

Options for Relationships

In Minnesota there are five options for relationships:

❶ **SELLER'S BROKER:**

Representing and acting for the seller only. May be a listing agent or any REALTOR® licensed to the listing broker.

❷ **SUBAGENT:**

A broker or salesperson who is working with a buyer but represents the seller.

❸ **BUYER'S BROKER:**

Representing and acting for the buyer only. As with a listing contract with sellers, an agreement for buyer representation must be in writing.

❹ **DUAL AGENT:**

One licensee representing both the seller and the buyer as clients in one transaction, or two agents licensed to the same broker one of whom represents the seller and one of whom represents the buyer in one transaction. In a dual agency, all licensees are deemed to represent both the seller and buyer. This relationship requires full disclosure and informed consent of both parties. Dual agents have a limited role, must not advocate or negotiate for either party, and must not act to the detriment of either party.

❺ **FACILITATOR:**

A real estate licensee who works for a buyer, a seller or both in a transaction but does not represent either in a fiduciary capacity as a Buyer's Broker, Seller's Broker or Dual Agent. Facilitators may perform services for consumers, but do not represent them. Facilitators are bound by license law and common law, but owe only the fiduciary duty of confidentiality unless other fiduciary duties are agreed to between licensee and consumer.



Required Forms

Under Minnesota law, a form entitled *Agency Relationships in Real Estate Transactions* must be presented at first substantive contact to a buyer or seller in any real estate transaction. If there is to be any agency representation, there must be a written contract with all elements required by statute for the particular agreement. If a licensee is engaging in leasing transactions, they can use the new *Agency Relationships in Real Estate Transactions* form, which has been updated to accommodate leasing relationships.

Timing for Disclosures and Contracts

- ✓ An *Agency Relationships in Real Estate Transactions* form must be presented to a buyer and seller at first substantive contact with that party. This is a disclosure form, NOT a contract although it does ask for the party's signature as an acknowledgment. First substantive contact generally means before discussing financial, confidential or motivational information with a consumer.
- ✓ Listing contracts must be signed before offering/advertising a property for sale or lease.
- ✓ Buyer representation contracts must be signed before taking any action to represent a buyer and before a purchase agreement is signed.
- ✓ A contract is not required to act as a facilitator when working with a buyer. However, when acting as a facilitator and working with a buyer, a Facilitator Services Contract may be wise in order to insure compensation is paid for services provided, to establish an exclusive relationship so other agents are not intruding on the exclusive relationship between the facilitator and the buyer and/or to specifically define the services to be provided. (While most listing agents will use a listing agreement, a seller facilitator services contract may be used in listing property for seller.)