

# Listing Contract

## Exclusive Agency to Sell Real Property

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

**SELLERS:** (Hereinafter referred to as "Seller").

### 1. PROPERTY ADDRESS BEING LISTED:

(Hereinafter referred to as the "Property").

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

**3. CONTRACT TERM:** This Listing Contract ("Contract") will be effective for a period of exactly 6 months to the day from the date this Contract is signed by Seller. Seller may cancel this Contract by following the terms of Paragraph 20. This Contract will automatically terminate at the expiration of the 6 month listing period. This Contract will automatically be extended to the settlement date if the Property is under contract (Sales Agreement) on the expiration date.

**4. AGENCY RELATIONSHIPS:** Seller acknowledges that Broker is to act as a Limited Seller's Agent on behalf of Seller and only to complete the duties listed in this Contract. The brochure "Agency Relationships in Real Estate" explains the types of brokerage relationships. Broker does not offer buyer agency, dual agency, or designated agency. Seller acknowledges receipt and signature of the "Acknowledgement of Agency Disclosure" document as required by Section 40-57-139 (as amended) of the Code of Laws of South Carolina.

**5. PURPOSE OF THIS CONTRACT AND BROKER'S DUTIES:** Seller is hiring Broker to submit the Property (with its full address information) in the appropriate Multiple Listing Service and [www.realtor.com](http://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. Seller hereby authorizes Broker and such other brokers to place "For Sale" signs on the Property during the term of this Contract. 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 listing does not appear or does not appear correctly on other such websites.

As a Limited Seller's Agent on behalf of Seller, Broker shall be obligated to perform the following duties and obligations as set forth in Section 40-57-137 ( C ) of the South Carolina Code of Laws:

- (1) perform the terms of the written brokerage agreement (this Contract) made with the client (the Seller);
- (2) in accordance with subsection (A), promote the interest of the seller by performing agency duties which include:
  - (a) seeking a sale at the price and terms stated in the brokerage agreement or at a price and terms acceptable to the seller, except that the licensee (Broker) is not obligated to seek additional offers to purchase unless the brokerage agreement provides otherwise while the property is subject to a contract of sale;
  - (b) presenting in a timely manner all offers and counteroffers to and from the seller, even when the property is subject to a contract of sale;
  - (c) disclosing to the seller all relevant facts concerning the transaction which are actually known to the licensee or, if acting in a reasonable manner, should have been known to the licensee, except as directed otherwise in this section;
  - (d) advising the seller to obtain expert advice on matters that are beyond the expertise of the licensee;
  - (e) accounting in a timely manner, as required by this chapter, for all money and property received in which the seller has or may have an interest;
- (3) exercise reasonable skill and care in discharging the licensee's agency duties;
- (4) comply with all provisions of this chapter and with any regulations adopted by the department;
- (5) comply with all applicable federal, state, or local laws, rules, regulations, and ordinances related to real estate brokerage, including laws which relate to fair housing and civil rights;
- (6) preserve confidential information provided by the seller during the course of and following the agency relationship that might have a negative impact on the seller's real estate activity unless:

(a) the seller to whom the confidential information pertains grants consent to disclose the information; or

(b) disclosure is required by law; or

(c) disclosure is necessary to defend the licensee against an accusation of wrongful conduct in a proceeding before the commission or before a professional association or professional standards committee.

No cause of action may arise against a licensee for disclosing confidential information in compliance with subsection (C)(6)(a), (b), or (c).

**6. BROKER FEE:** Seller has paid Broker a \_\_\_\_\_ upfront fee for the above mentioned services. Additionally Seller will pay Broker \_\_\_\_\_ of the gross sale price at settlement. Broker will instruct the title company 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. The Disclosure of Brokerage Relationships in Real Estate Transactions explains the types of brokerage relationships. This Contract will automatically be extended to the settlement date if the Property is under contract (Sales Agreement) on the expiration date. If Seller procures the buyer, no commission is due Broker.

**7. EXPERT ASSISTANCE:** Broker advises Seller to obtain expert assistance with respect to legal, tax and accounting matters or matters relating to zoning, surveying, inspections, construction, hazardous materials, engineering, or other matters that are not within the expertise of Broker. Broker shall have no liability with respect to such matters.

**8. 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 the Property, and this Contract is being electronically signed, the second owner will ratify this 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 Contract, including but not limited to Electronic Signature, should be construed in accordance with the Electronic Signatures in Global and National Commerce Act, 15 U.S.C. Section 7002(a), and the Uniform Electronic Transactions Act as adopted by the State of South Carolina, Sections 26-6-10 through 26-6-210. 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.

**9. 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.

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

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

**12. SELLER WILL REVEAL MATERIAL DEFECTS OR ENVIRONMENTAL HAZARDS** to buyers on the Seller Property Condition Disclosure Statement, including Lead Based paint if property built before 1978. Seller further warrants that Seller has reviewed and completed a SELLER'S PROPERTY CONDITION DISCLOSURE STATEMENT, as required by South Carolina Code of Laws, as amended, Section 27-50-10, et.seq., attached to and made a part of this Agreement, and that all such information is accurate to the best of Seller's knowledge. Seller has the duties to honestly and completely filling out said disclosures, and presenting them to the buyer on or before the signing of a sales contract. This also includes Sellers who are exempt by 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 indemnify, defend, protect and hold Broker and Licensee harmless 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 at Broker's sole discretion).

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, for disclosing known presence of lead-based paint and lead-based paint hazards and providing a list of, and copies of all reports and records available to Seller pertaining to lead-based paint and lead based paint hazards on the Property.

The Seller understands and agrees that Broker has fully met the requirements of Section 27-50-70 of the South Carolina Code of Laws, as amended.

**13. DEPOSIT MONEY:** Seller is advised to have an attorney or title company hold the escrow moneys, subject to all South Carolina laws & regulations. Seller has not hired Broker to hold escrow monies unless Seller orders the escrow service option on Broker's website (\$200) for Broker to hold escrow. Seller will instruct all agents and prospects to not mail Broker deposit monies unless Seller has paid for the escrow option. If the escrow option is selected, Broker will mail the escrow funds to closing via USPS Priority Mail.

**14. NOTICE TO PERSONS OFFERING TO SELL OR RENT HOUSING IN SOUTH CAROLINA: Federal housing laws, and the laws of the state of South Carolina, Section 31-21-40 , prohibit** discrimination in the sale, rental, appraisal, financing, or advertising of housing or other property in the basis of RACE, COLOR, RELIGION, or RELIGIOUS CREED, SEX, HANDICAP, FAMILIAL STATUS (children under 18 years of age), AGE (40 or older), or NATIONAL ORIGIN 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, affectional orientation, and other factors. Seller agrees to investigate and comply with all laws regarding discrimination. Broker will in no way be responsible for Seller's actions in violating fair housing laws and will indemnify and hold Broker harmless from any fair housing violation claims. Broker may cancel Seller's listing without refund if a fair housing violation exists and is not corrected within 24 hours of notice.

**15. FOREIGN SELLERS:** The Foreign Investment and Real Property Act (FIRPTA) may apply if Seller is a foreign person, foreign corporation or partnership, or nonresident alien, unless the purchase price is \$300,000 or less AND the buyer intends to use the Property the Buyer's residence. FIRPTA may require the buyer of real property to withhold 10% of the sale price and to deposit that amount with the Internal Revenue Service upon closing.

Seller \_\_\_\_\_ is \_\_\_\_\_ is not subject to FIRPTA.

**16. REPORTING TIMELINESS AND ACCURACY:** Seller accepts full responsibility and liability for the accuracy and timeliness of data submitted to Broker. 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 indemnify, defend, protect and 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. At settlement, Seller will fax or e-mail a copy of the signed HUD1 statement or the equivalent to Broker's office. Seller's credit card will be charged \$50 if the signed 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'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 \$500.

**17. 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.

**18. BROKER SUPPORT:** 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.

**19. NO OTHER BROKER CONTRACTS:** Seller will not list the Property with another broker during this Contract's term, unless Seller first cancels this Contract under the terms of Paragraph 20.

**20. 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. Broker will notify Seller via email when the cancellation has been completed. If Seller requires Broker's signature and/or letterhead confirming cancellation, Seller agrees to pay a \$25 processing fee.

**21. 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, protect 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.

**22. COPYRIGHTS:** 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. Seller is responsible for ensuring that any photos sent to broker for posting are not copyrighted by anyone other than Seller.

**23. 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 21 of this Contract.

**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. Seller will be exclusively limited to seek a refund of money paid to 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 South Carolina.
- Seller acknowledges receipt of the documents listed on Exhibit A attached hereto.
- 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 duties of Broker in this Contract are intended to comply with all applicable laws and minimum service standards. The broker's fee and 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. If Seller has legal questions, Seller is advised to consult an attorney.

**All owners of record agree to these terms.**

*Seller's Signature* \_\_\_\_\_ *Date:* \_\_\_\_\_

*Seller's Signature* \_\_\_\_\_ *Date:* \_\_\_\_\_

*Broker Signature:*

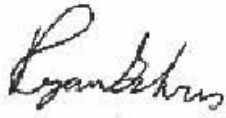
A handwritten signature in black ink, appearing to read "Ryan Dehner". The signature is written in a cursive style with a large initial "R".

Exhibit A

Agency Relationships in Real Estate

Acknowledgement of Agency Disclosure

Form Seller Property Condition Disclosure Statement