

# Listing Contract

## Exclusive Right to Sell Real Property

**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 six (6) months beginning at 12:00 p.m., Arizona local time, on the same calendar day the Contract is signed by Seller ("Effective Date"). Seller may cancel this contract by following the terms of Paragraph 17. Otherwise, this Contract shall expire at 11:59 a.m, Arizona local time, on the calendar day which is six (6) months from the Effective Date.

**4. PURPOSE OF THIS CONTRACT:** Seller is hiring and hereby authorizes Broker to submit the property (with its full address information) once in the appropriate Multiple Listing Service ("MLS") and *www.realtor.com*. Seller acknowledges and understands that Broker will be making an offer of compensation to cooperating brokers (and agents) through said MLS listing, as elected and authorized by the Seller in Paragraph 5, to other brokers to find a buyer. Broker is acting as a Seller's Agent ONLY to complete these previously mentioned duties. Seller shall conduct any negotiations directly with or through any buyer and/or buyer's agent (if buyer is represented). Seller waives any requirements for any such negotiations to be conducted exclusively through 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.

**5. BROKER FEE:** Seller has paid Broker a  upfront fee for the above mentioned services ("Broker Fee"). If a cooperating broker procures a buyer for Seller's property, Seller understands and agrees that Seller will be required to pay Broker  of the sale price at settlement or close of escrow ("Co-Broke"). Broker will instruct the escrow company to pass through the entire Co-Broke to the cooperating broker who procured the buyer. Other brokers will be paid this commission acting only as a buyer's agent, as outlined in the Agency Disclosure Form. This Contract will automatically be extended to the settlement or close of escrow date if the property is under contract ("Sales Agreement") on the expiration date of this Contract. **If the buyer is not procured by a cooperating broker, the Broker Fee shall be limited to the previously paid upfront Broker Fee**, which shall be deemed earned upon listing entry in the appropriate Multiple Listing Service.

**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 email 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. HANDLING OF REALTOR.COM LEADS:** 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 item fee, forward the phone call to Seller's phone number.

**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. DUTY TO DISCLOSE:** SELLER WILL DISCLOSE ANY AND ALL KNOWN MATERIAL DEFECTS OR ENVIRONMENTAL HAZARDS to any and all actual or prospective buyers prior to entering into any Sales Agreement or as soon as such information is discovered by, or becomes known to, Seller, including the existence of lead based paint inside or upon the property if built before 1978. Seller will fully and accurately complete and sign a Residential Seller's Property Disclosure Statement ("SPDS") and provide buyer with a copy of such SPDS before entering into a Sales Agreement or as soon as practicable thereafter. Except to the extent prohibited by law, the duties set forth in this paragraph 10 extend to Sellers who are exempt from any real estate seller disclosure laws in the state of Arizona. A material defect is a problem or condition that:

- Is a possible danger to those living on the Property,
- Has or may have an effect on Seller's ability to complete the sale of the Property on the terms and conditions agreed upon between Seller and buyer, or
- Has a significant, adverse effect on the value of the Property.

If Seller is accused of failing to disclose any known material defects, conditions and/or environmental hazards;

- Seller will not hold Broker or Licensee responsible in any way
- Seller will protect, and pay for any costs to defend, Broker and Licensee from any claims, lawsuits, and actions that result.
- Seller will, upon demand, promptly reimburse Broker for any and all of Broker's or Licensee's costs that result from such failure to disclose known material defects and/or environmental hazards, including but not limited to any attorney's fees, court costs, and any judgments, damages, penalties, fines, 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.

**11. DEPOSIT MONEY:** Seller is advised to have an attorney, title company, or the selling broker hold the escrow monies, subject to all Arizona laws & regulations. Seller may elect to have Broker hold the escrow account, with Seller paying an upfront fee of \$300 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 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 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.

The Real Estate Settlement and Procedures Act (RESPA) requires all fees to be reported on the HUD1 form at settlement. Seller is responsible for having the upfront Broker Fee recorded on the HUD1 sheet 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. DOCUMENT PREPARATION:** Arizona requires Broker to sign the sales contract or lease on or before the date of the sales contract or lease, for which Seller agrees to pay Broker a \$25.00 fee. Seller also agrees to fax or email the sales contract or lease to Broker within 2 hours of Seller signature so this can be completed. Broker will provide assistance with document preparation and negotiation communications to Seller. Seller agrees that this assistance will be provided only by e-mail communications, in the format of question and answer, or forwarding, as applicable. If Seller, government, lender, or the title/closing company requires Broker's signature on sales agreement related documents, Seller will pay \$25.00 per 15 minutes of Broker's time required. Telephone consultation with Broker is also available for \$25.00 per 15 minutes. Seller will pay Broker a \$50 fee if Seller withholds the sales contract from Broker.

**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 17.

**17. 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.

**18. ARBITRATION:** As concluded by the parties to this agreement on the advice of their counsel, and as evidenced by the signatures of the parties and of their respective attorneys, any controversy between the parties to this agreement involving the construction or application of any of the terms, covenants, or conditions of this agreement shall, on the written request of one party served on the other, be submitted to arbitration, and such arbitration shall

comply with and be governed by the provisions of the Pennsylvania General Arbitration Act.

**19. 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 Agreement shall be binding on and inure to the benefit of the successors and assigns of the respective parties to this Agreement.
- 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 agreement is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remainder of the provisions of this agreement shall remain in full force and effect and shall in no way be affected, impaired, or invalidated.
- This Agreement 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.

**20. 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.

**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 20 of this Contract.

**23. THIS CONTRACT** supersedes any and all other agreements, either oral or in writing, between the parties with respect to the subject matter of this contract, and contains all of the covenants and agreements between the parties with respect to the subject matter. Each party to this contract acknowledges that no representations, inducements, promises, or agreements, orally or otherwise, have been made by any party, or anyone acting on behalf of any party, that are not set forth in this contract, and that no agreement, statement, or promise not contained in this contract shall be valid or binding. 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:

