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*The English translations of the RERA legislation contained herein are currently in draft form and are provided for reference only.*

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The Real Estate Regulatory Authority

## Resolution No. (9) of 2018 Regulating Licensed Real Estate Broker's Duties, Obligations and Responsibilities

The Real Estate Regulatory Authority Chairman, having taken cognizance of the following:

- Real Estate Sector Regulatory Law promulgated under Law No. (27) of 2017, particularly Articles (37) and (38) thereof;
- Decree No. (69) of 2017 Regulating the Real Estate Regulatory Authority;
- Resolution No. (1) of 2018 on Licensing Real Estate Developers, Brokers and Sales Agents;
- Resolution No. (2) of 2018 on Licensing Real Estate Development Projects;
- Resolution No. (5) of 2018 on Determining the Fees for Services, Applications and Licenses Issued in Accordance with the Provisions of Real Estate Regulatory Law;
- Resolution No. (8) of 2018 Regarding Creation of Brokers' Register;
- Proposal of the Chief Executive Officer of the Real Estate Regulatory Authority; and
- Approval of the Board of the Real Estate Regulatory Authority

**Resolved as follows:**

**Definitions**

**Article (1)**

In application of the provisions of this Resolution, the following words and expressions contained herein shall have the meanings set out in the Real Estate Regulatory Law promulgated under Law No. (27) of 2017, Resolution No. (1) of 2018 on Licensing Real Estate Developers, Brokers and Sales Agent and Resolution No. (2) of 2018 on Licensing Real Estate Projects. The below words and expressions shall have the following meanings ascribed thereto, unless the context requires otherwise:

**Agency Agreement:** An agreement between a real estate broker and sales agent.

**Brokerage Agreement:** An agreement between the real estate broker and a client or between a sales agent and a client.

**Real Estate Transactions Register:** A register dedicated for registering the details of real estate activities of real estate brokers and their affiliate sales agents.

## **Obligations of Real Estate Brokers and Sales Agents**

### **Article (2)**

Real estate brokers and sales agents shall carry out their business in accordance with the provisions of Law, this Resolution and Code of Conduct and shall perform their duties with integrity, objectivity, honesty and good faith.

### **Article (3)**

Real estate brokers shall enter into an agency agreement with the sales agent if the sales agent does not work for the real estate broker, stating names of the parties, terms, conditions and commission before carrying out any brokerage business.

### **Article (4)**

Real estate brokers and sales agents shall:

1. Inform their clients of all negotiation details, brokerage stages and any other information deemed necessary for the client to take an appropriate decision for entering into a sale or lease agreement.
2. Disclose and Inform their clients about all essential matters related to the sale agreement including any information deemed necessary and required for due diligence.

### **Article (5)**

Real estate brokers or sales agents shall not disclose clients' confidential information related to the sale or lease agreement.

### **Article (6)**

Real estate brokers or sales agents shall not purchase or sell properties on behalf of any client if they know that such client does not have the legal capacity for disposition.

### **Article (7)**

In case of brokering an off-plan sale project in whole or in part, Real estate brokers or sales agents shall deposit the payments made by the purchasers into the project escrow account and they shall not deduct the commission from the price before depositing such payments in the escrow account. Any agreement contrary to that shall be deemed null and void.

### **Article (8)**

Real estate brokers and sales agents shall state their registration numbers mentioned in the real estate brokerage register on their business offices and all correspondence, advertisements, websites, social media, documents, visit cards and publications.

### **Article (9)**

Upon signing a sale contract under a brokerage agreement, real estate brokers or their representative shall:

- A. State their license number in the sale contract;
- B. State the commission percentage agreed thereupon under the brokerage agreement;
- C. State that the sale price set out in the contract is the price agreed by and between the seller and purchaser; and
- D. Attend the signing of contract before the notary public at the Ministry of Justice and sign in their capacity as brokers.

### **Article (10)**

Real estate brokers and sales agents shall submit a proof of fulfilling the continuous professional development program required by the Real Estate Regulatory Authority.

## **Real Estate Transactions Register**

### **Article (11)**

1. Real estate brokers and sales agents shall maintain a real estate transactions register, which shall contain the following information and details:
  - A. All of their real estate transactions and any documents relevant thereto;
  - B. Agreed commission of each transaction;
  - C. Price of the property, subject matter of the transaction;
  - D. Property location;
  - E. Contractors' personal details and transactions dates;
  - F. Deposits made by the purchaser; and
  - G. Details of the sales agents for each transaction, if any.
2. Real estate brokers and sales agents shall submit this Register to the Real Estate Regulatory Authority for approval at the end of each fiscal year or at any other time, if and when requested, and shall maintain these registers for 5 years as of the closing date of each transaction.

### **Article (12)**

The Real Estate Regulatory Authority may register the details contained in the real estate transactions` register and keep a copy thereof if it so deems appropriate.

## **Professional Liability Insurance**

### **Article (13)**

Real estate brokers and sales agents shall procure a professional liability insurance policy to cover any mistakes that might take place while carrying on the real estate brokerage in accordance with the requirements of Law. The insurance amount shall not be less than BHD 100,000.00 (one hundred thousand Bahraini Dinars) if the real estate broker is a corporate person and no less than BHD 50,000.00 (fifty thousand dinars) if the real estate broker or the sales agent is a natural person.

### **Article (14)**

The professional liability insurance policy shall cover mistakes resulting from the real estate broker, sales agent or any of their employees' practice of real estate brokerage, especially the liability created by any of the following reasons:

- A. Negligence;
- B. Fraud & Con

## **Real Estate Broker and Sales Agent's Legal Liability**

### **Article (15)**

Real estate brokers or sales agents may not receive any amounts of money directly from purchasers unless otherwise agreed in writing between the parties of the sale contract.

### **Article (16)**

Real estate brokers or sales agents shall be liable for any violation of their professional duties and responsibilities stated in this Resolution and therefore for any loss or damage sustained by the contracting parties.

## **Brokerage Agreement**

### **Article (17)**

The brokerage agreement shall be concluded in writing and shall – in addition to the broker's duties and responsibilities – state the following:

- A. Property description;
- B. Names of parties and any sales agents related to such agreement, if any; and
- C. Brokerage agreement term.

### **Article (18)**

Except for off-plan sale or unless otherwise agreed, Real estate brokers or sales agents shall not be entitled to receive a commission for the brokerage activity unless such brokerage resulted in notarizing the sale contract before the notary public at the Ministry of Justice. In case of off-plan sale, the commission shall be paid after concluding the contract and receiving the first payment of the unit price.

#### **Article (19)**

If the brokerage activity did not result in an agreement between the contracting parties during the brokerage agreement duration, the real estate broker or sales agent shall not have the right to request any compensation, expenses or charges they may have incurred. If conclusion of the contract is contingent upon a condition precedent, the real estate broker or sales agent shall not be entitled to a commission unless such condition is fulfilled, unless the brokerage agreement states otherwise.

#### **Article (20)**

If more than one broker or sales agent took part in the brokerage activity for one party in order to reach an agreement and a sale contract is concluded, they shall all take part in the commission as if they were one real estate broker or sales agent and the commission shall be distributed among them in accordance with the terms and conditions of the contract made between them.

#### **Article (21)**

The commission payable to the real estate broker or sales agent shall be 2% of the sale price and shall be paid in half by the contracting parties to the sale agreement, unless otherwise agreed in writing.

#### **Article (22)**

If the client terminated the services of a real estate broker or sales agent before expiry of the brokerage agreement term and the property – subject matter of the agreement – has been sold within three months as of the termination date to a different purchaser introduced by the broker or sales agent, they may request the payable commission in accordance with the terms and conditions of the brokerage agreement.

#### **Article (23)**

The real estate broker or sales agent shall not be entitled to a compensation or recovery of expenses they paid for the brokerage activities if their acts caused damage to a contracting party or if they disclosed incorrect information or facts about the property or intentionally refused to disclose the same or obtained a benefit or promised to have a benefit in contrary to requirements of good faith and honesty.

### **Conflict of Interests**

#### **Article (24)**

Real estate brokers and sales agents shall not represent the client if anyone of them has a direct or indirect interest that contradicts with the real estate brokerage requirements or hinders their ability to carry out their duties with integrity, objectivity and honesty.

#### **Article (25)**

Except for the fees or commission payable to the real estate broker or sales agent, they may not achieve any personal interest in any transaction made by any one of them.

#### **Article (26)**

The real estate broker and sales agent may not make itself a second party in the sale agreement it brokered, unless the contracting party approves the same. In this case, the real estate broker and sales agent shall not be entitled to a commission of fees.

### **Death of the Real Estate Broker or Sales Agent**

#### **Article (27)**

In case of death of the real estate broker or sales agent, their heirs shall continue to carry on the real estate brokerage agreement, if they so wish, and shall inform the Real Estate Regulatory Authority of the same in order to take the necessary procedures to rectify their status according to the provisions of the Law within two months as of the date of death.

#### **Article (28)**

In case of dissolving or winding up the business of a real estate broker, the Real Estate Regulatory Authority shall be informed of the same within two months as of the date of dissolution or liquidation.

### **Rectification of Status**

#### **Article (29)**

Any party carrying on real estate brokerage shall rectify their status in accordance with the provisions of this Resolution within one month as of the date on which it comes into effect.

### **Compliance Assurance & Issuance of Instructions**

#### **Article (30)**

The Real Estate Regulatory Authority shall have the right to take any legal procedures necessary to ensure adherence of the real estate brokers and sales agents to their duties and responsibilities contained in the provisions of this Resolution.

#### **Article (31)**

The Chief Executive Officer may issue instructions necessary to enforce the provisions of this Resolution.

#### **Article (32)**

The Chief Executive Officer shall execute this Resolution, which shall come into force as of the date following its publication in the Official Gazette.

**Chairman of the Real Estate Regulatory Authority  
Salman bin Abdallah bin Hamad Al Khalifa**

Issued on the 9<sup>th</sup> of Safar 1440 H  
Corresponding to: 18<sup>th</sup> of October 2018