4 for “Term” was updated to include statutorily required language regarding the default period for brokerage representation agreements.
- h. The “Conveyances” and “Provided Fixtures” paragraphs were updated to include solar panels and electric vehicle charging stations.
- i. Paragraph 12 for “Broker Compensation” was modified to reflect three new types of compensation for brokers: (1) a percentage of gross price, (2) a flat fee, or (3) a combination of the two.
- j. An option for a broker’s service fee was added to the Broker’s Compensation paragraph.
- k. The payment types in the cooperating broker compensation subparagraph was updated to be consistent with the remainder of the Broker’s Compensation paragraph.
- l. The option for “Other Compensation” was removed due to redundancy.
- m. Compensation for the Broker in the event of a tenant purchase option was removed from the Exclusive Right to Lease as it was deemed to be double-dipping.
- n. An “Additions” paragraph was added to the seller listing agreements for addenda to be identified.

**14. K1282 - Exclusive Right to Represent Tenant Agreement & K1338 – Exclusive Right to Represent Buyer Agreement.**

- a. In accordance with the changes to the listing agreements, the early termination provisions in (a) – (f), above, were mirrored in these two forms.
- b. Paragraph 2 was updated to clarify the purpose of the agreements and that the property sought would be real property in Virginia.
- c. Paragraph 4 was updated to mirror the “Term” language in the listing agreements, along with the early termination language. This paragraph in the Exclusive Right to Represent Buyer was also modified to add that if the settlement date for a property occurs after the expiration date of the agreement, but that contract was ratified during the term of the agreement, then the agreement will be automatically extended until settlement.
- d. The “Compensation” paragraph was updated to reflect two (2) new compensation types: (1) percentage of gross price, and (2) a flat fee.
- e. An option a broker’s service fee was added to the Compensation paragraph.
- f. The Compensation paragraph was updated to ensure that contracts for any property type would inure compensation for the Broker.
- g.

**15. K1398 – Notice To Terminate Brokerage Representation Agreement & K1399 – Release of Brokerage Representation.** These new forms were added to facilitate early termination of brokerage representation agreements, as discussed above.

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