



AGENCY RELATIONSHIPS IN REAL ESTATE TRANSACTIONS

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North Dakota law requires that early in any relationship, real estate brokers or salespersons discuss with consumers what type of agency representation or relationship they desire(1). The available options are listed below. This is not a contract. **This is an agency disclosure form only. If you desire representation, you must enter into a written contract according to state law** (a listing contract or a buyer representation contract). Until such time as you choose to enter into a written contract for representation or assistance, you will be treated as a customer of the broker or salesperson and not represented by the brokerage **WITHOUT AN AGENCY RELATIONSHIP A BROKER OR SALESPERSON DOES NOT OWE ANY PARTY ANY OF THE FIDUCIARY DUTIES LISTED BELOW.**

I. Seller's Broker: A broker who lists a property, or a salesperson that is licensed to the listing broker, represents the Seller and acts on behalf of the Seller. A broker or salesperson working with a Buyer may also act as a subagent of the Seller, in which case the Buyer is the broker's customer and is not represented by that broker. A Seller's broker owes to the Seller the fiduciary duties described below (2). The broker must also disclose to the Buyer any material facts of which the broker is aware that could adversely and significantly affect the Buyer's use or enjoyment of the property. If a broker or salesperson working with a Buyer as a customer is representing the Seller, he or she must act in the Seller(s) interests and must tell the Seller(s) any information disclosed to him/her. In that case, the Buyer will not be represented and will not receive advice and counsel from the broker or salesperson.

II. Buyer's Broker: A Buyer may enter into an agreement for the broker or salesperson to represent and act on behalf of the Buyer. The broker may represent the Buyer only, and not the Seller, even if s/he is being paid in whole or in part by the Seller. A Buyer's broker owes to the Buyer the fiduciary duties described below (2). The broker must disclose to the Buyer any material facts of which the broker is aware that could adversely and significantly affect the Buyer's use or enjoyment of the property.

III. Dual Agency - Broker Representing Both Seller and Buyer: Dual agency occurs when one broker or salesperson represents both parties to a transaction, or when two salespersons licensed to the same broker each represent a party to the transaction. Dual agency requires the informed consent of all parties, and means that the broker or salesperson owes the same duties to the Seller and the Buyer. This rule limits the level of representation the broker and salespersons can provide, and prohibits them from acting exclusively for either party. In a dual agency, confidential information about price, terms, and motivation for pursuing a transaction will be kept confidential unless one party instructs the broker or salesperson in writing to disclose specific information about him or her. Other information will be shared. Dual agents may not advocate for one party to the detriment of the other.

Within the limitations described above, dual agents owe to both Seller and Buyer the fiduciary duties described below (2). Dual agents must disclose to Buyers any material facts of which the broker is aware that could adversely and significantly affect the Buyer's use or enjoyment of the property.

IV. Appointed Agency: A broker has the option of replacing Dual Agency as described under paragraph III above with APPOINTED AGENCY for in-house transactions. The broker may appoint one licensee affiliated with the broker to exclusively represent a Seller, and one licensee affiliated with the broker to exclusively represent a Buyer. In that case, no dual agency is created. NOTICE: Any appointed agent who singularly represents both the Seller and the Buyer in the same transaction is considered to be a disclosed dual agent owing fiduciary duties to both parties, and must get permission from both parties to so act.

ACKNOWLEDGEMENT: I/We acknowledge that I/We have been presented with the above-described options. I/We understand that Buyers who have not signed a Buyer representation contract are not represented by the broker/salesperson and information given to the broker/salesperson will be disclosed to the Seller. I/We understand that written consent is required for a dual agency relationship. This is a disclosure only, NOT a contract for representation.

Buyer _____ Date _____ Seller _____ Date _____

Buyer _____ Date _____ Seller _____ Date _____

(1) This disclosure is required by law in any transaction involving property occupied or intended to be occupied by one to four families as their residence.

(2) The fiduciary duties mentioned above are listed below and have the following meanings:

Loyalty - broker/salesperson will act only in client(s) best interest.

Obedience - broker/salesperson will carry out all client(s) lawful instructions.

Disclosure - broker/salesperson will disclose to client(s) all material facts of which broker/salesperson has knowledge which might reasonably affect the client's rights and interests.

Confidentiality - broker/salesperson will keep client(s) confidences unless required by law to disclose specific information (such as disclosure of material facts to Buyers).

Reasonable Care - broker/salesperson will use reasonable care in performing duties as an agent.

Accounting - broker/salesperson will account to client(s) for all client(s) money and property received as agent.

(3) If Seller(s) decide not to agree to a dual agency relationship, Seller(s) may give up the opportunity to sell the property to Buyers represented by the broker/salesperson. If Buyer(s) decides not to agree to a dual agency relationship, Buyer(s) may give up the opportunity to purchase properties listed by the broker.

Agent/Broker verifies that all the necessary signatures have been obtained and a signed original is available on request.