

INDEPENDENT CONTRACTOR AGREEMENT

From the Office of: _____

AGREEMENT made as of the _____ day of _____, 20_____, by and between _____ (hereinafter referred to as "Principal"), and _____ [name of licensee] of _____ [address], the independent contractor (hereinafter referred to as "Associate").

WHEREAS, Principal is engaged in the real estate brokerage business in the Commonwealth of Massachusetts and maintains an office properly equipped and staffed for the operation of such business; and

WHEREAS, Associate is now engaged in business as a real estate broker or salesman duly licensed by the Commonwealth of Massachusetts and enjoys a good reputation for fair and honest dealing with the public as such; and

WHEREAS, Principal desires to engage the services of Associate as an independent contractor on the terms and under the conditions set forth in this Agreement; and

WHEREAS, Associate desires to be so engaged;

NOW, THEREFORE, in consideration of the mutual promises contained, herein, Principal and Associates agree as follows:

1. **Client Contacts.** Principal shall make available to Associate such listings received by its office as Principal in its discretion may deem advisable. All listings and client contracts shall be and remain the separate and exclusive property of Principal unless otherwise agreed by the parties hereto.
2. **Efforts of Associate.** Associate shall proceed diligently, ethically and with Associate's best efforts in order to:
 - a. sell, buy, trade, lease or rent any and all real estate, the listings for which have been made available to Associate;
 - b. solicit new additional customers and clients for Principal and service the same; and
 - c. otherwise promote the business of serving the public in real estate transactions so that the parties hereto may each derive the greatest possible a advantage from this Agreement.

Associate specifically acknowledges that Principal's policy is to comply strictly with all applicable fair housing laws and to provide equal professional service to all persons pursuant thereto. Associate further agrees to abide by this policy and understands that any violation thereof will constitute cause for termination of this Agreement in accordance with the provisions of Section 14.

3. **Assistance by Principal.** Principal shall assist Associate in Associate's work by furnishing, upon request, advice and instruction, provided, however that the Principal shall be neither obligated nor entitled to supervise or control any of the methods employed by Associate to carry out Associate's duties under this Agreement, so long as such methods are consistent with the ethical standards referred to in Section 12 of this Agreement. Associate understands and agrees that Associate's success in deriving profit from this Agreement will depend primarily on Associate's own judgement, initiative, effort, skill and personality. Nothing contained in this Agreement shall be construed to prevent Principal from requiring Associate:
 - a. to attend weekly sales meetings;
 - b. to consult with Principal regarding the scheduling of Associate's vacations; or
 - c. to submit reports concerning prospects, leads and probable transactions.
4. **Office Facilities.** Associate shall be entitled to share such office facilities as Principal may from time to time operate for the benefit of its associates generally.
5. **Conduct of Business.** Principal shall continue to use best efforts in order to maintain and increase the good will, profitability and reputation of its business.



6. Commissions.

- a. The commissions to be charged for any services performed under this Agreement shall be in accordance with those rates determined by Principal and disclosed to Associate. Principal shall advise Associate of any special contract relating to any particular transaction which Principal proposes to undertake. Principal shall have the sole and absolute right in its discretion to determine the amounts to be charged in connection with any co-brokerage agreement.
- b. Whenever Associate performs any services hereunder for which a commission is earned, said commission may be collected by Principal or by Associate as agent for Principal, and shall, when and to the extent actually received in full by Principal, be divided and distributed as soon as practicable thereafter, in accordance with the Commission Distribution Schedule attached hereto as Exhibit A and made a part hereof. Principal may amend the commission Distribution Schedule from time to time upon written notice given to Associate at least fourteen (14) days before such amendment is to become effective. The distribution of a commission shall be governed by the Commission Distribution Schedule in effect at the time of execution of the first contract between the parties to the transaction.
- c. In the event of special arrangements with any client of Principal or Associate with respect to property listed or buyer represented with Principal or controlled by Associate, a special agreement for commission distribution may apply, provided that said agreement is reached in advance by Principal and Associate.
- d. In the event that two or more associates of Principal participate in performing a service for which a commission is earned, or claim to have done so, the amount of said commission remaining after deduction of Principal's share thereof shall be divided between the participating associates according to agreement between them, or failing such agreement, by arbitration as contemplated by Section 13 of this Agreement.
- e. In no case shall either party be liable to the other for any commission or portion thereof until the same shall have been collected, whereupon it shall be held in trust to be divided and distributed in accordance with the terms of this Agreement.

7. **Other Compensation; Taxes.** Associate shall not be entitled to receive from Principal any other compensation other than commissions payable under the terms of Section 6 of this Agreement. Without limiting the generality of the foregoing, Associate shall not be entitled to receive any guaranteed salary, sick pay, or free insurance, nor to participate in any pension, profit-sharing or like plan. Associate shall be responsible for payment of Associate's own income and other taxes, and Principal shall not be required to make any withholding tax payments on Associate's behalf. It is specifically understood and agreed that Associate will not be treated as an employee for federal tax purposes with respect to services rendered pursuant to this Agreement.

8. **Expenses.** Principal shall not be liable to Associate for any expenses incurred by Associate, or for any Associate's actions or failures to act, nor shall Associate be liable to Principal for the cost and expense of operating Principal's office, provided, however, that the expense of attorney's fees, appraisal fees and other like costs which are incurred in connection with a particular transaction, or which are incurred in collection of or the attempt to collect a commission, shall be paid by the parties hereto in the same proportion as provided for in the case of commission distribution.

9. **Litigation.** In the event that any transaction in which Associate is involved results in a dispute with a third party not associated with Principal, it shall be within the sole discretion of Principal to determine whether or not any litigation or dispute shall be prosecuted, defended, compromised or settled, and the terms and conditions of any compromise or settlement, or whether or not legal expense shall be incurred; to provide, however, that no compromise or settlement involving the payment of money or anything of value by Associate, or the foregoing of any commission or portion thereof due Associate, shall be accepted by Principal without the written consent of Associate. All suits shall be brought in the name of the Principal.

10. **Agency.** Associate shall have no authority to bind Principal by any promise or representation, unless specifically authorized in a particular transaction, and shall otherwise be deemed to be an independent contractor and not a servant, employee or partner of Principal.

11. Records and forms.

- a. It is agreed and understood that all correspondence received, copies of all written, plats, listing information, memoranda, files, photographs, reports, legal opinions, accounting information, and any and all other instruments, documents or information of any nature whatsoever concerning prospects, leads and probable transactions handled by Principal or by Associate or jointly are and shall remain the property of Principal and shall be registered at Principal's office; provided, however, that Associate shall be entitled to a copy of each upon reasonable request.
- b. The parties hereto shall mutually approve and agree upon all correspondence from the office of Principal pertaining to transactions being handled, in whole or in part, by Associate.
- c. The parties hereto shall mutually agree upon the forms to be used and the contents of all completed contracts and other completed forms before they are presented to clients for signature.

12. **Trade Organizations, Ethical Standards.** In the event that Principal is a member of any real estate organization whose by-laws or rules and regulations either require or permit membership of Associate in such organization, Associate shall become a member and pay all fees or dues required by such membership. Principal and Associate shall abide by whatever formal

standards and interpretations thereof are promulgated by such organization relative to ethical business practices, and shall further aid by whatever rules and regulations are adopted by Principal in order to implement said standards and interpretations.

13. Resolution of Disagreement. In the event of disagreement or dispute between Principal and Associate, or between Associate and another person similarly associated with Principal, which cannot be adjusted by and between the parties under the terms and condition of this Agreement or any amendment hereto, the parties shall submit such disagreement or dispute to arbitration, and shall be bound by a decision rendered thereunder.

14. Termination.

- a. This Agreement and the relationship created hereby, may be terminated by either party hereto, with or without cause, at any time upon three (3) days' written notice by certified mail given to the other at the address above written, but the rights of the parties which accrued prior to said notice shall not be divested by the termination of this Agreement, except as stipulated herein.
- b. After receiving notice of such termination:
 - 1) Associate shall promptly furnish Principal with a complete and correct list of all prospects, leads and probable transactions developed by Associate or upon which Associate shall have been engaged. Thereafter, all negotiations commenced by Associate during the term of this Agreement shall continue to be handled through Principal with such assistance by Associate as Principal may reasonably request.
 - 2) Associate shall not furnish to any person, firm, company or corporation engaged in the real estate business nor use for Associate's own benefit any information as to Principal's clients, customers, properties, prices, terms of negotiations nor Principal's policies or relationships with clients and customers nor any other information concerning Principal or Principal's business.
 - 3) Associate shall not remove from the files or from the office of Principal any maps, books, publications, card records, investor or prospect lists, or any other material, files or data, and it is expressly agreed that such records are and shall remain with property of Principal. Associate shall be entitled to copies of certain instruments pertaining to transactions in which Associate has a bona fide interest, and Principal shall not unreasonably withhold the same from Associate.
- c. Associate shall be entitled to receive Associate's share (determined in accordance with Section 6 (b) of this Agreement) of any commissions received by Principal whenever the first contract between the parties to the transaction was executed prior to the date on which termination of this Agreement becomes effective. Notwithstanding the foregoing, if such contract relates to the construction of a house and such construction has not yet been fully completed by said termination date, Associate shall be entitled to receive only one-half of the commission share which would otherwise be payable, and the other half shall be distributed to a cooperating associate chosen by Principal; and in such event Associate's share will be further reduced by an amount equal to one-half of the expenses incurred by said cooperating broker in connection with the construction and interior design of such house.
- d. Except as provided in paragraph (c) of Section 14, Associate shall not be compensated in respect of any transaction completed subsequent to the date on which termination of this Agreement becomes effective unless agreed to in writing by Principal.

15. Construction of Agreement. This Agreement, executed in duplicate, is to be construed and given effect as a Massachusetts contract, sets forth the entire agreement between the parties, and is binding upon and inures to the benefit of the parties hereto and their respective personal representative, successors and assigns. This Agreement is personal to the parties hereto and may not be assigned, sold or otherwise transferred by either party.

IN WITNESS WHEREOF, Principal and Associate have executed this instrument under seal on the day and year first above written.

Authorized Principal

Associate/Independent Contractor

Print Name

Print Name

Title

Social Security Number

EXHIBIT A

COMMISSION DISTRIBUTION SCHEDULE

SAMPLE