



EXCLUSIVE RIGHT TO LEASE LISTING AGREEMENT

This Exclusive Right to Lease Listing Agreement, hereinafter known as "Agreement", is by and between Mattera Realty
(Name of Firm), hereinafter known as "Firm" and _____
hereinafter known as "Client".

In consideration of Firm's agreement to list the following described property, hereinafter known as "Property," for lease and to use its efforts to find a tenant, Client agrees with Firm as follows:

1. EXCLUSIVE RIGHT TO LEASE: For a period extending until 11:59 p.m. (based upon the time at the locale of the Firm's office) on _____, _____, Firm shall have the exclusive right to lease the Property as agent of Client at the price and on the terms set forth below, or upon such other terms as may be agreed upon in writing by Client with any tenant. Provided, however, that this Agreement shall be renewed automatically for successive twelve (12) month periods unless prior written notice of termination is given by either party at least sixty (60) days before the end of the then expiring twelve (12) month period. **Client represents that, as of the commencement date of this Agreement, Client is not a party to a listing agreement with any other firm.**

2. BROKER COOPERATION/AGENCY RELATIONSHIPS: Firm has advised Client of Firm's general company policy regarding cooperating with subagents, tenant agents or dual agents. Client has received and read the "Working with Real Estate Agents (Lease Transactions) Disclosure" and authorizes the Firm to compensate (subject to Sections 7b.(i) and 7b.(ii)) and cooperate with the following (Firm agrees to inquire of all agents at the time of initial contact as to their agency status): (CHECK ALL APPLICABLE AGENCIES)

- ☐ subagents of Client
☐ tenant agents
☒ dual agents representing both Client and the tenant in the same transaction (subject to the terms of Section 16).

3. PROPERTY: (Address) _____
(Legal Description/Description) _____

☐ See attached Exhibit _____ for legal description/description of premises.

To the best of Client's knowledge: (i) the Property is not subject to any rights of first refusal, rights of first offer or similar rights of others to acquire or lease all or a portion of the Property, (ii) as respects the Property there have been no licenses or leases granted or transfers of mineral, oil and gas or other similar rights, (iii) Client has paid or will pay in full all persons recently contracted with (or contracted with hereafter prior to any transaction) to do work related to or affecting the Property and Client will comply with all laws related to mechanics liens, (iv) the streets serving the Property are public streets and are maintained by a public authority, and (v) the Property has not been clad previously (either in whole or in part) with an "exterior insulating and finishing system" commonly known as "EIFS" or "synthetic stucco", unless disclosed as follows (Insert "None" or the identification of any matters relating to (i) through (v) above, if any): _____

4. LISTING TERMS:

Rental: _____

Taxes Paid By: Owner

Insurance Paid By: Owner



Utilities Paid By: **Tenant**

Operating Expenses Paid By: _____

Maintenance Paid By: _____

Possession Delivered: _____

Other Terms: _____

☐ See attached Exhibit _____ for additional listing terms.

ADVERTISING AND DATABASE LISTINGS: In connection with the marketing and lease of the Property, Client authorizes and directs Firm: (CHECK ALL APPLICABLE SECTIONS)

- ☒ to place a sign on the Property. All other signs marketing the Property for lease shall be removed.
- ☒ **Listing Service.** To submit pertinent information concerning the Property to any listing service or information exchange of which Firm is a member or in which any of Firm's agents participate and to furnish to such listing service or information exchange notice of all changes of information concerning the Property authorized in writing by Client. Client authorizes Firm, upon execution of a lease for the Property, to notify the listing service or information exchange of the lease, and upon lease execution, to disseminate leasing information, including rate, to the listing service, information exchange, appraisers and real estate brokers.
- ☒ **Advertising Other Than On The Internet.** Client authorizes Firm to advertise the Property in non-Internet media, and to permit other firms to advertise the Property in non-Internet media to the extent and in such manner as Firm may decide.
- ☒ **Internet Advertising.** Client authorizes Firm to display information about the Property on the Internet either directly or through a program of any listing service or information exchange of which the Firm is a member or in which any of Firm's agents participate, and authorizes other firms who belong to any listing service of which the Firm is a member or in which any of Firm's agents participate to display information about the Property on the Internet in accordance with the listing service or information exchange rules and regulations. *If Client does not authorize Internet Advertising as set forth above, Client MUST complete an opt-out form in accordance with listing service rules. (NOTE: NCAR Form #105 may be used for this purpose.)*

If Client authorizes Internet Advertising as set forth above, Client authorizes the display of **(Check ALL applicable sections):**

- ☒ The address of the Property
- ☒ Automated estimates of the market value of the Property
- ☒ Third-party comments about the Property

Client acknowledges and understands that while the marketing services selected above will facilitate the showing and lease of the Property, there are risks associated with allowing access to and disseminating information about the Property that are not within the reasonable control of the Firm, including but not limited to:

1. unauthorized use of a lock/key box,
2. control of visitors during or after a showing or an open house,
3. inappropriate use of information about the Property placed on the Internet or furnished to any listing service in which the Firm participates.

Client therefore agrees to indemnify and hold harmless Firm from any damages, costs, attorneys' fees and other expenses as a result of any personal injury or property loss or damage to Client or any other person not caused by Firm's negligence arising directly or indirectly out of any such marketing services.

MARKETING EXPENSE: In the event that the Property does not lease during the term of this Agreement, Client shall nonetheless be obligated to reimburse Firm for actual documented expenses incurred in marketing the Property up to the amount of **\$1,000.00**.

5. SPECIAL PROVISIONS:

☐ See attached Exhibit _____ for special provisions.

6. COOPERATION WITH FIRM:

a. Exclusive Rights: Client agrees to cooperate with Firm to facilitate the leasing of the Property. The Property may be shown only by appointment made by or through Firm. Client immediately shall refer to Firm all inquiries or offers it may receive regarding the Property. Client agrees to cooperate with Firm in bringing about a lease of the Property. All negotiations shall be conducted through Firm. Firm shall be identified as the contact firm with all state and local economic development agencies being notified of the Property's availability.

b. Services: No management services, repair services, collection services, notices, legal services or tax services shall be provided by Firm. In the event that Firm does procure any of these services at the request of Client, it is understood and agreed that Firm shall only be acting in the capacity of procurer for Client and shall accrue no liability or responsibility in connection with any services so obtained on behalf of Client. This exclusion of liability and responsibility shall not apply in the event that Firm directly contracts with Client to provide any such service.

7. COMMISSIONS: The amount, format or rate of real estate commission is not fixed by law. Commissions are set by each broker individually and may be negotiable between a firm and its client.

a. Lease Commissions:

(i) Commissions shall be earned when Client directly or indirectly leases or agrees to lease the Property, whether tenant is procured by Firm, the Client or anyone else during the term of this Agreement. Firm's commission shall be calculated according to the schedule in Section 7.a.(ii). Commissions shall be paid in cash or by bank check.

(ii) Schedule of Commissions:

(complete both (a) and (b), only (a) will apply unless Firm elects in writing to have (b) apply)

(a) Commission Paid Upon Execution of Lease:

- (i) Twelve Point Zero percent (12.000 %) of the total rent for the first 12 months in which rent is to be paid, plus Six Point Zero percent (6.000 %) of the total rent for the remainder of the term;
- (ii) \$ _____ (flat fee);

payable in full upon execution of a lease by Client and tenant, unless otherwise provided here:

- (b) Commission Paid Over the Term of Lease:** In the event Firm elects in writing to collect a commission over the term of the lease, the commission is Twelve Point Zero percent (12.000 %) of the total rent collected from tenant or \$ _____ per collection period, whichever is more, payable within ten (10) days of the receipt of each lease payment by Client during the term of the lease.

- ☒ If this box is checked, notwithstanding the foregoing, in the event that there is no cooperating agent involved in a lease transaction, the commission stated in (a) above shall be adjusted to Ten Point Zero percent (10.000 %) of the total rent for the first 12 months in which rent is to be paid, plus Six Point Zero percent (6.000 %) of the total rent for the remainder of the term or \$ _____ (flat fee), or, if Firm elects in writing to have (b) above apply, the greater of Twelve Point Zero percent (12.000 %) of the total rent collected from tenant or \$ _____ per collection period.

For purposes of this subsection only, "cooperating agent" shall mean any agent other than the individual licensee signing on behalf of Firm below.

(iii) Percentage Rent: If a lease for which a commission is payable hereunder contains a percentage rent clause, Client shall pay a commission on the percentage rent payable by the tenant at the commission rate applicable to the period of the lease term for which the percentage rent is payable. This commission shall be payable within fifteen (15) days after receipt of each tenant payment to Client.

(iv) Option(s) or Right(s) of First Refusal to Renew, Extend Lease or Occupy Additional Space: If a lease for which a commission is payable hereunder contains (i) an option or right of first refusal to renew or extend, and a lease term is renewed or extended whether strictly in accordance with the terms of such option or right or otherwise and/or (ii) an option or right of first refusal to expand, and tenant occupies additional space whether strictly in accordance with the terms of such option or right or otherwise, then Client shall pay a commission in accordance with this Section 7.a. on the additional rent to be paid, calculated at the commission rate applicable hereunder for the years of the lease in which the additional rent is payable. Said commission shall be earned and payable upon the notice of exercise of any option or right of first refusal to renew or extend or upon the notice of exercise of any option or right of first refusal to expand, as applicable.

(v) Commissions payable pursuant to this Agreement are leasing fees only and shall not be considered compensation for or an obligation to manage or sell the Property.

b. General Commissions Provisions:

(i) Firm shall not be required to compensate or pay any commission to, either directly or indirectly, a tenant who seeks to be compensated or paid a commission in connection with any transaction pursuant to this Agreement.

(ii) If Firm has worked directly with a tenant in connection with the Property, either as a client or a customer, and such relationship is evidenced in writing (either by a CONFIRMATION OF AGENCY RELATIONSHIP AND REGISTRATION STATEMENT - NCAR Form 510 - or substantially similar registration document), then Firm may not compensate or pay any commission to another real estate agent (not associated with Firm) in connection with any transaction pursuant to this Agreement involving said registered tenant.

(iii) In the event Client fails to make payments within the time limits set forth in this Agreement, then the delinquent amount shall bear interest from the date due until paid at the maximum rate permitted in the state of North Carolina. If Firm is required to institute legal action (including mediation or arbitration) against Client relating to this Agreement, Firm shall be entitled to costs of such action.

(iv) In the event Client sells or otherwise disposes of its interest in the Property, Client shall remain liable for payment of the commissions provided for in this Agreement, including, without limitation, the commission obligations set forth in Section 7.a. unless the purchaser or transferee assumes all of such obligations in writing and Firm agrees in writing to such assumption.

(v) "Tenant" and "registered prospect" as used herein shall be deemed to include, but not be limited to: (i) any holder of a right of first offer or refusal or similar right which holder is not specifically named herein and excluded from the terms of this Agreement, (ii) any prospect registered by Firm pursuant to Section 8 hereof (which prospect registration listing shall identify specific principals and shall not include brokers acting in a brokerage capacity), and, (iii) the successors or assigns, principals, officers, directors, employees or shareholders thereof or any affiliate, alter-ego or commonly controlled entity of any such person.

8. REGISTERED PROSPECTS:

a. Prior Listing Agreements: If the Property was exclusively listed for lease with another agency prior to this Agreement, then Client shall provide Firm in writing the names of registered prospects (as defined in Section 7b.(v) above) and the duration of the protection period under the prior listing agreement. If Client provides such information to Firm within twenty (20) days of the date of this Agreement, then a direct or indirect lease or agreement to lease during such protection period to a registered prospect is excluded from this Agreement.

b. Later Lease To Registered Prospect: If within _____ days after the expiration or earlier termination of this Agreement (the "Protection Period"), Client directly or indirectly leases or agrees to lease the Property to a party with whom Firm (or any other agent acting for or through Firm) has had substantive bilateral communication concerning the Property during the term of this Agreement, Client shall pay Firm the same commission to which Firm would have been entitled had the lease been made during the term of this Agreement; provided that names of registered prospects (as defined in Section 7b.(v) above) are delivered or postmarked to Client within fifteen (15) days after the expiration or earlier termination of this Agreement. **In the event the Property is exclusively listed for lease with another agency after the expiration or earlier termination of this Agreement and Client directly or indirectly leases or agrees to lease the Property to a registered prospect (as defined in Section 7b.(v) above) during the Protection Period, then Client shall pay to Firm the same commission to which Firm would have been entitled.**

9. SALE PROTECTION PROVISION (Review of Form 520 Working with Real Estate Agents is suggested): If any party directly or indirectly purchases the Property during the term of this Agreement or any tenant under a lease for which a commission is payable hereunder directly or indirectly purchases the Property, whether strictly in accordance with the terms of any option, right of first refusal, similar right or otherwise, during the term of the lease (term to include the period of any extensions or renewals thereof based upon extension or renewal rights contained in the original provisions of such lease), then it is acknowledged that a commission shall be nonetheless earned upon execution of such sale agreement and payable at closing. The parties agree that the commission payable shall be _____ or _____ percent (_____ %) of the gross sales price. Gross sales price includes all consideration received or receivable by Client, in whatever form, including the assumption or release of existing liabilities. Client shall pay the fee upon delivery of the deed or other evidence of transfer of title or interest; provided, however, if the transaction involves an installment contract, then Client shall pay the fee upon the signing of such installment contract.

In the event Client contributes or conveys the Property or any interest therein to a joint venture, partnership or other business entity or executes an exchange, the fee shall be calculated on the fair market value of the Property or interest therein contributed, conveyed, transferred or exchanged and is payable at the time of the contribution, conveyance, transfer or exchange. If Client is a partnership, corporation or other business entity, and an interest in the partnership, corporation or other business entity is transferred, whether by merger, outright purchase or otherwise, in lieu of a sale of the Property, and applicable law does not prohibit the payment of a fee or commission in connection with such sale or transfer, the fee shall be calculated on the fair market value of the Property, rather than the gross sales price, multiplied by the percentage of interest so transferred, and shall be paid by Client at the time of the transfer.

10. AUTHORITY: Client represents and warrants to Firm that it has the right to offer the Property for lease. Each signatory to this Agreement represents and warrants that he or she has full authority to sign this Agreement and such instruments as may be necessary to effectuate any transaction contemplated by this Agreement on behalf of the party for whom he or she signs and that his or her signature binds such party and the holders of the interests in Client.

11. BANKRUPTCY: In the event that the Property comes under the jurisdiction of a bankruptcy court, Client shall immediately notify Firm of the same and, if Client is the subject of bankruptcy, shall promptly take all steps necessary to obtain court approval of Firm's appointment to lease the Property, unless Firm shall elect to terminate this Agreement upon said notice.

12. INDEMNIFICATION: Client represents and warrants that the information set forth herein and any other information as may be furnished to Firm by Client, including information relating to environmental matters, is correct to the best of Client's knowledge. Firm shall have no obligation or responsibility for checking or verifying any such information, except as may be required by law. Client shall indemnify Firm for any and all loss or damage sustained by Firm as a result of (i) Firm's or Client's furnishing such information to a buyer or tenant or anyone else; and (ii) the presence of storage tanks on, or the presence or release of hazardous substances, materials and wastes on or from, the Property.

13. PARTIES AND BENEFITS: This Agreement shall be binding upon and inure to the benefit of the parties, their heirs, successors and assigns and their personal representatives. Client agrees that at any time during the term of this Agreement, Firm may either assign Firm's rights and responsibilities hereunder to another real estate agency, or transfer to another person or entity all or part of the ownership of Firm's real estate agency, and that in the event of any such assignment or transfer, this Agreement shall continue in full force and effect; provided, that any assignee or transferee must be licensed to engage in the business of real estate brokerage in the State of North Carolina. In the event of any such assignment or transfer, Client may terminate this Agreement without cause on thirty (30) days' prior written notice to the assignee or transferee of Client's intent to terminate this Agreement.

14. COUNTERPARTS; ENTIRE AGREEMENT; AMENDMENT; SEVERABILITY; ATTORNEYS FEES; GOVERNING LAW: This Agreement may be executed in one or more counterparts, which taken together, shall constitute one and the same original document. Copies of original signature pages of this Agreement may be exchanged via facsimile or e-mail, and any such copies shall constitute originals. This Agreement contains the entire agreement of the parties and supercedes all prior written and oral proposals, understandings, agreements and representations, all of which are merged herein. The parties acknowledge and agree that: (i) the initials lines at the bottom of each page of this Agreement are merely evidence of their having reviewed the terms of each page, and (ii) the complete execution of such initials lines shall not be a condition of the effectiveness of this Agreement. No amendment or modification to this Agreement shall be effective unless it is in writing and executed by all parties hereto. No waiver of any breach of any obligation or promise contained herein shall be regarded as a waiver of any future breach of the same or any other obligation or promise. The invalidity of one or more provisions of this Agreement shall not affect the validity of any other provisions hereof and this Agreement shall be construed and enforced as if such invalid provisions were not included. It shall not be deemed a breach of this Agreement for Firm to comply with an order resulting from an arbitration conducted by a REALTOR® association or issued by a court of competent jurisdiction. If legal proceedings (including mediation or arbitration) are instituted to enforce any provision of this Agreement, the prevailing party in the proceeding shall be entitled to recover from the non-prevailing party reasonable attorneys fees and court costs incurred in connection with the proceeding. This Agreement shall be governed by and construed in accordance with the laws of the State of North Carolina.

15. INTELLECTUAL PROPERTY RIGHTS: Client grants to Firm and any listing or commercial database service in which Firm or its agents participate a non-exclusive, perpetual license to use any information, photographs, drawings or other intellectual property that Client provides to Firm, including the rights to display, reproduce or make derivative works from the intellectual property.

16. DUAL AGENCY. Client understands that the potential for dual agency will arise if a tenant who has an agency relationship with Firm becomes interested in viewing the Property. If such circumstance of dual agency arises, Firm at that time shall orally confirm to Client that Firm is then serving in a dual agency role.

(a) Disclosure of Information. In the event Firm serves as a dual agent, Client agrees that without permission from the party about whom the information pertains, Firm shall not disclose to the other party the following information:

- (1) that a party may agree to a price, terms, or any conditions lease other than those offered;
- (2) the motivation of a party for engaging in the transaction, unless disclosure is otherwise required by statute or rule; and
- (3) any information about a party which that party has identified as confidential unless disclosure is otherwise required by statute or rule.

(b) Firm's Role as Dual Agent. If Firm serves as agent for both Client and a tenant in a transaction involving the Property, Firm shall make every reasonable effort to represent Client and tenant in a balanced and fair manner. Firm shall also make every reasonable effort to encourage and effect communication and negotiation between Client and tenant. Client understands and acknowledges that:

- (1) Prior to the time dual agency occurs, Firm will act as Client's exclusive agent;
- (2) In its separate representation of Client and tenant, Firm may obtain information which, if disclosed, could harm the bargaining position of the party providing such information to Firm;
- (3) Firm is required by law to disclose to Client and tenant any known or reasonably ascertainable material facts. Client agrees Firm shall not be liable to Client for (i) disclosing material facts required by law to be disclosed, and (ii) refusing or failing to disclose other information the law does not require to be disclosed which could harm or compromise one party's bargaining position but could benefit the other party.

(c) Client's Role. Should Firm become a dual agent, Client understands and acknowledges that:

- (1) Client has the responsibility of making Client's own decisions as to what terms are to be included in any lease with a tenant client of Firm;
- (2) Client is fully aware of and understands the implications and consequences of Firm's dual agency role as expressed herein to provide balanced and fair representation of Client and tenant and to encourage and effect communication between them rather than as an advocate or exclusive agent or representative;
- (3) Client has determined that the benefits of dual agency outweigh any disadvantages or adverse consequences;
- (4) Client may seek independent legal counsel to assist Client with the negotiation and preparation of a lease or with any matter relating to the transaction which is the subject matter of a lease agreement.

Should Firm become a dual agent, Client waives all claims, damages, losses, expenses or liabilities, other than violations of the North Carolina Real Estate License Law and intentional wrongful acts, arising from Firm's role as a dual agent. Client shall have a duty to protect Client's own interests and should read any purchase and sale agreement carefully to ensure that it accurately sets forth the terms which Client wants included in said agreement.

(d) Designated Dual Agency. When a real estate firm represents both the landlord and tenant in the same real estate transaction, the firm may, in its discretion, offer designated dual agency. If offered, designated dual agency permits the firm, with the prior express approval of both the landlord and tenant, to designate one or more agents to represent only the interests of the landlord and a different agent(s) to represent only the interests of the tenant, unless prohibited by law.

An individual agent may not be designated to represent a party in a transaction if that agent has received confidential information concerning the other party in connection with the transaction.

(e) Authorization/Direction (*initial*).

_____ Dual Agency. Client authorizes the Firm to act as a dual agent, representing both the Client and the tenant, subject to the terms and conditions set forth in Paragraph 16.

Client ☒ DOES ☐ DOES NOT authorize the same individual agent to represent both the Client and the tenant in a transaction.

_____ (*also initial if Firm offers designated dual agency and Client authorizes designated dual agency*) Designated Dual Agency. In addition to authorizing Firm to act as a dual agent, Client authorizes and directs Firm to designate an individual agent(s) to represent the Client and a different individual agent(s) to represent the tenant. Firm will practice designated dual agency unless: (i) designated agency would not be permitted by law due to circumstances existing at the time of the transaction, or (ii) Client authorizes Firm in writing to remain in dual agency only.

OR

_____ Exclusive Representation. Client desires exclusive representation at all times during this agreement and does NOT authorize either dual agency or designated dual agency.

[THIS SPACE INTENTIONALLY LEFT BLANK]

THE BROKER SHALL CONDUCT ALL BROKERAGE ACTIVITIES IN REGARD TO THIS AGREEMENT WITHOUT RESPECT TO THE RACE, COLOR, RELIGION, SEX, NATIONAL ORIGIN, HANDICAP OR FAMILIAL STATUS OF ANY PARTY OR PROSPECTIVE PARTY. FURTHER, REALTORS® HAVE AN ETHICAL DUTY TO CONDUCT SUCH ACTIVITIES WITHOUT RESPECT TO THE SEXUAL ORIENTATION OF ANY PARTY OR PROSPECTIVE PARTY.

THE NORTH CAROLINA ASSOCIATION OF REALTORS®, INC. MAKES NO REPRESENTATION AS TO THE LEGAL VALIDITY OR ADEQUACY OF ANY PROVISION OF THIS FORM IN ANY SPECIFIC TRANSACTION.

CLIENT:

Individual

Date: _____

Date: _____

Business Entity

(Name of Entity)

By: _____

Name: _____

Title: _____

Date: _____

Address: _____

Phone: _____

Facsimile: _____

E-mail: _____

FIRM:

Mattera Realty

(Name of Firm)

By: _____

Name: **Paul Mattera**

Individual License #: **R18293** State: **NC**

Date: _____

Address: **3525 Clifton Park Ct.**

New Hill, NC 27562

Phone: _____

Facsimile: **(919) 646-9626**

E-mail: **paulmattera@gmail.com**

WORKING WITH REAL ESTATE AGENTS (LEASE TRANSACTIONS) (FOR LANDLORDS)

*NOTE: This form is designed for use by agents working with landlords. It is similar, but not identical, to the "Working with Real Estate Agents Disclosure (For Sellers)" published by the NC Real Estate Commission (available as NCAR Standard Form #520), which **must** be used by agents working with sellers.*

IMPORTANT

This form is not a contract. Signing this disclosure only means you have received it.

- In a real estate lease transaction, it is important that you understand whether an agent represents you.
- Real estate agents should (1) review this form with you at first substantial contact - before asking for or receiving your confidential information and (2) give you a copy of the form after you sign it. This is for your own protection.
- Do not share any confidential information with a real estate agent or assume that the agent is acting on your behalf until you have entered into a written agreement with the agent to represent you. Otherwise, the agent can share your confidential information with others.

Note to Agent: Check all relationship types below that may apply to this landlord.

_____ **Landlord's Agency** (listing agent): The agent who gave you this form (and the agent's firm) must enter into a written listing agreement with you before they begin to market your property for lease. If you sign the listing agreement, the listing firm and its agents would then represent you. The tenant would either be represented by an agent affiliated with a different real estate firm or be unrepresented.

 X **Dual Agency:** Dual agency will occur if your listing firm has a tenant-client who wants to lease your property. If you agree in a written agency agreement, the real estate firm, and any agent with the same firm (company), would be permitted to represent you and the tenant at the same time. A dual agent's loyalty would be divided between you and the tenant, but the firm and its agents must treat you and the tenant fairly and equally and cannot help you gain an advantage over the other party.

_____ **Designated Dual Agency:** If you agree in a written agency agreement, the real estate firm would represent both you and the tenant, but the firm would designate one agent to represent you and a different agent to represent the tenant. Each designated agent would be loyal only to their client.

_____ **Tenant Agent Working with an Unrepresented Landlord (For Lease By Owner):** The agent who gave you this form will not be representing you and has no loyalty to you. The agent will represent only the tenant. Do not share any confidential information with this agent.

Note to Landlord: For more information on an agent's duties and services, refer to the NC Real Estate Commission's "Questions and Answers on: Working With Real Estate Agents" brochure at ncrec.gov (Publications, Q&A Brochures) or ask an agent for a copy of it.

Landlord's signature

Landlord's signature

Date

Paul Mattera
Agent's name

169532
Agent's license no.

Mattera Realty
Firm name





**THE NORTH CAROLINA
REAL ESTATE COMMISSION**

P.O. Box 17100 • Raleigh, NC 27619-7100
Phone: 919/875-3700 • Website: www.ncrec.gov

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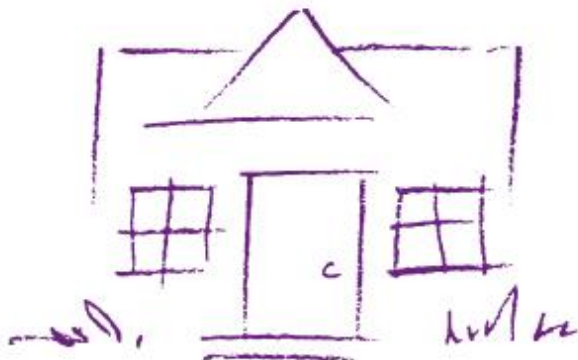
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Questions and Answers on: WORKING WITH REAL ESTATE AGENTS

A publication of the North Carolina Real Estate Commission

Questions and Answers on: WORKING WITH REAL ESTATE AGENTS

When buying or selling real estate, you may find it helpful to have a real estate agent assist you. Real estate agents can provide many useful services and work with you in different ways. In some real estate transactions, the agents work only for the seller. In other transactions, the seller and buyer may each have their own agents. And sometimes the same agent or firm works for both the buyer and the seller in the same transaction. It is important for you to know whether an agent is representing you as your agent or simply assisting you while acting as an agent of the other party.



Do not share any confidential information with a real estate agent or assume that the agent is acting on your behalf until you have entered into a written agreement with the agent to represent you. Otherwise, the agent can share your confidential information with others and this could hurt your ability to negotiate the best deal.

To assist buyers and sellers in understanding the roles of real estate agents, the Real Estate Commission requires agents in sales transactions to (1) review a "Working With Real Estate Agents Disclosure" with you at first substantial contact - before asking for or receiving your confidential information and (2) give you a copy of the Disclosure form after you sign it. The

Disclosure form is for your education and protection and is not a contract.

This Q&A brochure assumes that you are a prospective buyer or seller and answers common questions about the various types of agency relationships that may be available to you. It should help you:

- decide which relationship you want to have with a real estate agent
- give you useful information about the various services real estate agents can provide buyers and sellers
- explain how real estate agents are paid

IMPORTANT NOTE ABOUT RACIAL EQUALITY AND FAIR HOUSING: The Commission is committed to the principles of excellence, fairness, and respect for all people. It is our goal to ensure that brokerage activities are conducted in fairness to all and to end discrimination in the sale or rental of all real estate.

In residential sales and rental transactions, agents must comply with the Fair Housing Act which prohibits discrimination on the basis of the race, color, religion, sex, national origin, handicap, or familial status of any party or prospective party. For more information on the NC Fair Housing Act, you may visit <https://www.oah.nc.gov/civil-rights-division/housing-discrimination>.

Q: What does the word, "agency," mean?

A: The relationship between a real estate agent and the buyer or seller who hires the agent is referred to as an agency relationship, because the real estate agent acts on behalf of (i.e. as an agent for) the buyer or seller (the "client"). In an agency relationship, the agent has certain duties and responsibilities to their client.

Q: What is an agency agreement?

A: An agency agreement is a contract between you and a real estate firm that authorizes the firm and its agents to represent you. The agency agreement between buyers and agents is typically called a "Buyer Agency Agreement"; between sellers and agents, a "Listing Agreement." Be sure to read and understand the agency agreement before you sign it. If you do not understand it, ask the agent to explain it. If you still do not understand, you may

want to consult an attorney before signing the agreement. Your agent must give you a copy of the agreement after you sign it.

Q: Is there a “standard” length of time for agency agreements?

A: No. The term or length of an agency agreement is negotiable. Real estate agents are allowed to determine their own policies for the lengths of their agency agreements. However, a prospective buyer or seller may request a different length of time than proposed by an agent. If an agreement cannot be reached with the agent, the buyer or seller may seek another real estate agent willing to agree to a different length of time. Every agency agreement must have a definite expiration date.

Q: Is there a “standard” fee for real estate agents?

A: No. The amount or percentage of an agent’s compensation is negotiable. Real estate firms are allowed to determine their own compensation policies. However, a prospective buyer or seller may request a different fee. If an agreement cannot be reached with the agent, the buyer or seller may seek another real estate agent willing to agree to a different fee.

Q&As for SELLERS

Q: I want to sell my property. What do I need to know about working with real estate agents?

A: If you own real estate and want to sell it, you may want to “list” your property for sale with a real estate firm. If so, you will sign a written “listing agreement” authorizing the firm and its agents to represent you as your “listing” agent in your dealings with buyers. The real estate firm must enter into a written listing agreement with you before it is allowed to begin marketing or showing your property to prospective buyers or taking any other steps to help you sell your property. The listing firm may ask you to allow agents from other firms to show your property to their buyer-clients.

Q: What are a listing agent’s duties to a seller?

A: The listing firm and its agents must • promote your best

interests • be loyal to you • follow your lawful instructions • provide you with all material facts that could influence your decisions • use reasonable skill, care and diligence, and • account for all monies they handle for you. Once you have signed the listing agreement, the firm and its agents may not give any confidential information about you to prospective buyers or their agents during the agency relationship without your permission. But until you sign the listing agreement, you should avoid telling the listing agent anything you would not want a buyer to know.

Q: What services might a listing agent provide?

A: To help you sell your property, a listing firm and its agents will offer to perform a number of services for you. These may include • helping you price your property • advertising and marketing your property • giving you all required property disclosure forms for you to complete • negotiating for you the best possible price and terms • reviewing all written offers with you and • otherwise promoting your interests.

Q: How is the listing firm compensated?

A: For representing you and helping you sell your property, you will pay the listing firm a sales commission or fee. The listing agreement must state the amount or method for determining the sales commission or fee and whether you will allow the firm to share its sales commission with agents representing the buyer.

Q: If I list my property with a real estate firm that also represents a buyer who wants to buy my property, what happens then?

A: You may permit the listing firm **and** its agents to represent you and a buyer at the same time. This would mean that the real estate firm and all of its agents would represent you and the buyer equally. This “dual agency relationship” will happen if an agent with your listing firm is working as a buyer’s agent with someone who wants to purchase your property. If you have not already agreed to a dual agency relationship in your listing agreement and this is acceptable to you, your listing agent will ask you to amend your listing agreement to permit the firm

to act as agent for both you and the buyer. Any agreement between you and a firm that permits dual agency must be put in writing no later than the time the buyer makes an offer to purchase. Both you, as seller, and the buyer must consent in writing to dual agency.

Q: What is the risk if I agree to dual agency?

A: Dual agency creates a potential conflict of interest for the firm that represents you, since its loyalty is divided between you and the buyer. It is especially important that you have a clear understanding of what your relationship is with the firm and with the firm's individual agents, since all of them are dual agents. A dual agent must treat buyers and sellers fairly and equally and cannot help one party gain an advantage over the other party. Although each dual agent owes both their buyer and seller client the same duties, buyers and sellers can prohibit dual agents from divulging certain confidential information about them to the other party.

Q: How can I reduce the risk if dual agency occurs?

A: To minimize conflicts of interest, some firms also offer a form of dual agency called "designated dual agency" where one agent in the firm represents only the seller and another agent represents only the buyer. The firm and the firm's other agents remain in dual agency. This option (when offered by a firm) may allow each "designated agent" to more fully represent each party. Under designated dual agency, each agent designated to represent the seller is prohibited from disclosing (1) that the seller may agree to any price or terms other than those established by the seller, (2) the seller's motivation for selling, or and (3) any information the seller has identified as confidential, unless otherwise required by statute or rule.

Q: Can I sell my property without hiring a real estate agent?

A: Yes. In that case, you would be an unrepresented seller often referred to as For Sale By Owner or "FSBO." If you are selling your property without hiring an agent, then any agent involved in your transaction would be representing only the buyer. Do not share any confidential information

with the buyer's agent. If the agent for the buyer asks you for compensation and you are willing to pay that agent, then you should enter into a written agreement that clearly expresses the terms and conditions of your obligation to pay the agent.

Q: What happens if the listing agreement expires?

A: If the listing agreement expires after you enter into a contract to sell your property, then the listing agent and firm may continue representing you through the date of the closing and you may be responsible for compensating the listing firm in accordance with the provisions of the listing agreement. If the listing agreement expires without your property going under contract, then the listing agent/firm must immediately stop marketing your property unless you first enter into a new listing agreement with the firm.

Q&As for BUYERS

Q: I want to buy real estate. What do I need to know about working with real estate agents?

A: When buying real estate, you may have several choices as to how you want a real estate firm and its agents to work with you. For example, you may want them to represent only you (as a buyer agent). You may be willing for them to represent both you and the seller at the same time (as a dual agent). Or you may agree to let them represent only the seller (seller's agent or subagent). Some agents will offer you a choice of these services. Others may not.

Q: What are a buyer agent's duties to a buyer?

A: If the real estate firm and its agents represent you, they must • promote your best interests • be loyal to you • follow your lawful instructions • provide you with all material facts that could influence your decisions • use reasonable skill, care and diligence, and • account for all monies they handle for you. Once you have agreed (either orally or in writing) for the firm and its agents to be your buyer agent, they may not give any confidential information about you to sellers

Continued

or their agents during the agency relationship without your permission. But until you make this agreement with your buyer agent, you should avoid telling the agent anything you would not want a seller to know.

Q: Must a buyer have a written agency agreement with the agent who represents the buyer?

A: To make sure that you and the real estate firm have a clear understanding of what your relationship will be and what the firm will do for you, you may want to have a written agreement when you first begin working with an agent. However, some firms may be willing to represent and assist you initially as a buyer agent without a written agreement. But if you decide to make an offer to purchase a particular property, the agent must enter into a written agency agreement with you before making a written or oral offer for you. If you do not sign the agency agreement, then the agent can no longer represent and assist you and is no longer required to keep information about you confidential.

Q: What services might a buyer agent provide?

A: Whether you have a written or unwritten agreement, a buyer agent will perform a number of services for you. These may include helping you • find a suitable property • arrange financing • learn more about the property and • otherwise promote your best interests. If you have a written agency agreement, the agent can also help you prepare and submit a written offer to the seller.

Q: How is a buyer agent compensated?

A: A buyer agent can be compensated in different ways. For example, you can pay the agent out of your own pocket. Or the agent may seek compensation from the seller or listing firm first, but require you to pay if the listing firm refuses. Whatever the case, be sure your compensation arrangement with your buyer agent is clearly indicated in a buyer agency agreement before you make an offer to purchase property and that you carefully read and understand the compensation provision.

Q: What happens if I want to buy a property listed by the same agent or firm that represents me?

A: You may permit an agent or firm to represent you **and** the seller at the same time. This would mean that the real estate firm and all of its agents would represent you and the seller equally. This “dual agency relationship” will happen if you become interested in buying a property listed with your agent’s firm. If you have not already agreed to a dual agency relationship in your (written or oral) buyer agency agreement and this is acceptable to you, then your buyer agent will ask you to amend the buyer agency agreement or sign a separate agreement or document permitting his or her firm to act as agent for both you and the seller. Any agreement between you and an agent that permits dual agency must be put in writing no later than the time you make an offer to purchase. Both the seller, and you, as buyer, must consent in writing to dual agency.

Q: What is the risk if I agree to dual agency?

A: Dual agency creates a potential conflict of interest for the firm that represents you since its loyalty is divided between you and the seller. It is especially important that you have a clear understanding of what your relationship is with the firm and all of its individual agents, since all of them are dual agents. This can best be accomplished by putting the agreement in writing at the earliest possible time and asking any questions that you may have. A dual agent must treat buyers and sellers fairly and equally and cannot help one party gain an advantage over the other party. Although each dual agent owes both their clients the same duties, buyers and sellers can prohibit dual agents from divulging certain confidential information about them to the other party.

Q: How can I reduce the risk if dual agency occurs?

A: To minimize conflicts of interest, some firms also offer a form of dual agency called “designated dual agency” where one agent in the firm represents only the seller and another agent represents only the buyer. The firm and the firm’s other agents remain in dual agency. This option (when offered by a firm) may allow each “designated agent” to more fully represent each party. Under designated dual agency, each agent

designated to represent the buyer is prohibited from disclosing (1) that the buyer may agree to any price or terms other than those established by the buyer, (2) the buyer's motivation for buying, or and (3) any information the buyer has identified as confidential, unless otherwise required by statute or rule.

Q: What happens if the buyer agency agreement expires?

A: If the buyer agency agreement expires after you entered into a contract to purchase a property, then your agent may continue to represent you through the date of the closing and you may be responsible for compensating the firm in accordance with the provisions of the buyer agency agreement. If you are not under contract to buy a property when your buyer agency agreement expires, then your agent must immediately stop representing you unless you first enter into a new buyer agency agreement with the agent.

Q: Can I buy real estate without hiring a real estate agent?

A: Yes. If the real estate agent or firm that you contact does not offer buyer agency or you do not want them to act as your buyer agent, you can still work with the firm and its agents. However, they will be acting as the seller's agent (or "subagent"). The agent can still help you find and purchase property and provide many of the same services as a buyer's agent. The agent must be fair with you and report any "material facts" (defects such as a leaky roof) about properties. But remember, the agent represents the seller—not you—and therefore must try to obtain for the seller the best possible price and terms for the seller's property and cannot give you advice on buying the property if it will conflict with the seller's interests. Furthermore, a seller's agent is required to give the seller any information about you (even personal, financial or confidential information) that would help the seller in the sale of his or her property. Agents must tell you in writing if they are sellers' agents before they ask you about anything that can help the seller. But until you are sure that an agent represents you and is not a seller's agent, you should avoid saying anything you do not want a seller to know.

Q: If I am an unrepresented buyer, who pays the real estate agent?

A: Unless you agree otherwise, seller's agents are compensated by the sellers.

Q: Can the real estate agent who represents the seller require me to hire an agent to represent me?

A: No. While it may benefit you to hire an agent, there is no law requiring a buyer to hire a real estate agent to buy real estate.

Termination of Agency Agreements

Q: If I hire a real estate agent or firm to represent me, can I terminate the agency agreement before it expires?

A: Maybe. An agency agreement is a contract between a buyer or seller and a real estate firm. Most agency agreements do not contain a provision allowing a buyer or seller to terminate the agreement before it expires without the consent of the other party. Generally, one party cannot terminate the agreement without the consent of the other party. If you and the firm both agree to terminate the agreement, then you both should sign a written agency termination agreement. If the agent asks for compensation in exchange for terminating the agreement, then you can agree or disagree or try to negotiate the amount of compensation. If an agency agreement contains a penalty or fee for early termination, the provision specifying the penalty or fee must be set forth in a clear and conspicuous manner. If you are not able to reach an agreement on the termination of the agency agreement, then you may consult your own attorney or simply wait until the agency agreement expires. The Real Estate Commission does not have the authority to terminate agency agreements or to force a real estate agent to terminate an agreement.

(Note: This brochure is for informational purposes only and does not constitute a contract for service.)