

Listing Contract

Exclusive Agency to Sell Real Property

As seller you have the right to individually reach an agreement on any fee, commission or other valuable consideration with any broker. No fee, commission or other consideration has been fixed by any governmental authority or by any trade association or multiple listing service.

BROKER: HOUSEPAD LLP (Hereinafter referred to as "Broker")

SELLERS: (Hereinafter referred to as "Seller")

1. PROPERTY:

2. LISTED PRICE: \$. Seller is solely responsible for determining the appropriate listing price.

3. CONTRACT TERM: This Contract will be effective for a period of 6 months beginning from the date this contract is signed by Seller. Seller may cancel this contract by following the terms of Paragraph 18. The agreement will automatically terminate at the expiration of a 6 month listing period.

4. PURPOSE OF THIS CONTRACT: Seller is hiring Broker to submit the property (with its full address information) in the Garden State Multiple Listing Service and *www.realtor.com*. Broker will be making an offer of compensation, as authorized by the Seller in paragraph 5, to other brokers to find a buyer. Broker is acting as a Transaction Broker ONLY to complete these previously mentioned duties.

5. BROKER FEE: Seller has paid Broker a upfront fee for the above mentioned services. If a cooperating broker procures the buyer, Seller will pay Broker of the sale price at settlement. Broker will instruct the settlement agent to pass through the entire selected percentage to another broker who procures the buyer. Other brokers will be paid this commission acting only as a buyer's agent, as outlined in the Agency Relationship Disclosure. This Contract will automatically be extended to the settlement date if the property is under contract (Sales Agreement) on the expiration date. If the buyer is procured by the Seller, the Broker Fee percentage selected in this paragraph shall not be due Broker. Other websites mentioned on Broker's website as included are unaffiliated companies that may change their policies at any time, in which case Seller agrees no refund would be due Seller if the listing does not appear or does not appear correctly on other such websites.

6. BROKER COMMUNICATIONS AND ELECTRONIC SIGNATURES: Seller authorizes all Broker communications to Seller to be via e-mail to this e-mail address: . If this preceding box is left blank, Broker will use Seller e-mail on file. Seller will provide another email address if experiencing email receipt problems. Seller is responsible for ensuring their email settings do not filter legitimate emails. If there is a second owner of record for this property, and this Contract is being electronically signed, the second owner will ratify the Contract at the following email address: . This 2nd email address is only for ratification purposes of this Contract, and will not be used for communications from Broker.

Broker and Seller agree that an Electronic Signature of any document executed through Broker's website ratification system, including but not limited to this Contract and addendums or amendments to this Contract, will be binding on both Broker and Seller and will be treated for all intents and purposes as if it was physically signed. "Electronic signature" means an electronic sound, symbol, or process attached to or logically associated with a record and executed or adopted by a person with the intent to sign the record. The terms used in this Listing Agreement, including but not limited to Electronic Signature, should be construed in accordance with the Uniform Electronic Transaction Act as adopted by the State of Pennsylvania. Seller hereby consents to the use of third party electronic signature capture service providers as chosen by Broker. Forms not executed through Broker's website ratification system may not be electronically signed, unless an exception is granted at Broker's discretion.

7. REALTOR.COM: Realtor.com does not permit Broker to display Seller's contact information on Realtor.com, and instead displays Broker's phone number. Broker's phone system will either play Seller's phone number to the caller or, for the published option fee, forward the phone call to Seller's phone number. Seller has read on Broker's website about, and understands the difference between basic and showcase listings on Realtor.com. Seller will order the appropriate option if they require showcase features.

8. CONFLICT OF INTEREST: Broker will promptly notify Seller if there is a conflict of interest.

9. PUBLICATION OF SALE PRICE: Seller is aware that newspapers may publish the final sale price after settlement. Broker has permission to advertise the sales price.

10. SELLER WILL REVEAL MATERIAL DEFECTS OR ENVIRONMENTAL HAZARDS to buyers on the Seller's Property Condition Disclosure Statement, including Lead Based paint if property built before 1978. This also includes Sellers who are exempt from the Real Estate Seller Disclosure Law. A material defect is a problem or condition that:

- Is a possible danger to those living on the Property, or
- Has a significant, adverse effect on the value of the Property.
- If the Seller is accused of failing to disclose known material defects and/or environmental hazards;
- Seller will not hold Broker or Licensee responsible in any way
- Seller will protect Broker and Licensee from any claims, lawsuits, and actions that result.
- Seller will pay all of Broker's or Licensee's costs that result. This includes attorney's fees and court ordered payments or settlements (money Broker or Licensee pays to end a lawsuit or claim).

The Residential Lead-Based Paint Hazard Reduction Act says that any seller of property built before 1978 must give the buyer an EPA pamphlet entitled *Protect Your Family From Lead in the Home*. Seller assumes full responsibility for providing this to buyers. This pamphlet is available at www.epa.gov.

Seller acknowledges the importance of disclosing any material defects or environmental hazards on the property to potential buyers. Seller agrees to complete the Property Condition Disclosure Statement accurately and completely and to return the completed Property Condition Statement to Broker. Seller will allow Broker's agent to perform an inspection of the property. Upon completion of a satisfactory inspection, Broker will countersign the Property Condition Disclosure Statement and return it to the Seller for distribution to potential purchasers.

If any defects are noted in the Broker inspection that Seller did not list in the Property Condition and Disclosure Statement either Seller will 1) amend this statement with Broker's findings, and deliver the amended copy to Broker within 24 hours, or 2) allow Broker to note the defects on the MLS listing. Seller acknowledges the obligation to provide a copy of the countersigned Property Condition Disclosure Statement to every potential purchaser and broker who views the property.

ANY AGREEMENT OF SALE THAT SELLER SIGNS BEFORE RECEIPT OF THE BROKER INSPECTION REPORT MUST BE MADE CONTINGENT ON THE BROKER INSPECTION HAVING NO MATERIAL DEFECTS DISCOVERED THAT ARE UNDISCLOSED BY SELLER. SELLER WILL DELIVER ANY APPROPRIATE DISCLOSURE MODIFICATIONS OR ADDITIONS TO THE BUYER WITHIN 48 HOURS.

11. DEPOSIT MONEY: Seller is advised to have all deposit monies held in escrow by an attorney, title company, or real estate broker. Seller may elect to have Broker hold the escrow account, with Seller paying an upfront fee of \$200 to Broker for this service.

12. NOTICE TO PERSONS OFFERING TO SELL OR RENT HOUSING: Federal and state laws make it illegal for Seller, Broker, or anyone to use RACE, COLOR, RELIGION, or RELIGIOUS CREED, SEX, DISABILITY (physical or mental), FAMILIAL STATUS (children under 18 years of age), AGE (40 or older), NATIONAL ORIGIN, USE OR HANDLING/TRAINING OF SUPPORT OR GUIDE ANIMALS, or the FACT OF RELATIONSHIP OR ASSOCIATION TO AN INDIVIDUAL KNOWN TO HAVE A DISABILITY as reasons for refusing to sell, show, or rent properties, loan money, or set deposit amounts, or as reasons for any decision relating to the sale of property.

Seller also acknowledges that many jurisdictions have stricter laws that extend protection to political beliefs, income, sexual orientation, affectional orientation, and other factors. Seller agrees to investigate and comply with all laws regarding discrimination.

13. REPORTING TIMELINESS AND ACCURACY: Seller acknowledges Seller's obligation to report all developments concerning the property to Broker within 24 hours of any of the following events: execution of a contract of sale; termination of a contract of sale; Seller's removal of the property from the market; or closing of conveyance of title to the property. Broker requires this information in order to update the listing and comply with the rules of the Multiple Listing Service. Seller will be held responsible for any costs or fees, including fines imposed by the Multiple Listing Service, incurred by Broker as a result of Seller's failure to report these events in timely fashion. Seller will notify Broker within 24 hours of any changes or corrections. Seller understands that in many cases corrections are required, and Seller will allow Broker the necessary reasonable time to make MLS corrections after Seller notification. Seller allows listing data in violation of MLS rules to be changed at Broker's discretion. Seller will notify Broker in writing if they do not receive the email with the MLS proof on the day of listing activation, and will hold Broker harmless for problems in the MLS proof or Realtor.com not discovered until a later date. The listing normally takes a few hours to a few days to appear on Realtor.com. Seller assumes the responsibility for checking Realtor.com for listing display. Seller allows and understands that Realtor.com listing problems require a longer period of time to correct than MLS listing problems. Seller will reply within 24 hours to all inquiries regarding the listing. Broker may have to temporarily withdraw the listing when Seller does not reply within 48 hours, in which case a \$25 service fee to Broker will apply to reactivate the listing. Broker may cancel the listing without refund when

Seller does not report to Broker acceptance of a sales agreement within 24 hours. Broker will mark the listing as settled in the MLS after the settlement date given by Seller. If the settlement date changes and Seller does not notify Broker before Broker marks the listing as settled in the MLS, Seller agrees to pay a \$25 processing fee. Seller's credit card information will be kept on file. Seller's credit card will be charged for any MLS fines incurred, if Seller was at fault by not meeting the requirements of this Paragraph. MLS fines typically range from \$25 to \$1000.

Upon closing of the conveyance of title to the property, Seller will forward a copy of the signed HUD-1 Settlement Statement or equivalent to Broker at (206) 203-0286 or fsbo@housepad.com. Seller's credit card will be charged \$50 if the HUD1 sheet is not delivered to Broker the day of settlement. This fee will be reduced to \$25 if the HUD1 is delivered to Broker in days following the settlement. Seller will provide proof of HUD1 fax or email to reverse this fee if the delivery is in dispute. Seller will advise the settlement agent that the Broker Fee should be listed on the HUD-1 statement as "Paid Outside of Closing, or 'POC' ".

14. BROKER NOT RESPONSIBLE FOR DAMAGES: Seller agrees that Broker and Broker's salespersons are not responsible for any damage to the Property or any loss or theft of personal goods from the property, unless such damage, loss or theft is directly caused by Broker or Broker's salespersons.

15. SECOND MLS WAIVER: Seller does not authorize Broker to place the listing in either the Middlesex MLS or the New Jersey MLS, unless ordered and paid for by Seller on Broker's website.

16. NO OTHER BROKER CONTRACTS: Seller will not list this property with another broker during this Contract's term, unless Seller first cancels this Contract under the terms of Paragraph 18.

17. COMMISSION SPLITS REQUIRED PARAGRAPH: LISTING BROKERS USUALLY COOPERATE WITH OTHER BROKERAGE FIRMS BY SHARING INFORMATION ABOUT THEIR LISTINGS AND OFFERING TO PAY PART OF THEIR COMMISSION TO THE FIRM THAT PRODUCES A BUYER. THIS IS GENERALLY REFERRED TO AS THE "COMMISSION SPLIT".

SOME LISTING BROKERS OFFER TO PAY COMMISSION SPLITS OF A PORTION OF THE GROSS COMMISSION, USUALLY EXPRESSED AS A PERCENTAGE OF THE SELLING PRICE, LESS A SIGNIFICANT DOLLAR AMOUNT. OTHER LISTING BROKERS OFFER A PORTION OF THE GROSS COMMISSION LESS ONLY A MINIMAL LISTING FEE OR ZERO. THE AMOUNT OF COMMISSION SPLIT YOUR BROKER OFFERS CAN AFFECT THE EXTENT TO WHICH YOUR PROPERTY IS EXPOSED TO PROSPECTIVE BUYERS WORKING WITH LICENSEES FROM OTHER BROKERAGE FIRMS. ON THIS LISTING, THE BROKER IS OFFER A COMMISSION SPLIT OF _(THE PERCENTAGE SELECTED IN PARAGRAPH 5)_ MINUS _0_ TO POTENTIAL COOPERATING BROKERS.

IF YOU FEEL THAT THIS MAY RESULT IN YOUR PROPERTY RECEIVING LESS THAN MAXIMUM EXPOSURE TO BUYERS, YOU SHOULD DISCUSS THOSE CONCERNS WITH THE LISTING SALESPERSON OR HIS/HER SUPERVISING BROKER.

BY SIGNING THIS LISTING AGREEMENT, THE OWNER(S) ACKNOWLEDGE HAVING READ THIS STATEMENT ON COMMISSION SPLITS.

18. CANCELLATION: Seller may cancel this contract at any time, under the following conditions. 1) Seller cancellation request must be in writing with all Sellers' signatures. 2) Seller may not cancel this Contract when an offer has been presented and the Seller has not replied in writing to the party making the offer. 3) Seller may not cancel this Contract if the Property is under contract (Sales Agreement). Seller must first reject any offers and/or be released from a Sales Agreement before the listing is canceled. The intent of this Paragraph is to prevent claims from cooperating brokers for a due commission not being paid. If Seller requires Broker's signature and/or letterhead confirming cancellation, Seller agrees to pay a \$25 processing fee.

19. THIRD PARTY DISPUTES (SELLER'S DUTY TO DEFEND): In the event an aggrieved party files an arbitration claim or lawsuit against or in any way involving Broker that seeks payment of a commission or money damages in connection with the sale or attempted sale of the Property, Seller agrees to indemnify, defend, and hold Broker harmless from, and aid Broker in defense of any such claim or lawsuit ("Duty to Defend"). Seller further agrees that, upon commencement of such an arbitration claim or lawsuit, Broker may immediately charge \$700.00 on Seller's credit card on file with Broker in anticipation of Broker's legal and administrative fees in responding to such a claim or lawsuit, regardless of its merits. This charge is nonrefundable. This charge is not and should not be construed as a limitation on Seller's Duty to Defend. If Seller fails, for any reason, to fulfill its Duty to Defend, Broker may seek indemnity, contribution, and/or reimbursement from Seller for all costs incurred as a result of the claim or lawsuit, including attorney's fees as well as recovery of all costs of collection thereof, including but not limited to attorney's fees, collection agency fees, court costs, and expenses, less the \$700 previously paid by Seller pursuant to this paragraph.

20. DOCUMENT PREPARATION: Broker will provide assistance with document preparation to Seller. Seller agrees that this assistance will be provided without additional charge only by e-mail communications, in the format of question and answer. Seller

agrees to pay Broker \$25 per 15 minutes for any documents Broker must review and/or sign, and the same rate for any time spent by Broker on the phone regarding this listing or transaction. All communications, offers, and negotiations received by Broker will be sent to Seller's registered email address. Additional fees apply for forwarding of communications by other means. Seller will provide Broker with a copy of the agreement of sale. Seller will pay Broker a \$50 fee if Seller withholds the agreement of sale from Broker. Seller may elect to purchase optional, additional assistance from Broker, as available on Broker's website.

21. MLS COPYRIGHT: The MLS listing proof sent by Broker to Seller is copyrighted by the MLS. Seller agrees that this listing proof is solely for data accuracy purposes, and will not distribute the file in anyway to anyone. Seller will be responsible for any MLS fines resulting from distributing the MLS listing proof. If Seller desires a highlight sheet, Broker recommends that Seller use their Realtor.com listing for this purpose.

22. PHOTOS: Seller will not supply or instruct Broker to load any photos that were previously uploaded to the MLS by another company, even if Seller owns the copyright to such photos, unless Seller has the written permission from the broker who previously published the photos in MLS. Seller agrees Broker is not responsible to check past listings for photo compliance. Any claims in this regard will be handled as a dispute according to the terms of Paragraph 19 of this Contract.

23. VIDEO FOOTAGE: Seller agrees to supply Broker with digital video footage of the full interior and exterior of the property. If not received Broker may remove the listing with no refund. If Seller does not have a digital video camera, Seller may request to borrow a video camera from Broker. If requested by Seller, the video camera is due back to Broker's office within 10 calendar days following the United States Postal Service (USPS) delivery confirmation at Seller's stated mailing address. The video camera will be deemed to be in Seller's possession and responsibility if there is a USPS delivery confirmation. Seller agrees that their credit card on file will be charged a nonrefundable \$70 by Broker if the video camera is not returned in working condition to Broker by the due date.

24. OTHER TERMS:

- The parties agree that, in the event of any failure, defect, or malfunction of the MLS listing, the only remedy available to Seller shall be a prorated refund for unperformed services from the fees paid by Seller.
- This Contract shall be binding on and inure to the benefit of the successors and assigns of the respective parties to this Contract.
- The parties agree that Broker will not be liable for any consequential damages of any nature caused to the business or property of Seller by any failure, defect, or malfunction of Seller's listing or product purchased from Broker.
- If any term or provision of this Contract is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remainder of the provisions of this Contract shall remain in full force and effect and shall in no way be affected, impaired, or invalidated.
- This Contract shall be governed by and construed in accordance with the laws of the state of Pennsylvania.
- Seller authorizes any Seller fees to Broker mentioned in this Contract to be charged to Seller's credit card if applicable. Seller also agrees reasonable collections fees will be added to any unpaid and late balances.


25. THIS CONTRACT is the entire agreement between Broker and Seller, all changes must be in writing and signed by Broker and Seller. The duration of this contract have been determined as a result of negotiations between Broker and Seller. Broker has the right to reject any property for submission at Broker's discretion, and refund Broker fee to Seller. Broker cannot provide legal advice. The Seller is advised to consult an attorney of Seller's choice.

All owners of record agree to these terms.

Seller's Signature _____ *Date:* _____

Seller's Signature _____ *Date:* _____

Broker Signature:



Ken R. Gehring