

# HOW TO USE PARAGRAPH 12

## FLOWCHART GUIDE

**12. SETTLEMENT AND OTHER EXPENSES:**  
A. The following expenses must be paid at or prior to closing:  
(1) Seller shall pay the following expenses (Seller's Expenses):  
(a) releases of existing liens, including prepayment penalties and recording fees; release of Seller's loan liability; tax statements or certificates; preparation of deed; one-half of escrow fee; brokerage fees that Seller has agreed to pay; and other expenses payable by Seller under this contract;  
(b) the following amount to be applied to brokerage fees that Buyer has agreed to pay: ☐ \$ \_\_\_\_\_ or ☐ \_\_\_\_\_ % of the Sales Price (check one box only); and  
(c) an amount not to exceed \$ \_\_\_\_\_ to be applied to other Buyer's Expenses.  
(2) Buyer shall pay the following expenses (Buyer's Expenses): Appraisal fees; loan application

Has the seller authorized the listing broker to pay an amount towards the buyer's broker's fee in the listing agreement?

NO

YES

### *Listing broker pays buyer's broker*

The brokers should use the Compensation Agreement Between Brokers (TXR 2402) for the amount being paid by the listing broker and complete the Disclosure Paragraph on page 10\* of the sales contract with the agreed-upon amount.

**NOTE:** Do NOT complete Paragraph 12A(1)(b) in the sales contract for the amount the listing broker is paying.

\* If the Farm and Ranch Contract (TXR 1701) is used, the amount of broker-to-broker compensation should be inserted in the Ratification of Fee section on Page 10.

Has the seller agreed to pay an amount towards the buyer's broker's fee directly through negotiations?

NO

YES

### *Seller pays buyer's broker directly*

Complete Paragraph 12A(1)(b) in the sales contract with the amount the seller agreed to pay the buyer's broker.

**NOTE:** Do NOT use the Compensation Agreement Between Brokers (TXR 2402) or complete the Disclosure Paragraph on page 10 for the amount the seller is paying.

*Buyer is responsible for paying their own broker's fee under the terms of the buyer's representation agreement.*

*If the amount the listing broker is paying the buyer's broker is not enough to cover the entire buyer's broker's fee, the seller may agree to pay an additional amount directly to the buyer's broker in the sales contract. In this scenario, a portion of the buyer's broker's fee will be paid by the listing broker using the Compensation Agreement Between Brokers (TXR 2402) and a portion will be paid by the seller using Paragraph 12A(1)(b) in the sales contract.*

### **Commission Disbursement Authorization Forms (CDA) (provided by the brokerage firm)**

- The listing broker should submit a CDA to the title company to disclose the amount of compensation the seller is paying the listing broker.

- The buyer's broker should submit a CDA to the title company to disclose the amount of compensation the buyer is paying the buyer's broker, and/or any amounts paid by the listing broker or the seller.

### **PARAGRAPH 12A[1][b]**

#### **12. SETTLEMENT AND OTHER EXPENSES:**

A. The following expenses must be paid at or prior to closing:

(1) Seller shall pay the following expenses (Seller's Expenses):

(a) releases of existing liens, including prepayment penalties and recording fees; release of Seller's loan liability; tax statements or certificates; preparation of deed; one-half of escrow fee; brokerage fees that Seller has agreed to pay; and other expenses payable by Seller under this contract;

(b) the following amount to be applied to brokerage fees that Buyer has agreed to pay: ☐ \$ \_\_\_\_\_ or ☐ \_\_\_\_\_ % of the Sales Price (check one box only); and

(c) an amount not to exceed \$ \_\_\_\_\_ to be applied to other Buyer's Expenses.

(2) Buyer shall pay the following expenses (Buyer's Expenses): Appraisal fees; loan application

### **DISCLOSURE PARAGRAPH**

Disclosure: Pursuant to a previous, separate agreement, Listing Broker has agreed to pay Other Broker a fee (☐ \$ \_\_\_\_\_ or ☐ \_\_\_\_\_ % of the Sales Price). This disclosure is for informational purposes and does not change the previous agreement between brokers to pay or share a commission.

**This flowchart applies to Paragraph 12 in the following sales contracts:**

- One to Four Family Residential Contract (Resale) (TXR 1601)
- New Home Contract (Incomplete Construction) (TXR 1603)
- New Home Contract (Completed Construction) (TXR 1604)
- New Residential Condominium Contract (Complete Construction) (TXR 1608)
- New Residential Condominium Contract (Incomplete Construction) (TXR 1609)
- Form and Ranch Contract (TXR 1701)