



# MNR — 2020 — FORMS REVISIONS

July 2020

## REVISED MNR APPROVED FORMS EFFECTIVE AUGUST 1, 2020

***The Minnesota Realtors® Forms Committee has been hard at work, reviewing the many suggested changes from our Realtor® members.***

In addition to holding three regular committee meetings in the first five months of the year, the Forms Committee held several subcommittees. The Personal Property Sub-Committee considered suggested changes to the personal property section of the residential Purchase Agreement concerning technology-related items. The New Construction Sub-Committee discussed modifications to the New Construction Purchase Agreement allowing the form to be utilized for new construction already built or in the process of being built. Finally, the Commercial Forms Subcommittee considered changes to the commercial forms.

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With much discussion and debate, the committee generated several important changes that will be released on August 1, 2020. These are in addition to the new form Addendum/Amendment to Purchase Agreement: COVID-19 that we released in March 2020.

A special thank you to Chair Laura Lee Berger, who led all committee meetings, and to all members who volunteered on the committee and subcommittees this year. Your volunteer service is invaluable to the Minnesota Realtor® community.

## New Form: Addendum or Amendment to Purchase Agreement: Coronavirus Disease of 2019 (COVID-19)

The Forms Committee held a special meeting in March to address COVID-19 related issues and how they may affect your real estate transactions. The Committee adopted the Addendum/Amendment to Purchase Agreement: COVID-19 to allow for extending deadlines in the Purchase Agreement if a party could not perform due to a COVID-19 related issue.

Note that the Committee decided not to add this form to the Addenda section of the Purchase Agreement. Therefore, if you use this form as an Addendum to the Purchase Agreement, be sure to remember to reference it in the Purchase Agreement.

## 2020 Key Highlights

There were many changes to the forms this year including clarifying and substantive changes. Following is an overview of the more substantive changes.

### RESIDENTIAL FORMS

All addenda and amendments to the Purchase Agreement will change. The Committee clarified that

the reference to Purchase Agreement date is the “Date of this Purchase Agreement” as defined in the Purchase Agreement.

### Addendum Purchase Agreement: Condominium/Townhouse/Cooperative Common Interest

**Community (“CIC”)** This Addendum was modified to reflect statutory changes allowing a buyer to complete their statutory cancellation rights by delivering their written cancellation to the seller or seller’s agent via email if an electronic address has been provided by the seller or seller’s agent.

### Addendum to Purchase Agreement: Counteroffer

- Language was added to allow for the Final Acceptance Date to be noted in this Addendum when utilized.
- The Committee added a sentence to clarify that the Counteroffer Addendum is valid only upon signature and delivery of the Purchase Agreement.

### Representation/Facilitator Agreements:

- In all of the representation and facilitator agreements we added:
  - » examples “(e.g., individual(s), estate, trust, corporation, etc.)” to prompt clarification of the definition of the client;
  - » language clarifying client’s consent for text messaging communications.
- Marital Status: Exclusive Right to Sell and Facilitator Services Agreement: Seller:
  - » Added marital status to the signature block.

### Disclosure Statements: Seller’s Property Disclosure Statement (SPDS)/Vacant Land

- SPDS: Modified the Appliances, Heating, Plumbing, Electrical and other Mechanical

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Systems section of the Disclosure for clarity.

- Vacant Land Disclosure: The Committee eliminated language in the Disclosure that stated the gardens and new tree plantings would be at least 30 feet from the surrounding property lines bordering any agricultural field.

#### **Purchase Agreement-Residential/New Construction/Vacant Land (Residential)**

- Added new language to the personal property section of the residential Purchase Agreement to address a variety of issues including what technology items will or will not be transferred as personal property with the sale of the real property.
- Combined conventional and privately insured conventional as one option under the Financing Contingency language
- Added language to DVA funding fee section clarifying if the amount specified is based on the loan amount.
- Added clarifying language that the Purchase Agreement and all addenda must be fully executed and a copy delivered for the Purchase Agreement to be binding.
- Modified the date of reference for the risk of loss section to the “Date of this Purchase Agreement”; instead of the “Final Acceptance Date.”
- Deleted “marital status” from the Purchase Agreement and added it to the listing agreements.
- The Purchase Agreement: New Construction was modified to include spec homes and homes in the process of being built.
- Changed all references in the current form for “previously written purchase agreement” to “previously executed purchase agreement”

**Residential Lease Agreement** Added an option for month to month lease

#### **Commercial Forms:**

**Addendum /Amendment to Purchase Agreement:**  
COVID-19: Adopted this new form for use with the Commercial Purchase Agreement.

**Addendum to Commercial Purchase Agreement: Conventional/SBA/Other Mortgage Financing**  
Eliminated the option for “privately insured conventional.”

**Representation Contracts:** In all of the representation and facilitator agreements we added:

- examples “(e.g., individual(s), estate, trust, corporation, etc.)” to prompt clarification of the definition of the client;
- language clarifying client’s consent for text messaging communications.

#### **Purchase Agreements: Commercial and Land (Non-Residential)**

- Added language clarifying that Buyer is not relying on any oral representations regarding the condition of the property.
- Removed “facilitator” from the agency section of the Purchase Agreement.
- Added clarifying language that the Purchase Agreement and all addenda must be fully executed and a copy delivered for the Purchase Agreement to be binding
- Changed all references in the current form for “previously written purchase agreement” to “previously executed purchase agreement”

# Q&A FORMS REVISIONS



**Q** *I have a purchase agreement that was executed in July, but it won't close until August. Do I need to redo it on the new forms that come out August 1?*

**A** No. You don't have to redo an existing Purchase Agreement on the 2020 revised form. However, we always recommend using the most current version of each form going forward. The majority of new Minnesota laws become enforceable on August 1. If there are any changes affecting real estate transactions, they will likely be included in the August 1 forms release. If you do not use the most recent version, you could violate Minnesota law. Additionally, even in years where no legislative changes affect the forms, it's still wise to use the most recent forms. The forms are consistently reviewed and modified in reaction to case law and market concerns.

Remember, Minnesota Realtors® forms are designed to work together as one library. If you mix and match forms from different years, some references might not align, creating potential legal issues.

**Q** *How do I know whether a form has been changed and when the last time a form was changed?*

**A** TransactionDesk contains a folder with the revised forms. The folder can be found under Forms (📁 icon in TransactionDesk), and is labeled "MNAR - 2020 Forms." Not every form is changed every year. Minnesota Realtors® publishes an annual summary of the forms changes. You can also stay up-to-date on the latest changes by going to [www.mnrealtor.com/forms](http://www.mnrealtor.com/forms). Additionally, the bottom of each form has a code that shows the date it was last modified. The code looks like "MN:RLA-1 (8/20)." This stands for "State/ Association: Name of Form — Page Number (Date of Last Modification)."

**NOTE:** If you have had Instanet produce any custom forms for your brokerage, you will need to contact Instanet directly if you would like Instanet to incorporate any of the MNR forms changes into your custom forms. There is a cost, per page, for Instanet to do this work. **INSTANET CANNOT BEGIN CUSTOMIZATIONS UNTIL THE FORMS GO LIVE ON AUGUST 1ST.**





# FORMS USE POLICY

All too often, Minnesota Realtors® (MNR) is notified that someone has modified the template language of our copyrighted forms (“Forms”) and left the MNR logo and copyright on the Form. MNR also frequently learns about unauthorized distribution and use of the Forms. In an effort to protect the copyright and value of the MNR Forms for its members, the Board of Directors has adopted an enforcement mechanism for the Forms Use Policy (“Policy”). Now, if a member violates the Policy, an ethics complaint may be filed through the Professional Standards process, naming a violation of Article IX of the bylaws, where it states that adherence to the Policy is a membership duty. This change will allow the Association to streamline the process for enforcement of the Policy, benefiting our membership as a whole.

The Policy can be found on the Forms page on [mnrealtor.com/forms](https://mnrealtor.com/forms). The Policy generally allows for the use of the Forms in real estate transactions and/or education within a real estate brokerage. It prohibits members from selling, reproducing, or distributing the Forms outside of those circumstances. It also prohibits the alteration of template Forms language without removing the MNR logo and copyright, so that members will have notice as to whether they are dealing with our Forms or an altered version that looks similar. Please refer to the full Policy for details.

**Q I would like to add some of my own language to the MNR listing contract, so that I have it in the template language for all of my listings. Can I do that?**

**A** Yes, however MNR currently allows members to modify the template language ONLY IF you remove the MNR logo and copyright language. In this circumstance, you are creating your own brokerage-specific form, and you should consult with your legal counsel for any legal advice, as the Association cannot review or approve brokerage-specific forms. The only alterations that members may make to the Forms without removing the copyright are to add the brokerage logo to the upper left corner of the form and/or add a footer at the bottom of the Forms to place non-contractual disclosures. No other information, marks, or symbols may be added without removing the MNR logo and copyright language.

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**Q A Realtor® who's licensed only in Florida called me up and asked if he could have a copy of our MNR Purchase Agreement for a Minnesota for sale by owner transaction in which he is the buyer. I want to help him out, and hopefully create a referral relationship with him. Can I do this?**

**A** No, Minnesota Realtors® are not able to distribute blank copies of our forms unless it is for their use in a real estate transaction or for educational purposes within their real estate brokerage practice. Members may not provide the Forms to nonmembers for the purpose of use in a transaction without a Minnesota Realtor®. This protects the value of our forms and the value of using a Minnesota Realtor® in Minnesota real estate transactions.

**Q I'm representing a buyer who wants to make an offer on a for sale by owner property. Can I give the seller a blank Disclosure Statement: Seller's Property Disclosure Statement to fill out?**

**A** Yes. Minnesota Realtors® are able to distribute a blank Form to a person if it's directly related to a real estate transaction in which the Minnesota Realtor® is involved.

**Q I'm representing a seller and an unrepresented buyer wants to make an offer on my client's property, but doesn't want me to represent her because she is weary of the dual agency situation it would create. Can I give her a blank Purchase Agreement to fill out to make an offer on the property?**

**A** Yes. Minnesota REALTORS® are able to distribute a blank Form to a person if it's directly related to a real estate transaction in which the Minnesota Realtor® is involved.

**Q My CE provider asked if she could have a copy of the MNR Sale of Buyer's Property Contingency so that she can better understand it and teach it to licensees (many of whom are Realtors®). Can I do this? She also offered to pay me for it. Is that okay?**

**A** No. However, the education provider may enter into a licensing agreement with MNR to utilize the Forms in the providers education courses. MNR supports use of the Forms to advance the members' knowledge about the Forms. However, our individual agreement to enter into a licensing agreement with education providers will allow MNR to protect our copyright and limit the Forms' use. In no case should an individual member distribute the Forms to an unauthorized individual.

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**Q I'd like to publish an example of a MNR Forms on my website so prospective clients can see how our transactions will work and familiarize themselves with the Forms in advance. This will also show them what value I have to give, as far as having good transactional forms to use with them. Can I do this?**

**A** No. You may not upload our Forms to your website for display or make them publicly available in any way. They are strictly for use in transactions involving Realtors® and for educational purposes within a member brokerage. Any other use would require a licensing agreement.

**Q I utilize an online cloud tool to store blank forms, including the MNR Forms, and fill them. Is this okay?**

**A** Uploading MNR's blank, copyrighted Form to a cloud service may be okay, but it will depend on the service's Terms of Use. For example, many of the free document storage programs on the internet do not keep uploaded documents private and will allow public access and display. If this is the case, use of that tool would not be allowable for the storage of MNR Forms.

# [mnrealtor.com/forms](https://mnrealtor.com/forms)

**ACCESS EVERYTHING YOU NEED TO KNOW ABOUT THE MNR APPROVED FORMS:**

- Watch video explanations on the forms changes
- View a list of all of the forms and their revision dates
- Access the Forms Use Policy
- Submit forms changes suggestions

