

Exclusive Agency Listing Agreement

I/We: _____ (“Owner”) hereby grant to the undersigned broker (“Broker”), a real estate broker licensed under the laws of the Commonwealth of Massachusetts the EXCLUSIVE AGENCY to sell the property which address is: _____

City: _____, Massachusetts. Zip _____ (“Property”) on the following terms and conditions:

1. Owner’s Duties and Responsibilities. The BROKER is granted the right to sell the Property, as the Owner’s exclusive agent, during the term of this Agreement and to cooperate in marketing the Property, including preparation of the Purchase and Sales Agreement. If the Property is sold to a buyer procured by the Broker, the fee described in paragraph 4 shall be due. **The Owner reserves the right to sell the Property himself during the Listing Period (as hereinafter defined) without owing a fee.** If the Owner places the Property under agreement with a buyer, the Owner shall notify the Broker promptly. The Broker is authorized and is required: (a) to offer compensation to other licensed brokers as subagents of Owner, buyer’s agents or otherwise; (b) to place a listing for the property in the MLSPIN (multiple listing service); (c) to publish a photograph of the Property and advertise the Property in such media as the Broker may select. The Owner hereby authorizes the Broker to disclose to prospective buyers all information about the Property provided to the Broker by the Owner, all of which the Owner represents to be accurate. The Owner acknowledges receipt of an agency disclosure form and according to the Code of Ethics and Standards of Practice of the National Association of Realtors® has been advised of (i) the Broker’s general company policies regarding cooperation with and compensation to subagents, Buyer’s agents and other licensees; (ii) the fact that a buyer’s agent, even if compensated by the listing broker or seller will represent the interest of the buyer and (iii) any potential for the listing broker to act as a disclosed dual agent on behalf of the seller and buyer. The Owner agrees to comply with all applicable fair housing laws.

2. Listing Price. The listing price for the Property shall be _____ dollars or such other price and terms as the Owner may approve.

3. Listing Period. This Agreement shall begin on _____ and end on _____ and maybe extended by agreement of the Broker and Owner.

4. Broker’s Fee. If within the term of this Agreement or any extension thereof, the Property is sold to a buyer introduced by the Broker or cooperating member broker of the MLS who procures a buyer who is ready, willing and able to buy, at a price and on the terms set forth herein or on such other price and terms as the Owner may agree, the Broker shall be due a fee of 2.5% of the purchase price of the Property. Said fee shall be paid at the time set for closing and may be deducted from amounts held as escrow agent. The Broker shall, if applicable, pay any co-broker fee out of the 2.5% commission. The aforesaid fee shall be due upon sale. If within three months after expiration of this Agreement or any extension thereof the Property is sold to any person who is introduced to the Property during the aforesaid term or any extension, the Broker will be due the 2.5% commission except if the Owner has entered into an exclusive agreement with another broker in good faith. If any deposit is retained by the Owner as liquidated damages for default by the buyer under any agreement for sale of the Property, the Broker shall be due one-half (1/2) of the amount so retained, but not more than an amount equal to the full commission that would have been paid to Broker if a sale had been completed.

5. Broker's Duties.

The Broker agrees to use reasonable efforts in marketing the Property and agrees to list the Property with the MLSPIN (multiple listing service) as well as any public real estate websites, such as realtor.com, boston.com or any other public real estate websites that then accept such listings. The Broker shall have no obligation to continue to market the Property after an offer has been accepted and while a transaction is pending. The Broker is not hired as a property inspector, septic inspector, surveyor, tax advisor or attorney and if such services are desired the Owner should hire professionals.

6. Listing Fee. Any upfront fee paid to the Broker or any affiliate in connection with marketing the Property is on the date that the listing appears on the MLSPIN (multiple listing service) is irrevocably non-refundable.

7. Miscellaneous. Owners agree that before they seek to chargeback any charges made to a credit card in connection with this Agreement whether for Broker's commission, fines or otherwise, they shall as preconditions first notify FSBO, 4137 N. Hermitage Avenue, Chicago, Il. 60613, by certified mail, return receipt requested, of their desire and then discuss the same with FSBO at 773-248-4905. If such preconditions are met, a chargeback is attempted and Broker obtains initial re-crediting of the chargeback, Owners' credit card shall be charged \$500 for each chargeback which by their signature they hereby irrevocably authorize. If such preconditions are not met and a chargeback is attempted, Owners' credit card will be charged \$500 for each chargeback which by their signature they hereby irrevocably authorize. In addition to charging a credit card, Owners agree that FSBO and/or Broker shall be permitted unequivocally to obtain such amounts by asserting a lien at closing, which Owners by their signature hereto irrevocably authorize. This Agreement shall be binding upon and shall inure to the benefit of the parties hereto, their successors, assignees, heirs, executors and representatives, except that this Agreement may not be assigned by Owners without the prior written consent of Broker. Any provision of this Agreement which is illegal, invalid, prohibited or unenforceable shall be ineffective to the extent of any such illegality, invalidity, prohibition or unenforceability and this Agreement shall be construed in all respects as if such invalid or unenforceable provision or provisions were omitted without invalidating or impairing the remaining provisions hereof. In connection with any litigation or dispute arising out of this Agreement or the listing created hereby, Broker shall recover all costs incurred including all attorneys' fees and costs by charge to Owners' credit card which by their signature they hereby authorize. If Broker is sued or joined in an arbitration for a cooperating broker's commission, Owners shall immediately pay the amount claimed plus up to \$5,000 (whether or not Broker is found liable for the same) and Owners by their signature hereby authorize Broker to charge their credit card for the full commission claimed. Faxed signatures shall be deemed original signatures hereon and on all notices provided pursuant hereto.

OWNER'S Signature(s)

BROKER'S SIGNATURE

Dated: _____, 200__

E-Mail _____

Telephone _____

Address _____ City, State, Zip Code _____

Dated: _____, 200__

IMPORTANT NOTICE

MASSACHUSETTS LAW REQUIRES THAT REAL ESTATE LICENSEES PROVIDE THIS NOTICE TO POTENTIAL SELLERS AND BUYERS OF REAL ESTATE.

NOTICES

FAIR HOUSING NOTICE

The Fair housing laws require the property to be shown and made available for sale to all persons without regard to race, color, religion, national origin, sex, disability or familial status. If the PROPERTY was built before 1978, federal law requires that before a buyer is obligated under a contract to buy the property, the Seller shall:

- (1) Provide the buyer with a lead hazard information pamphlet (as prescribed by EPA)
- (2) Disclose the presence of any known lead base paint or hazards (including providing the buyer with any lead hazard evaluation report available to Seller); and
- (3) Permit the buyer to conduct a risk assessment or inspection for the presence of lead base paint hazards. A contract for the sale of property built before 1978 must contain a statutorily prescribed Lead Warning Statement to the buyer.

MASSACHUSETTS BOARD OF REGISTRATION OF REAL ESTATE BROKERS AND SALESPERSONS MANDATORY AGENCY DISCLOSURE –AGENCY RELATIONSHIP

The purpose of this disclosure is to enable you to make informed choices before working with a real estate licensee. It must be provided at the first personal meeting that you have with an agent to discuss a specific property. **THIS IS NOT A CONTRACT.** It is a disclosure notice for your information and protection. **BE SURE TO READ THE DESCRIPTIONS OF THE DIFFERENT TYPES OF AGENCY REPRESENTATION ON THE OTHER SIDE OF THIS DISCLOSURE.**

CONSUMER INFORMATION

1. Whether you are the buyer or seller you can choose to have the advise, assistance and representation of your own agent. Do not assume that a broker is acting on your behalf unless you have contracted with that broker to represent you.
2. All real estate licensees must, by law, present properties honestly and accurately.
3. If you are a seller you may authorize your listing agent to cooperate with agents from other firms to help sell your property. These cooperating agents may be subagents who work for the seller or buyers' agents.
4. If you are the buyer you have the option of working with sellers' or buyers' agents. This decision will depend on the types of services you want from a real estate agent. A buyer should tell sellers' agents, including subagents, only what he/she would tell the seller directly.

CONSUMER RESPONSIBILITY

The duties of a real estate licensee do not relieve the consumer of the responsibility to protect his/her own interest. Consumers with questions on whether and how real estate agents share fees should pose them to the agent. If you need advice for legal, tax, insurance or other matters it is your responsibility to consult a professional in those areas.

ACKNOWLEDGEMENT

I have provided this disclosure form to _____
(Print Name of Consumer)

I have informed the above name consumer that I am a: (check one)
 Seller's Agent Buyer's Agent

_____, _____
(Signature of Real Estate Agent) (License No.) (Month) (Day) (Year)

I have read this agency disclosure form IN ITS ENTIRETY ON BOTH SIDES. I understand that this form is for agency disclosure AND NOT A CONTRACT. It was provided to me by the agent named above.

_____, _____
(Signature of Consumer/s) (Month) (Day) (Year) Check:
[] Buyer [X]
Seller

As a Consumer I recognize that I need not select any agency representation at this time. Therefore, I decline to sign this disclosure. Any additional reason for declining to sign:

(Print name of consumer and reason, if any)

TYPES OF AGENCY REPRESENTATION

SELLER'S AGENT

When a seller engages the services of a listing broker, that seller becomes the broker's client. This means the broker, and his/her subagents represent the seller. They owe the seller undivided loyalty, utmost care, disclosure, obedience to lawful instruction, confidentiality and accountability. They must put the seller's interest first and negotiate for the best price and terms for their client, the seller. (The seller may also authorize subagents to represent him/her in marketing the property to buyers.)

BUYER'S AGENT

When a buyer engages the services of a broker then that buyer becomes the broker's client. This means the broker represents the buyer. The broker owes the buyer undivided loyalty, utmost care, disclosure, obedience to lawful instruction, confidentiality and accountability. The broker must put the buyer's interest first and negotiate for the best price and terms for his/her client, the buyer. (The buyer may also authorize subagents to represent him/her in locating property.)

DISCLOSED DUAL AGENT

A broker can work for both the buyer and the seller on the same property provided such broker obtains the informed consent of both parties. The broker is then considered a disclosed dual agent. This broker owes the seller and the buyer a duty to deal with them fairly and honestly. In this type of agency relationship the broker does not represent either the seller or buyer exclusively and they cannot expect the broker's undivided loyalty. Also, undisclosed dual agency is illegal.

TITLE 5 ADDENDUM

The Massachusetts Department of Environmental Protection ("DEP") has established regulations governing on-site, subsurface sewage disposal systems, including septic systems and cesspools, that apply at the time of sale or transfer of a property served by an on-site subsurface system. (Title 5 of the Massachusetts Environmental Code, 310 CMR 15.301 et seq.) The regulations require that septic systems and cesspools be inspected by a licensed inspector "at or within two years prior to the time of transfer of title" to the property to determine if the system complies with DEP requirements. An inspection performed up to three years prior to sale or transfer of title may be used if the inspection report is accompanied by system pumping records demonstrating that the system has been pumped at least once a year during that time. If weather conditions preclude an inspection at the time of transfer, the regulations permit the inspection may be conducted up to six months after sale or transfer. A copy of the inspection report shall be submitted to the buyer or other person acquiring title. The fact that a system passes an inspection is not a guarantee or warranty that the system will continue to operate satisfactorily in the future. If the system fails the inspection criteria established by the regulations, the system will need to be repaired, upgraded or replaced in accordance with Title 5. A state income tax credit may be available for forty percent of the cost of repair or replacement of a failed system serving one's primary residence up to a maximum credit of \$6000.00 (where repair or replacement of a system costs \$15,000 or more), subject to applicable law.

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