



January 1, 2022 Standard Forms Updates

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(<https://www.nvar.com/realtors/laws-ethics/forms-revisions/form-changes/form-changes/2021/12/07/january-1-2022-standard-forms-updates>)

1. **K1321 – Residential Sales Contract.** This form has been substantially revised to clearly address several areas of conflict and frequently addressed issues on the Legal Hotline:
 - a. Opening paragraph has been revised to remove any reference to the cooperating brokerage representing Seller, as subagency is no longer permitted in Virginia. Any references to dual or designated agency have been removed as unnecessary – they are more appropriately addressed in the brokerage agreements and required disclosures.
 - b. Paragraph 2 (Price and Financing) – Substantially reformatted for clarity, consistency of definitions, and to more easily accommodate cash offers.
 - c. Paragraph 2E – Removes requirement for Seller to comply with reasonable lender requirements, this is already addressed in the Title paragraph.
 - d. Paragraph 2F – Clearly identify whether there is an Appraisal Contingency towards the beginning of the Contract for ease of offer comparison. With removal of general Access Paragraph (see below), clearly states Seller shall provide Appraiser reasonable access to Property where Contract is contingent on financing and/or appraisal. If Contract is not Contingent on financing and/or appraisal, parties are able to clearly negotiate access. Other relevant clauses from other paragraphs moved to this section.
 - e. Paragraph 2G – Previously Paragraph 15.
 - f. Paragraph 3 (Deposit) – Substantially streamlined to remove restatements of the law, which are not subject to contract or negotiation. More significantly, this paragraph now provides the Seller with a timely remedy if Buyer fails to Deliver EMD to Escrow Agent. Seller has the option to declare Contract Void if Buyer has not Delivered EMD by deadline, with parties agreeing to sign Release per Void paragraph. Buyer can cure Default any time prior Seller Delivery of Notice to Void.
 - g. Paragraph 4 (Settlement) – Clarifies that there is one Settlement Agent which conducts Settlement as defined by Virginia law, even if parties

perform through “split settlement.” Performance paragraph moved to this section.

- h. Paragraph 6 (Delivery) – Edited consistent with desire to streamline Contract and remove unnecessary clauses.
- i. Paragraph 7 (VRPDA) – Streamlined to reference and link to statute without repeating non-negotiable statutory requirements. With statutory requirement that Buyer now sign the Residential Property Disclosure Acknowledgement that they are aware of their rights under the VRPDA, this paragraph was unnecessarily repetitive.
- j. Paragraph 10 (Property Maintenance and Condition; Inspections) – Combines the necessary clauses from former Paragraph 11 (Access). Clearly states Seller shall provide Buyer, Broker and Inspector(s) reasonable access to Property where Contract is contingent on home inspection. If Contract is not Contingent on Appraisal, parties are able to negotiate access. This will hopefully remove the need for the ambiguous and confusing “Home Inspection for Informational Purposes Only” clauses added by some Realtors. Also more clearly addresses Walk-Through Inspections and who may attend walk-through (not contractors or inspectors unless otherwise agreed).
- k. Paragraph 11 (Possession Date) – Former Paragraph 12, adding mailbox keys, if any, to the means of access conveyed at Settlement. Also addresses Seller responsibility to delivery exclusive control of any installed Smart Devices (defined in Paragraph 13) at Settlement.
- l. Paragraph 13 (Personal Property and Fixtures) – Smart Devices are defined and clearly convey with Property at Settlement if installed as of date specified in Paragraph 10. Streamlined conveyance checkboxes to remove “No” options. Only check “Yes” if installed or offered, otherwise leave blank. Added “Other Conveyances” and “Does Not Convey” consistent with current practices and acceptable to mortgage underwriters.
- m. Paragraph 17 (WDI) – Clarifies that Seller must perform any treatment and/or repairs per the recommendation of the inspector. Seller must provide reasonable access to Buyer, Broker and WDI Inspector to perform inspection.
- n. Paragraph 20 (Title) – Significantly streamlined process and parties’ rights if title is not marketable and insurable by Settlement. This ensures clarity in parties’ responsibilities and maintains a definitive end date to the contract. Seller will be in default, but parties can agree to extend Settlement Date in order to allow Seller more time to clear title. Significantly, the contract now prohibits Seller from unilaterally recording an easement, covenant or other restriction on title between contract ratification and settlement.
- o. Paragraph 26 (Default) – Removes confusing section regarding whether Brokerages can elect to accept half of the EMD in exchange for a release. This is arguably inconsistent with other remedies. Since it said “may”, it was always at the Brokerages’ discretion, so negotiation would be required for any resolution. Not needed in this Contract.

- p. Paragraph 27 (Void Contract) – Consistent with the Seller’s ability to Void Contract if Buyer fails to timely Deliver EMD, “if any” is added for requirement that release be signed.
 - q. Paragraph 30 (Time is of the Essence) – Removes complicated options for parties to extend Settlement Date in the event of a delay caused by TRID Disclosure requirements. This has not been an issue and causes unnecessary confusion. If the parties wish to extend the Settlement Date, they can mutually agree to do so.
 - r. Paragraph 32 (Entire Agreement) – Incorporates many of the Miscellaneous clauses into one coherent section.
 - s. Removed “Other Provisions” Section – Encourages Realtors to practice law by drafting language beyond the templates and clauses provided, especially those inconsistent with other terms in the Contract. Better place to include other terms is in the Addendum – Sale form.
 - t. General Changes – formatting, replace “shall” with “will”, streamlined and ensured consistent use of defined terms. Residential Sales Contract is now 12 Pages!
2. **K1342 – Home Inspection & Radon Testing Contingency Addendum.** This form was revised to streamline repetitive language regarding the utilities being in service and the consequences for failing to deliver documents or take action on time throughout the form. The Home Inspection Contingencies also now clearly state that “inspection(s)” for the purposes of this inspection include all types of inspections, except those for which NVAR already has a separate clause or addendum – Radon, Well Testing, Well Inspection or Septic Inspection.
 3. **K1343 – Inspection Contingency Removal Addendum.** This form was modified to require that Sellers shall provide reasonable access to property for inspectors, in addition to Buyer and Buyer’s Broker, during final walk-through when Seller has agreed to perform repairs as part of ICRA.
 4. **K1336 – Exclusive Right to Sell & K1337 – Exclusive Agency Listing Agreement.** Modified consistent with changes in formatting to the Conveyances section of Contract by removing “No” checkboxes, Other Conveyances, and Does Not Convey.
 5. **K1385 – Optional Listing Information Sheet.** Modified consistent with changes in formatting to the Conveyances section of Contract by removing “No” checkboxes, Other Conveyances, and Does Not Convey. Added line for Seller to request Proof of Funds and/or Lender Letter.
 6. **K1393 – Optional Buyer Offer Cover Sheet.** This **new form** is similar to the Optional Listing Information Sheet. It is an optional form that does not become part of the Contract, but could assist Listing Agents in reviewing or comparing offers by summarizing all the most pertinent information in an offer. This also provides a way for the Cooperating Agent to request that the Listing Agent confirm in writing that the offer has been presented or the Seller has waived presentment in accordance with SOP 1-7 of the Code of Ethics.
 7. **K1209 – Sales Contract for Unimproved Land.** This form has been updated consistent with applicable changes to the Residential Sales Contract.