

Independent Contractor Agreement Between Broker and Associate

FLORIDA ASSOCIATION OF REALTORS®



_____, (“**Broker**”)
is licensed as a real estate broker in the State of Florida and performs acts designated within Chapter 475, *Florida Statutes*, enjoys goodwill and a reputation for dealing with the public, and maintains an office for the purpose of serving the public as a real estate broker.

_____, (“**Associate**”)
is licensed as a sales associate (license number SL/BL _____) broker associate (license number BK _____) in the State of Florida and is properly qualified to deal with the public as such.

Effective the ____ day of _____, _____ (“effective date”), **Broker** and **Associate** agree to associate pursuant to the following terms and conditions.

1. Employment Status. **Broker** retains **Associate** as an independent contractor to assist **Broker** in the performance of real estate-related activities. With respect to the clients and customers for whom service is performed within the scope of this Agreement, **Associate** will be construed to be an agent of **Broker**; otherwise, **Associate** will not be deemed a servant, employee, joint venturer or partner of **Broker** for any purpose. **Associate** will not be treated as an employee for Federal tax purposes with respect to the services performed for **Broker** under this Agreement. **Associate** is responsible for paying his/her own estimated income tax payments, self-employment taxes, occupational taxes and other taxes, if any, to the appropriate governmental entities. **Broker** will not withhold any taxes from compensation due to **Associate**, nor will **Broker** provide worker’s compensation insurance for **Associate**.

2. Associate Responsibilities. **Associate** will use his/ her best efforts to procure real estate-related business for **Broker** and will conduct his/her business in a reputable manner and in conformance with all laws, rules, regulations and codes of ethics that are binding upon or applicable to real estate licensees, and with **Broker’s** office policy manual, if any.

A. Compliance. **Associate** recognizes and acknowledges the obligation to keep abreast of all legal and other issues that affect the real estate industry as they may change from time to time. **Associate** will not commit any act that violates Florida real estate license law.

(1) Fair Housing. **Broker** and **Broker’s** company support and practice Fair Housing principles. **Associate** has been advised that failure to comply with Fair Housing principles will result in appropriate disciplinary action and possible termination of this Agreement. **Associate** warrants and represents that it is **Associate’s** intent to attend Fair Housing instructional programs, keep current on developments in Fair Housing as it affects real estate marketing and sales, and comply with the Fair Housing laws and regulations. **Associate** understands this acknowledgment, warranty and representation and agrees to it voluntarily.

(2) Office Policy Manual. **Broker** maintains does not maintain an office policy manual. **Associate** has received a copy, and agrees to comply with the manual and such modifications, addenda and changes as may be incorporated therein from time to time.

B. License Renewal; Continuing Education; Dues. **Associate** will be responsible for timely renewing **Associate’s** real estate license and for completing all legally required continuing education in a timely manner and maintaining the records that evidence such completion as required by the Florida Real Estate Commission. **Associate** will be responsible for paying all license fees, membership dues and fines.

C. Broker Supervision. **Associate** will be deemed to be working under **Broker’s** supervision only to the extent required by Chapter 475, *Florida Statutes*. **Associate** will perform all activities, including those activities **Broker** requires **Associate** to perform, independently without **Broker’s** supervision or control.

D. Broker Property. **Associate** acknowledges that all pending sales and listings taken during the term of this Agreement are **Broker’s** property. All programs, forms, data, keys, manuals, signs and other paraphernalia relative to the business of **Broker** are **Broker’s** property, as are all documents and other items pertaining to transactions.

E. Property of Others. In accordance with Florida law, **Associate** will deliver to **Broker** by the end of the next business day following receipt any funds or other items that a consumer has entrusted to **Associate** in connection with a real estate transaction.

F. Responsibility. **Broker** will not be liable to **Associate** for any expenses incurred by **Associate** nor for any of **Associate’s** acts. **Associate** will have no authority to bind **Broker** by any promise or representation, oral or otherwise, unless specifically authorized in writing in a particular transaction. Suits, whether for fees or otherwise, against clients, customers and others in the real estate business will be maintained only in **Broker’s** name. **Associate** is responsible for providing all tools necessary to perform the duties outlined. **Associate** will also be responsible for providing **Associate’s** own automobile and is responsible for transportation expenses including insurance in the minimum coverage amount of

Broker (____) and **Sales Associate** (____) acknowledge receipt of a copy of this page, which is Page 1 of 3 Pages.

\$ _____ for personal injury protection liability and insurance in the minimum coverage amount of \$ _____ for bodily injury liability and insurance in the minimum coverage amount of \$ _____ for property damage liability and other expenses incidental to performing **Associate's** duties without receiving any reimbursement from **Broker**. **Broker** will be named as an additional insured in all such policies.

G. Indemnification. **Associate** will indemnify and hold **Broker**, its officers, directors and employees harmless from all claims, demands, suits, costs and expenses, including reasonable attorneys' fees at all levels, of whatever nature and description to the extent based on **Associate's** representations; acts; omissions; negligence; willful misconduct; or violation of laws, rules, regulations, codes of ethics, this Agreement or office policy manual.

3. Broker Responsibilities.

A. Access to Listings. **Broker** will provide **Associate** with access to all current listings of **Broker** and listings made available to **Broker** through offers of cooperation, except those listings that **Broker**, in his/her/its discretion places exclusively in the possession of another sales associate.

B. Access to Facilities. **Associate** may utilize **Broker's** then existing office facilities for the performance of **Associate's** duties as described above.

C. Compensation. **Broker** will negotiate all terms and conditions of fees charged clients including but not limited to, the amount and payment date. **Broker** will compensate **Associate** in proportion to **Associate's** output with regard to real estate-related activities and not to hours worked by **Associate**. Such compensation will be solely through commissions as described below or in **Broker's** office policy manual, if any. In the event of conflict between **Broker's** office policy manual and this Agreement, the terms of the office policy manual will prevail. **Broker** may deduct from **Associate's** compensation any amounts due from **Associate** to **Broker**.

(1) Amount; Payment. When **Associate** performs any **Brokerage** service for **Broker** and **Broker** earns and collects a fee for such service, **Broker** will pay **Associate** within ____ days after the funds are collected and have cleared:

- _____ % of the fee as commission for _____
- _____ % of the fee as commission for _____
- _____ % of the fee as commission for _____

(2) Dividing Compensation With Other Licensees. If two or more **associates** participate in rendering a brokerage service to the public, or claim to have done so, **Broker** will determine, in **Broker's** sole and absolute discretion, the amount of the fee due **Associate**.

(3) Incentives. If a seller or listing office offers a premium, bonus or other incentive, if such premium, incentive or bonus is in the form of money, then _____

If such incentive is other than money (i.e., a cruise, trip, or other matter having economic value but not delivered in money), then such premium, bonus or incentive will go to **Broker** **Associate**. If a nonmonetary incentive goes to **Associate**, **Broker** will report the fair market value of the incentive as income to **Associate**, as **Broker** must collect and deliver the incentive to **Associate** to preserve the respective legal positions of the parties.

(4) Benefits. **Associate** will be provided no minimum salary, vacation pay, sick leave or any other fringe benefit.

(5) Collection of Fees. **Broker** will not be required to prosecute or sue any party in order to collect any fee for services performed by **Associate**. However, if **Broker** incurs attorneys fees and costs in the collection of or attempt to collect a fee, such amounts will be deducted from **Associate's** commission in the same proportion as provided for herein in the division of the fee.

(6) Compensation After Termination of Agreement. After termination of this Agreement, **Broker** will pay **Associate** any amount earned prior to termination less amounts owed to **Broker** and amounts **Broker** must pay another licensee to complete pending transactions for which **Associate** was responsible prior to termination.

4. Errors and Omissions Insurance. **Broker** maintains Errors & Omission insurance which coverage includes **Associate**. **Associate** will pay a portion of Errors & Omission coverage, as follows: _____

5. Term; Termination. This Agreement will be in effect for ____ year(s) from the effective date. Either party may terminate this Agreement by ____ days' advance written notice to the other party. **Broker** may terminate this Agreement without notice for wrongful conduct by **Associate**. Failure by either party to maintain active licensure status pursuant to Chapter 475, *Florida Statutes*, will be deemed automatic termination. **Associate** will not, after termination of this Agreement, use to his/her own advantage, or to the advantage of any other person or entity, any information gained from the business of the **Broker** relating to property for sale, lease or rental, or **Broker's** customers or clients. Upon termination of this Agreement, **Associate** will return all **Broker's** property to **Broker** with no copies made or retained by **Associate**.

Broker (____) and **Sales Associate** (____) acknowledge receipt of a copy of this page, which is Page 2 of 3 Pages.

6. Confidentiality. **Associate** acknowledges that **Broker** may disclose confidential information to **Associate** during the course of this Agreement. Any such information that is or should be reasonably understood to be confidential or proprietary to **Broker**, including mailing lists, customer and client lists, sales, costs, unpublished financial information, product and business plans, projections, marketing data, computer data, computer programs and supporting documentation, and **Broker's** office policy manual, if any, are considered confidential property of **Broker**. **Associate** will take reasonable steps and use due care during the term of this Agreement and for _____ months after its termination to prevent the duplication or disclosure of confidential information, other than by or to **Broker's** employees or agents who must have access to the information to perform their duties for **Broker**.

7. Dispute Resolution: This Agreement will be construed under Florida law. All disputes between **Associate** and another associate in **Broker's** firm will be resolved by **Broker**. All disputes between **Broker** and **Associate** will be mediated under the rules of the **American Arbitration Association** or other mediator agreed upon by the parties. The parties will equally divide the mediation fee, if any. In any litigation between **Broker** and **Associate**, the prevailing party will be entitled to recover reasonable attorneys' fees and costs at all levels, unless the following box is checked: **Arbitration:** Any dispute not resolved by mediation will be settled by neutral binding arbitration in accordance with the rules of the American Arbitration Association or other arbitrator agreed upon by the parties. Each party to any arbitration or litigation (including appeals and interpleaders) will pay its own fees, costs and expenses, including attorneys' fees at all levels, and will equally split the arbitrators' fees and administrative fees of arbitration.

8. Additional Terms. _____

Brokerage Name

BY: _____
Broker

Associate

This form is available for use by the entire real estate industry and is not intended to identify the user as a REALTOR. REALTOR is a registered collective membership mark that may be used only by real estate licensees who are members of the National Association of REALTORS and who subscribe to its Code of Ethics. The copyright laws of the United States (17 U.S. Code) forbid the unauthorized reproduction of blank forms by any means including facsimile or computerized forms.



Broker (____) and **Sales Associate** (____) acknowledge receipt of a copy of this page, which is Page 3 of 3 Pages.