

## Virginia REALTORS Form 400 - Exclusive Authorization to Sell

Congratulations on choosing an agent to list your house for sale. The following is a summary of the Exclusive Authorization to Sell contract. Within this contract you will find your rights and obligations and your agent's rights and obligations to you. This is not all inclusive and if you have any questions please ask your agent or seek legal counsel to better understand the contract.

You should ensure that the information listed in the contract is correct. Take notice of the commencing and expiring period, which is the timeframe when your agent will be representing you. Also, please take notice of the listing price. This is the price that your agent will market the home for. This price can change with your express consent after the contract is signed.

### Broker Fee

There are multiple numbers which can be listed here, take note of the "Fee." The Fee is what you will pay your agent after the sale of the house. However, there are multiple other ways in which you may owe the fee.

- If within the listed amount of days after the expiration of this contract or any extension, you sell the property to someone who your agent showed, offered, or introduced for the purpose of buying the house.
- If an offer is presented to you in the initial period or extension but you accept it after it expires.
- If an offer is presented to you in the initial period or extension but you present a counteroffer, and it is accepted after the initial period or extension expires.
- If you choose to withdraw the property from the market during the initial term or extension without your agent agreeing.
- If you purposely take actions to prevent your broker from selling the property or otherwise default on your obligations during the initial term or extension.

You do **not** owe the fee if:

- After the expiration of the initial time period or extension you enter into another exclusive authorization to sell with another broker.
- The purchaser(s) default on their contract and cannot buy the house – but please note that the contract with you is still in effect if it has not expired.
- The contract expires and the property is not sold.

Your agent will offer a cooperating fee to other agents and brokers, this will be part of the sales contract and listed in the MLS among other things. This fee is not in addition to the original fee, it is part of the original fee. If you have any questions about this please discuss this with your agent and or their broker.

### Agency

There are different types of agencies, and you should discuss with your broker which one they will be representing you as.

*Standard Agency*

The first is standard agency, this is when your agent represents you and your interests alone. However, your agent is bound by the law and there are few things they must do. For example, they must disclose material adverse facts personally known to them. They must treat other parties fairly and honestly and provide them with information about the home. Your agent is also allowed to help purchasers in preparing and filling out offers to purchase your property.

But please take note, if your agent is representing you as a standard agent and does help the purchaser prepare and fill out the contract they are **not** helping the purchaser with any knowledge that could hurt your position. Said differently, your agent can point out clauses in the contract to the purchaser and let them know this is where they have to fill things in; but they **cannot** say whether you will or won't accept whatever information they fill in.

### *Designated Agency*

The second type of agency is designated agency. Your agent works for a brokerage and that brokerage has other agents and brokers. If your agent represents you as a designated agent this means that the purchaser has an agent within the same brokerage. Your agent still only represents you and you alone, but their broker now must supervise both your agent and the purchaser's agent. Which means that the broker is now a dual agent and as such **cannot** use information from one client (you) to harm the position of the other client (the purchaser). Both sides must agree in writing to this type of representation by way of a disclosure.

The broker supervising the transaction will not, among other things, disclose information about what price you will accept, other than the price listed in this contract. Also, they will not disclose information to you or your agent regarding how much the purchaser is willing to pay for the home. In this type of agency, after the purchaser and you cannot come to a deal this type of representation automatically terminates.

### *Dual Agency*

Lastly, the final type of agency is dual agency. Dual agency can be difficult to comprehend, and the following is what dual agency looks like. It is not an all inclusive and if you have any questions please speak with your agent and/or their broker for more information and/or an attorney to help you further understand. Both sides must agree in writing to this type of representation by way of a disclosure.

Dual agency is when your agent represents both you and the purchaser, in this situation the broker has dual representation. In dual agency, your agent will not use any privileged information they have to either your benefit or harm. As such, you now have the responsibility of making your own decisions as to which terms will be included in the contract for sale.

Your agent **can** do the following actions as provided for in the law, but please note this list is not all inclusive. Disclose material adverse facts about the property as personally known to them. Treat you and the purchaser honestly and work with representatives or contractors that you or the purchaser may have to help sell the property and fulfill your obligations. May help purchaser arrange property inspections if in the contract. May explain closing costs and procedures. May help purchasers compare financing alternatives. May provide marketing data about the surrounding properties so that you can make an educated decision about the list price.

Your agent **cannot** do the following and this list is also not all inclusive. They cannot use any confidential information they have for your or the purchaser's benefit or harm; unless there is written permission to do so. Disclose what price either side is willing to pay or accept, other than the price listed in this contract. Recommend or give any advice on what terms and conditions either you or the purchaser should accept or negotiate.

### **Your Duties**

- You will work exclusively with your agent during the term of this contract.
- Supply any information or personal data needed to comply with any obligations.
- Pay the compensation if and when it is due.
- Make the property available during reasonable hours for showings.
- Inform all purchasers and other agents that you come in contact with that you are represented by your agent.

### **Agent's Duties**

- Make reasonable efforts to find a purchaser for the property during the term.
- By law, they must disclose all material adverse facts regarding the property which are personally known to them.
- Present all offers on the property when received.

### **Advertising**

You are authorizing your agent to put their "FOR SALE" sign on the property and take down any other sale signs. You are authorizing your agent to put the information about the property on the internet. You are allowed to opt-out of this if you so choose.

You may opt-out and not authorize your agent to list the property at all on the internet. You can also choose not to publish the address. You can also authorize or not authorize to have third parties write comments, reviews, or provide hyperlinks to the property; an automated estimate of the market value; advertise on social media.

It is very important that you speak with your agent about these authorizations and how they will advertise in general. Remember, you are electing to use an agent to sell your property because of their expertise and that includes advertising. Also, you should take note that while your agent can and will send third parties demands they take down material they are not authorized to display, your agent cannot does not have control of those third parties.

### **Other Disclosures**

There are several disclosures you must make if they are applicable and the following is not all inclusive; your agent will guide you on which ones are required and not. You must disclose whether you live in a Common Interest Community (i.e. an HOA, or have a Condo Association). You must disclose if you have a septic waiver as issued by the Board of Health. You must also make the mandatory disclosures as required in the Virginia Residential Property Disclosure Act; these disclosures will be in a separate form that you will sign and provide to the purchaser.