



Independent Contractor Salesperson's Agreement

Form 601 for use in the Province of Ontario

INDEPENDENT CONTRACTOR AGREEMENT:

BETWEEN:....., hereinafter referred to as (the "Brokerage")

AND:
....., herein referred to as (the "Salesperson")

In this Agreement, the term "Salesperson" includes a Broker registered under the Real Estate and Business Brokers Act, 2002.

WHEREAS:

- A. The Brokerage is a duly registered real estate brokerage pursuant to the Real Estate and Business Brokers Act, 2002 (Ontario) (the "Act") and the regulations made pursuant thereto (the "Regulations") and owns, for the purpose thereof, all facilities and equipment required to conduct a real estate brokerage business.
- B. The Salesperson is an independent contractor desiring access to such facilities and equipment for the purpose of conducting therefrom a real estate business.

NOW THEREFORE in consideration of the mutual covenants and agreements and for other good and valuable consideration as herein provided, the receipt and sufficiency of which is hereby acknowledged, the parties hereto hereby agree as follows:

ARTICLE ONE – APPOINTMENT

1.1 The Brokerage hereby retains and appoints the Salesperson as an independent contractor in accordance with this Agreement and the Salesperson hereby accepts such appointment as an independent contractor upon and subject to the terms, conditions, covenants and provisions set forth herein. The parties acknowledge that the Salesperson is a self-employed independent contractor and is not and shall not represent himself or herself to be a partner or employee of the Brokerage or to have any relationship to the Brokerage other than as a self-employed independent contractor.

ARTICLE TWO – FACILITIES

2.1 The Brokerage shall make available the services, facilities and equipment provided for in Schedule "A" attached to this Agreement.

ARTICLE THREE – GENERAL CONDITIONS

- 3.1** The Salesperson shall govern their conduct by the Act and Regulations and the constitution, by-laws, Code of Ethics and Standards of Business Practice of the local real estate board/association of their membership (the "Board"), and all requirements of the Real Estate Council of Ontario ("RECO") all as may be amended from time to time.
- 3.2** The Salesperson shall furnish their own automobile and pay all expenses thereon and shall carry liability and property damage insurance satisfactory to the Brokerage. A minimum of \$..... is required for liability insurance. The Salesperson shall provide proof of such insurance to the Brokerage upon request.
- 3.3** The Salesperson shall during the Term of this Agreement:
 - (a) maintain in good standing all registrations required by the Act and Regulations necessary to trade in real estate;
 - (b) be a member in good standing of RECO; and
 - (c) be a member in good standing of the Board.
- 3.4** The Salesperson shall maintain errors and omissions and such other insurance as RECO may require from time to time.
- 3.5** The Salesperson shall obtain and maintain HST registration as required by the Excise Tax Act (Canada) as amended from time to time.
- 3.6** The Salesperson shall not obligate the Brokerage for goods or services.
- 3.7** The Salesperson shall only use such real estate forms that have been approved by the Brokerage prior to their use.
- 3.8** The Salesperson has read and agrees to the office policy as outlined in the Brokerage's office policy manual and agree to conduct themselves accordingly and in accordance with any amendments thereto communicated to the Salesperson in writing from time to time.
- 3.9** The Brokerage may set-off against the Salesperson's commission or other amounts the Brokerage may owe the Salesperson or any amount due to the Brokerage from the Salesperson including without limitation payable to the Brokerage pursuant to Article Five of this Agreement.

ARTICLE FOUR – COMMISSIONS

- 4.1** The full amount of all gross commissions resulting from real estate transactions procured by the Salesperson and received by the Brokerage as required by the Act shall be credited to the Salesperson's account and shall remain the property of the Salesperson.
- 4.2** All credit balances in the Salesperson's account shall be paid by the Brokerage to the Salesperson on a basis, net of fees and other amounts owed to the Brokerage by the Salesperson.
- 4.3** The commission to be charged for any transaction shall be determined solely by the Salesperson and shall belong to the Salesperson. The parties acknowledge that the Act requires that commission be collected only by the Brokerage.

ARTICLE FIVE – FEES, EXPENSES AND COSTS

5.1 The Salesperson agrees to pay the Brokerage the Fees set out in Plan "A" or "B", as applicable, which form part of this Agreement.

ARTICLE SIX – REPRESENTATION AGREEMENTS AND CUSTOMER SERVICE AGREEMENTS

6.1 All representation agreements and customer service agreements are the property of the Brokerage according to the Act during the term of this Agreement. Upon termination of this Agreement, the Brokerage agrees to terminate any representation agreements or customer service agreements procured by the Salesperson if the seller or buyer under the agreement approves.

ARTICLE SEVEN – ADVERTISING

7.1 All advertising to be approved by the Brokerage in advance.

INITIALS OF SALESPERSON:

INITIALS OF BROKER:

ARTICLE EIGHT – TERMINATION

- 8.1 This Agreement may be terminated by either party at any time without cause upon 24 hours written notice that may be delivered personally or by facsimile. Upon termination both parties agree to complete their obligations herein in order to complete an orderly conclusion of their relationship. The Salesperson will not have any claim on real estate transactions that have not been procured from representation agreements prior to termination, or any future commissions therefrom.
- 8.2 Upon termination of this Agreement, the Salesperson will return to the Brokerage all keys, listings, listing books, blueprints, signs, plans, maps, supplies and sales literature received at any time from the Brokerage. The Salesperson agrees to pay the Brokerage for the value of such items that were not returned upon termination of this Agreement.
- 8.3 If on termination the Salesperson is indebted to the Brokerage then until such debt has been paid, the amount outstanding from time to time shall bear interest at the rate of per cent per annum calculated and payable monthly.

ARTICLE NINE – TERM

- 9.1 Any and all changes to this Agreement from one year to the next will be announced at a meeting of the salespeople on or about each year. This Agreement will commence on the date hereof and run until the end of the current calendar year and subject to announced changes, if any, and termination as provided for herein, this Agreement will automatically renew annually (the "Term").

ARTICLE TEN – BROKERAGE'S SUPPLIES

- 10.1 The Salesperson shall only use supplies which conform to the Brokerage's current specifications and standards, including signs, business cards, stationery and other items used for communications or presentations to customers and prospective customers and all promotional and novelty items.

ARTICLE ELEVEN – LITIGATION, DISPUTE AND ARBITRATION

- 11.1 If any transaction in which the Salesperson is involved results in a dispute, arbitration, litigation or legal expense, the Salesperson shall co-operate fully with the Brokerage in the resolution or prosecution of same.
- 11.2 The Brokerage reserves the right to determine whether or not any litigation or dispute concerning any transaction in which the Salesperson is involved shall be prosecuted, defended or settled, or whether or not legal expense shall be incurred.

ARTICLE TWELVE – DEPOSITS

- 12.1 All monies, documents or property received by the Salesperson in connection with any transaction shall be delivered to the Brokerage immediately. All cheques must be made payable to the Brokerage in accordance with the Act.

ARTICLE THIRTEEN – CORRESPONDENCE

- 13.1 All letters received and a copy of all letters written by the Salesperson pertaining to the business of the Brokerage shall be turned over to the Brokerage for its records and shall be the property of the Brokerage. All letters are to be approved by the Brokerage before mailing.

ARTICLE FOURTEEN – INDEMNITY

- 14.1 The Salesperson hereby indemnifies the Brokerage against all liability, loss, damages, costs and expenses sustained, suffered or incurred by the Brokerage as a result of any breach by the Salesperson of the Salesperson's obligations under this Agreement or as a result of any claim by a third party arising out of the Salesperson's real estate business activities. This indemnity shall survive the termination of this Agreement.

ARTICLE FIFTEEN – USE AND DISTRIBUTION OF PERSONAL INFORMATION

- 15.1 The Salesperson consents to the collection, use and disclosure of personal information of the Salesperson by the Brokerage for the purpose of a transfer, sale, or financing by the Brokerage of the business, or compliance with the requirements of the Real Estate Council of Ontario, or such other use of the personal information as the Brokerage deems appropriate in connection with managing or carrying on the affairs of the business.

ARTICLE SIXTEEN – GENERAL AGREEMENT TERMS

- 16.1 Either party may waive any default of the other party under this Agreement, but, no such waiver shall affect the rights of that party in respect of any subsequent default, whether of the same or a different nature.
- 16.2 This Agreement which includes Schedule(s) "A", and Plan A or Plan B as appropriate, shall constitute the entire agreement between the parties with respect to its subject matter and supersedes all prior agreements and understandings in any way relating to that subject matter. This Agreement can only be changed by a writing signed by both parties. No remedy conferred on a party under this Agreement, or by law, shall preclude the exercise by that party of any other remedy available to it in equity or in law in respect of the same default.
- 16.3 This Agreement is personal to the Salesperson and no right of the Salesperson under this Agreement may be assigned without the prior written consent of the Brokerage, which consent may be arbitrarily, or unreasonably withheld. The Brokerage may, without the consent of the Salesperson, assign any of its rights under the Agreement and, following such assignment, shall be relieved of all obligations in respect of the rights so assigned. Subject to the foregoing, this Agreement shall enure to the benefit and be binding upon the parties and their respective heirs, executors, administrators, successors and permitted assigns.
- 16.4 The use of section headings in this Agreement is for convenience of reference only and shall not affect the interpretation of this Agreement.
- 16.5 All notices or other communications required or permitted under this Agreement to be given by one party to the other shall be in writing and shall be given by personal delivery (including courier), or by facsimile to the party as follows:

- (a) if to the Brokerage, at Attn: Fax: (.....).....
- (b) if to the Salesperson, at Attn: Fax: (.....).....

Any such notice or communication shall be deemed received on the earlier of actual receipt, if delivered or on the date transmitted, if by facsimile unless received after 5:00 p.m. on a business day (i.e. a day other than a Saturday or Sunday or statutory holiday in Ontario) in which case receipt will be deemed to be on the next business day. Either party may change its address for service by giving notice thereof pursuant to the term of this Section.

- 16.6 Each party agrees, at the request of the other party, to do, execute and give such further and other acts, documents and assurances as may be reasonably requested in order to give full effect to this Agreement and to the transactions contemplated herein.

N WITNESS whereof the parties have duly signed this Agreement as of the date indicated.

..... DATE.....
 (Witness) (Signature of Salesperson) (Seal)

..... DATE.....
 (Witness) (Signature of Authorized Signing Officer of Brokerage) (Seal)

1. Secretarial services during normal office business hours.
2. Reception area.
3. Desk space as determined by the Brokerage.
4. Reasonable sales and administrative training, as determined by the Brokerage.
5. Use of telephone and fax facilities.
6. Standard office equipment as customarily provided in a real estate brokerage business.
7. Reasonable quantity of stationery.
8. Photocopying facility.
9. Sales Information Sheet (Trade Record) will be prepared by secretary.
10. A reasonable number of "For Sale" and "Open House" signs.
11. Multiple Listing Service processing fees and re-processing fees, where previously authorized.
12. Client and customer referral(s).
13. Listing fees, stand sign installation.
14. Courier facilities.
15. Business cards.
16. Office duty time.
17. Standard newspaper advertising program, as determined by the Brokerage. Salespersons may advertise over and above the Brokerage's program, at their own expense, provided they meet all governing provincial and local rules and regulations.
18. Brokerage to assist in all areas that are deemed essential to complete a real estate transaction if requested by the Salesperson.
19. All salespersons shall sign the inventory list.
20. Such other items and service as the Brokerage may in its sole discretion agree to provide to the Salesperson. The Brokerage has the right at any time without notice to increase or decrease said service.
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NOT FOR COMMERCIAL USE, UNAUTHORIZED USE PROHIBITED

PLAN "A" – FEES PAYABLE TO BROKERAGE

To compensate for administrative and operating costs incurred by the Brokerage in providing the items and services in Schedule "A" the Salesperson shall pay the Brokerage:

- 1A % of the Salesperson's net commissions on the portion of total net annual commissions not exceeding \$.....
- 1B % of the Salesperson's net commissions on the portion of total net annual commissions not exceeding \$.....
- 1C % of the Salesperson's net commissions on the portion of total net annual commissions not exceeding \$.....
- 1D % of the Salesperson's net commissions on the portion of total net annual commissions not exceeding \$.....
- 1E % of the Salesperson's net commissions on the portion of total net annual commissions not exceeding \$.....
- 1F % of the Salesperson's net commissions on the portion of total net annual commissions not exceeding \$.....
- 1G % of the Salesperson's net commissions on the portion of total net annual commissions not exceeding \$.....

Under Plan "A" plateaus will be calculated on commissions received within the contract year. Effective, on each and every anniversary date, the plateau level will start at the beginning and the Salesperson will be paid accordingly. Furthermore, in the event of any switch in plans at the Salesperson's anniversary date, they will be paid by the rules of the Plan they were on at the time the business was written.

Salesperson will be responsible to pay for:

- (a) Monthly and yearly dues and fees and other charges as charged by the Board, the Ontario Real Estate Association and the Canadian Real Estate Association;
- (b) Registration/renewal fees, monthly and yearly fees and other fees charged to the Salesperson by RECO.

Salesperson shall pay all dues and fees and miscellaneous items outstanding at the end of each calendar year and the following year's Board yearly dues by cheque on or before January 1 of the following new year.

PLAN "A" AGREEMENT

I, (Salesperson) hereby agree to PLAN "A".

..... (Signature of Salesperson) (Signature of Authorized Signing Officer of Brokerage)

PLAN "B" – FEES PAYABLE TO BROKERAGE

To compensate the Brokerage for administrative and operating costs incurred by the Brokerage in providing the items and services in Schedule "A" the Salesperson shall pay the Brokerage:

1A % of the Salesperson's net commission on that portion of total net annual commission exceeding \$.....
The above compensation for the Brokerage applies to all transactions.

1B Plus
Dollars (\$.....) desk fee per month is payable on the first day of each and every month.

A interest charge per month (..... per annum) for late payment will be charged.
The desk fee includes all the items and services as set out in Schedule "A" contained herein, except as follows:

- This plan includes (.....) listing fees annually
- This plan includes (.....) standard sign installations annually

Over these specific amounts, the Salesperson is responsible for, said costs and will be billed accordingly on a monthly basis. An inventory of the Salesperson's listings and sign installations will be taken prior to commencement of the contract period and shall be counted against his/her yearly maximum for that contract period.

PLAN "B" AGREEMENT

I, (Salesperson) hereby agree to PLAN "B".

..... (Signature of Salesperson) (Signature of Authorized Signing Officer of Brokerage)