

Professional Representation & Marketing Agreement



Professional Representation & Marketing Agreement (Exclusive Authorization to Sell)

This Professional Representation & Marketing Agreement ("Agreement") is designed for a seller to engage a qualified, licensed professional to obtain real estate marketing expertise, contract negotiation guidance, and advocacy services, throughout the entire real estate listing and sale process for the real property described below ("Property"). The undersigned seller(s) (whether one or more, "Seller") grants Nest Realty ("Broker") the exclusive right to sell the Property for the Term (hereinafter defined).

1. PROPERTY. The Property to be marketed and sold under this Agreement is as follows:

Street Address: _____
City, County, State, Zip Code: _____
Legal Description, or Parcel #: _____

2. LENGTH OF AGREEMENT. This Agreement shall begin on _____, and will automatically end on _____ (at 11:59 p.m., Eastern time), or upon the date of closing or termination of any then-pending transaction or active negotiations of a written offer involving the Property, whichever is later (the "Term").

3. AGENCY DISCLOSURE. The agency relationship between Seller and Broker determines how Broker will work on Seller's behalf. Broker shall initially represent solely the interest of the Seller. In the event that multiple agents within brokerage represent other parties who wish to purchase Property, a separate disclosure form will be used to reflect Designated Agency. Broker does not participate in Single-Agent Dual Agency.

4. LISTING PRICE. The Listing Price is the published and marketed price the Seller establishes for the term of this Agreement, and shall be \$ _____ ("Listing Price"). Any adjustment to the Listing Price shall be agreed upon in writing between Seller and Broker.

5. SELLER REPRESENTATION FEE.

NOTICE: Seller and Broker acknowledge and understand that Broker compensation is negotiable and is not fixed, controlled or suggested by law, any MLS or any REALTOR Association.

Broker will earn a fee when a sale of the Property has been completed, regardless of how the Buyer is first introduced to the Property ("Seller Representation Fee"). Seller Representation Fee shall be paid by Seller, in U.S. funds, at the time of, and as a condition of, sale completion. This Agreement shall act as settlement instructions to the applicable settlement company or attorney's office for payment of the Seller Representation Fee to Broker at closing. Seller Representation Fee is:

Represented Buyer. If the Buyer is represented by a licensed Virginia real estate agent in the transaction, the Seller Representation Fee shall be exactly \$ _____; or _____% of the gross purchase price of the Property as reflected on the final settlement statement;

Unrepresented Buyer. If Buyer is not represented a licensed Virginia real estate agent in the transaction ("Unrepresented Buyer"), then Broker will facilitate the completion of necessary forms and ensure fair and honest treatment of all parties, but will not represent such Buyer. In this situation, the Seller Representation Fee shall be exactly \$ _____; or _____% of the gross purchase price of the Property as reflected on the final settlement statement.

In connection with an Unrepresented Buyer, Broker may assign additional Broker-affiliated Agents to represent Seller and perform ministerial tasks on behalf of an Unrepresented Buyer. Broker reserves the right to distribute Seller Representation Fee as Broker deems appropriate to any Broker Agent assigned to represent Seller.

Post Termination or Expiration. If, upon expiration or early cancellation of this Agreement, any prospective Buyer who viewed the Property during the Term, purchases the Property within (_____) days after the Term, then Broker will earn and receive Seller Representation Fee from Seller. This will not apply if the Property is exclusively relisted with another company after the Term.

Exclusive Authorization. Seller understands that having multiple exclusive real estate listing agreements at the same time may lead to Seller having to pay additional fees. Thus, Seller confirms that Seller is not party to any active, exclusive real estate listing agreements besides this one.

6. BUYER BROKER COMPENSATION. Broker does not collect any commission, compensation, or fees on behalf of representatives of any potential buyer ("Buyer"). Seller is not responsible for any portion of a Buyer Representation Fee unless expressly agreed upon in the Contract of Purchase or other related amendment, addendum, or separate document.

A Buyer may request that Seller pay any amount, or part of any amount, of their agreed upon compensation in the applicable Property purchase

agreement directly to Buyer's Agent or Representative. Seller agrees to give consideration to paying a Buyer Representation Fee, upon request in a Contract of Purchase of \$ _____; or _____% of the gross purchase price.

Seller **authorizes** **does not authorize** Broker to communicate this amount to prospective Buyer's representatives either verbally or through other approved manners.

7. SELLER CONCESSIONS. Buyer may request a concession from Seller ("Seller Concession") in the form of a credit, to be given to Buyer at settlement. This Seller Concession may be used to reduce Buyer's loan costs, title and escrow fees, Buyer's broker fee, Property repair costs, and/or any other allowable Buyer costs and fees. Any Seller Concession must be mutually agreed upon, either in the Property purchase contract or in an associated Amendment or Addendum.

8. AUTHORIZATIONS.

a) Seller authorizes and directs Broker to advertise and promote the Property as follows (**check all that apply**):

- On the appropriate multiple listing service ("MLS") platform, as determined by Broker. Some MLS platforms share all property offerings with other MLS platforms to provide a broader reach. Seller is advised to request a list on which MLS platforms Property will appear.
- Through placement of a "For Sale" sign and customary sign riders on the Property.
- Through placement of photos/videos and virtual tours of the Property on the internet and in other electronic and online media platforms. (Once images are uploaded to the internet, Broker no longer has control over how they are used or the length of time they remain accessible to the public. Photos and other assets produced in the process of marketing Property are the intellectual property of the professional photographer, and/or Broker, and/or other consultants and designers who produce the assets. Photos, floorplans, descriptive copy, etc... may not be used by any other parties without first obtaining a license for such use.)

b) Seller **authorizes** **does not authorize** Broker to disclose the existence and the number of other offers to Prospective Buyers and their representatives. Broker shall consult with Seller before disclosing any specific terms of other offers and provide advice to Seller on the benefits and liabilities of such disclosure.

c) Broker is instructed to withhold all public marketing of Property including, but not limited to, social media posts, e-mail blasts to real estate professionals, inclusion on any MLS platform, hosting open houses, and circulation of print collateral until _____ ("List Date").

Prior to List Date, Broker is instructed to: (**check only one**)

- market Property exclusively to Broker Agents and clients, or
- NOT market Property in any way.

9. PROPERTY SHOWINGS AND ACCESS.

(a) Seller **authorizes** **does not authorize** the installation of a lockbox/keysafe on the Property, which will allow other licensed professionals to access the interior of the Property.

(b) Seller will safeguard valuables.

(c) Seller accepts responsibility for preparing the Property to minimize the likelihood of injury, damage, and/or loss of personal property.

(d) Seller shall provide access to the Property at reasonable times and upon reasonable notice to allow for showing the Property to prospective buyers and their brokers.

(e) If Property is subject to a lease during the Term, Seller is responsible for obtaining permissions from tenant and providing Broker with the process for showing Property to prospective buyers and their brokers in compliance with the terms of the lease. Seller agrees to provide a true and correct copy of any applicable lease(s) within three (3) business days of the date of this Agreement and to inform Broker of any defaults under such lease (whether now existing or during the Term).

10. BROKER SERVICES. Broker agrees to perform, advise, and take action as follows:

- (a) exercise reasonable care, skill, and due diligence to achieve the purpose of this Agreement;
- (b) provide comparative market analysis to recommend and assist Seller in determining an appropriate Listing Price and any changes to the Listing Price;
- (c) create and execute a marketing plan to promote, advertise, and market the Property to prospective Buyers;
- (d) organize and conduct showings and, when appropriate, open houses based on instructions provided by Seller;
- (e) represent Seller in negotiations with potential buyers to obtain offers to purchase the Property on terms acceptable to Seller;
- (f) handle all necessary paperwork, coordinate inspections, and communications to ensure compliance with legal and contractual requirements; and
- (g) provide regular updates to Seller regarding marketing efforts, interest or feedback from prospective Buyers, market condition changes, and the sale process.

11. SELLER COMMITMENT. Seller understands and commits to perform as follows:

- (a) Seller possesses, and shall continue to possess, full legal authority to sell the Property, and to execute documents concerning the Property sale;
- (b) provide all documentation reasonably requested by Broker to confirm Seller’s ability to perform under this Agreement;
- (c) cooperate with Broker in the sale process, and act in good faith to accomplish the sale of the Property;
- (e) maintain the Property’s condition (Seller acknowledges that Broker is not responsible for the maintenance of condition of the Property);
- (f) inform Broker of any past due mortgage loan payments, tax payments, insurance payments, homeowner association payments, utility payments, and tenant rent;
- (g) inform Broker prior to leasing (or amending/modifying any existing lease), mortgaging, or encumbering the Property;
- (h) Seller, in Seller’s discretion, shall consult with Seller’s advisors for specific legal, financial, tax and other professional advice.

12. FIXTURES; INCLUDED/EXCLUDED ITEMS. Unless specifically included or excluded, all fixtures and built- in appliances will be included in the sale, and all personal property and staging items will be excluded from the sale. An item is deemed a fixture in the Virginia Contract of Purchase if it is affixed to the home. Items listed in this section as Excluded must still be agreed upon in the Contract of Purchase to be Excluded.

Included items: _____
 Excluded items: _____

13. RECORDINGS AT THE PROPERTY. Seller does does not have a device inside the Property capable of broadcasting audio or video transmission to a location / receiver outside the home, OR capable of recording audio or video produced inside the home. Broker is required to disclose any such device to all prospective Buyers. Seller understands that recording and/or transmitting of audio and/or video may be a violation of state and/or federal laws.

Seller should remove any items of a personal nature that Seller does not want photographed, recorded, or transmitted, such as family photos, paperwork, and other personally identifiable information. While prospective Buyers are not permitted to take photos or videos without permission of Broker or Seller, Broker cannot monitor and guarantee that no images will be recorded without permission.

14. CANCELLATION. This Agreement may be canceled prior to the end of the Term, upon mutual written agreement between Seller and Broker.

15. POTENTIALLY COMPETING SELLERS AND BUYERS. The Seller acknowledges that the Broker may represent or take listings on similar property types to the Property agrees that such representation does not constitute a conflict with this Agreement. Broker may also represent Buyers looking for a property similar to the Property. The client will always make the determination of which property is best for them to purchase.

16. ELECTRONIC SIGNATURES AND AUTHORITY. This Agreement and any addenda may be executed in counterparts. Signatures on this Agreement and any addenda, whether executed physically or electronically, shall have the same legal effect as original physical signatures. The Seller warrants that the Seller has the legal capacity, full power and authority to enter into this Agreement and consummate the transaction contemplated hereby on the Buyer’s own behalf.

17. GOVERNING LAW. This Agreement shall be governed by and construed in accordance with the laws of the Commonwealth of Virginia and City of Charlottesville. If a provision of this Agreement is found to be invalid, the remaining provisions shall not be affected and remain in effect.

18. DISCLOSURES AND ACKNOWLEDGEMENTS. Attached to this Agreement is a Disclosure and Acknowledgement Addendum, which contains important information about our services and the home-selling process in Virginia. We encourage you to review this Addendum carefully. If you have any questions or need clarification, please don’t hesitate to reach out to us. We are committed to assisting you throughout your home-selling journey.

19. ASSIGNMENT. Neither Seller nor Broker may assign any rights or obligations under this Agreement without the prior written consent of the other, and any attempted assignment shall be void and of no effect.

20. ADDITIONAL TERMS.

Disclosures and Acknowledgements Addendum To Professional Representation and Marketing Agreement

1. VIRGINIA FAIR HOUSING DISCLOSURE. All offers shall be presented and considered without regard to race, color, religion, national origin, sex, elderliness, familial status, source of funds, sexual orientation, gender identity, military status or disability as well as all classes protected by the laws of the United States and the Commonwealth of Virginia.

2. CODE OF ETHICS. In the sale, purchase, exchange, rental, or lease of real property, Broker has the responsibility to offer equal service to all clients and prospects and shall not discriminate on the basis of any protected class under Federal, state or local law or the REALTOR® Code of Ethics.

3. VIRGINIA RESIDENTIAL PROPERTY DISCLOSURE ACT. Virginia Residential Property Disclosure Act (Section 55.1-700 et seq. of the Code of Virginia) requires the Seller of residential real property to furnish the purchaser of such property a disclosure statement in a form provided by the VREB containing certain information and disclosures for the benefit of purchasers and stating that the Seller makes no representations or warranties as to the condition of such property and that the property is being sold "as is" with all defects that may exist, if any, except as otherwise provided in the purchase contract. Failure to make such disclosure in a timely manner or any misrepresentation contained in the disclosure may result in termination of the purchase contract or an award of damages to the purchaser. Broker will furnish Seller with the appropriate disclosure form for completion by Seller. Please note that there are frequently charges and fees assessed with the preparation of such disclosure documents by property association managers, all of which will be the responsibility of Seller.

4. SEWAGE SYSTEM DISCLOSURE. Pursuant to Section 32.1-164.1:1 of the Code of Virginia, Seller must disclose to the purchaser if the onsite sewage system serving the Property fails to meet the Board of Health's current regulatory requirements and Seller has applied for or obtained a waiver from the Board of Health for the system.

Disclosure (check only one):

is OR is not applicable to the Property.

5. COMMON INTEREST COMMUNITY.

(a) Seller represents that the Property [select one]: is OR is not located in a Common Interest Community. Pursuant to §55.1-2307 et. seq. of the Code of Virginia, a Common Interest Community means a property Sellers' association subject to the Property Sellers' Association Act (§55.1-1800 et seq.), a condominium created pursuant to the Virginia Condominium Act (§55.1-1900 et seq.), or a cooperative created pursuant to the Virginia Real Estate Cooperative Act (§55.1-2100 et seq.) If the Property is in a Common Interest Community, then pursuant to §55.1-2308 Seller is required to obtain from the association a resale certificate and provide it to purchaser unless exempt pursuant to §55.1-2317.

(b) The purchaser may cancel the purchase agreement within an agreed upon term (default, 3 days) after receiving the resale certificate or being notified that the resale certificate will not be available. The right to receive the resale certificate and the right to cancel the contract are waived conclusively if not exercised before settlement.

6. WIRE FRAUD ALERT. Criminals are hacking the email accounts of real estate agents, title companies, settlement attorneys, and others to send fake wire instructions and steal funds. To prevent this, the Seller should always speak directly with the intended recipient to confirm the routing and account numbers before wiring any money. Additionally, personal information like Social Security numbers, bank account numbers, and credit card numbers should only be shared through secure email or delivered in person to ensure privacy.

7. EXPERTISE ACKNOWLEDGEMENT. The Buyer acknowledges that the Broker is being hired only as a real estate agent. The Broker is not an attorney, tax advisor, lender, appraiser, surveyor, structural engineer, home inspector, or any other service provider. The Buyer should seek professional service providers for these areas. Although the Broker may suggest certain professionals or service providers, such referral does not mean that the Buyer is required to use such providers. Relatedly, the Broker is not liable for their actions.

8. CONVEYANCE. In the event of a sale of the Property, Seller agrees to convey the Property to any purchaser or purchasers by general warranty deed with the usual English covenants of title (unless the sales contract provides otherwise, i.e. in the case of a sale by a trust) and free and clear from all encumbrances, tenancies, and liens (for taxes or otherwise), but subject to applicable easements and restrictive covenants of record not adversely affecting the use of the Property, and subject in all events, to the specific terms and conditions contained in the contract of sale.

