

EXCLUSIVE RIGHT TO SELL LISTING AGREEMENT #715 (Page 1 of 4)
(With Consent to Designated Agency and Consent to Dual Agency)



I/We _____ (“SELLER”), hereby grant to _____, a real estate broker licensed under the laws of the Commonwealth of Massachusetts (“LISTING BROKER”), the exclusive right to sell the property described as

and recorded in the _____ County Registry of Deeds at Book _____, Page _____ Certificate Number _____ (“PROPERTY”) on the following terms and conditions:

1. Duties and Representations. The LISTING BROKER is granted the exclusive right to sell the PROPERTY, as the SELLER’S agent, during the term of the Agreement and the SELLER agrees to refer all inquiries to the LISTING BROKER, to cooperate in marketing the PROPERTY, including completing the lead paint *Property Transfer Notification Certification* disclosure (if property built before 1978) and other forms. **The SELLER acknowledges receipt of the *Massachusetts Mandatory Licensee-Consumer Relationship Disclosure*.**

The LISTING BROKER is authorized but is not required: (a) to place a sign on the PROPERTY; (b) to photograph, video and advertise the PROPERTY in such media as the LISTING BROKER may select; and (c) to place a lock box on the PROPERTY. The SELLER authorizes the LISTING BROKER to disclose to prospective buyers all information about the PROPERTY provided to the LISTING BROKER by the SELLER, all of which the SELLER represents to be accurate. The LISTING BROKER shall have no obligation to continue to market the PROPERTY after an offer has been accepted.

The LISTING BROKER is not hired as a property inspector, tax advisor or attorney and if such services are desired, SELLER should hire those professionals. It shall not constitute a violation of any duty owed by the LISTING BROKER or by any agent associated with the LISTING BROKER to disclose any material fact known to the LISTING BROKER about the PROPERTY as required under Massachusetts General Laws Chapter 93A, to advise a prospective buyer of the availability of a competing property or to assist a buyer with the purchase of another property. The SELLER and LISTING BROKER agree to comply with all applicable Federal, State and Local Fair Housing Laws.

SELLER is aware that there is a risk of injury to persons viewing the PROPERTY as well as a risk of loss or damage to PROPERTY of the SELLER during a showing or open house, whether the showing is accompanied by the LISTING BROKER, via lockbox or otherwise. SELLER has the responsibility to prepare the PROPERTY for marketing to minimize the likelihood of injury, damage and loss. SELLER agrees to indemnify, defend and hold LISTING BROKER and its agents harmless from any loss or claim of liability during any showing or open house, other than if proven to have been the result of LISTING BROKER’S intentional misconduct. SELLER understands and agrees that showings may be conducted by licensees other than the LISTING BROKER or its agents and that inspectors or appraisers may conduct inspections and appraisals outside the presence of the LISTING BROKER. SELLER further understands and agrees that other licensees and prospective buyers are permitted to photograph and videotape the PROPERTY unless expressly stated to the contrary.

SELLER hereby acknowledges that the PROPERTY **does** **does not** have recording devices, including, but not limited to devices such as: Nest, Arlo, Amazon Echo, Google Home, Ring, etc. If a device is present, SELLER hereby states that it records audio, video, or both audio and video. It is unlawful in Massachusetts to secretly listen to or record a communication of another individual without their knowledge and consent. Whenever a showing, open house or other inspection of the PROPERTY is conducted, any such surveillance equipment shall be turned off by the SELLER unless visitors are clearly made aware that the device is in use.

2. Listing Price. The listing price for the PROPERTY shall be _____ dollars or such other price and terms as the SELLER may approve.

3. Listing Period. This Agreement shall begin on _____ and end on _____ and may be extended by agreement.





4. **Listing Broker's Fee.** According to the Code of Ethics and Standards of Practice of the National Association of REALTORS®, SELLER has been advised of (1) the LISTING BROKER'S general company policies regarding cooperation with and compensation to subagents, buyer's agents and other licensees; (2) the fact that a buyer's agent, even if compensated by the LISTING BROKER or SELLER will represent the interests of the buyer; (3) any potential for the LISTING BROKER to act as a disclosed dual agent on behalf of the SELLER and buyer; and (4) that **commissions are not fixed, controlled or recommended by law or by any person or entity not a party to this Agreement and are fully negotiable.** In consideration for the services performed under the Agreement, SELLER agrees to pay LISTING BROKER as follows (complete as applicable):

(a) **Commission.** If within the term of this Agreement or any extension, the PROPERTY is sold or the LISTING BROKER procures a buyer who is ready, willing and able to buy at a price and on the terms set forth herein or on such other price and terms as the SELLER may agree, the LISTING BROKER shall be due a Commission as follows:

_____% percentage of the net / gross selling price, or

Flat Fee of \$_____dollars.

I. Said Commission shall be paid at the time set for closing and may be deducted from amounts held by LISTING BROKER as escrow agent. If the PROPERTY is sold to a buyer procured by the LISTING BROKER, by the SELLER or by anyone else, the Commission shall be due.

II. The Commission shall also be due upon sale of the PROPERTY to any person who was introduced to the PROPERTY during the aforesaid term or any extension, or who entered into an agreement to purchase during the term, during any extension or within_____days after expiration of the term or any extension, regardless of the date that title passes, except if the SELLER has entered into an exclusive agreement to sell the PROPERTY with another broker in good faith.

III. If any deposit is retained by the SELLER as liquidated damages for default by the buyer under any agreement for sale of the PROPERTY, the LISTING BROKER shall be due one-half (1/2) of the amount so retained, but not more than an amount equal to the Commission that would have been paid to LISTING BROKER if a sale had been completed. If SELLER defaults under any agreement for sale of the PROPERTY, the LISTING BROKER shall be due the Commission whether or not the transaction closes or title passes.

(b) SELLER shall not pay any other broker for services in connection with the sale of the PROPERTY nor give any instruction that reduces the LISTING BROKER'S fee, except if the LISTING BROKER has given written consent. Acceptance of escrowed funds shall not constitute consent. Should SELLER violate the foregoing provision and LISTING BROKER initiates or is caused to participate in any lawsuit, arbitration or other proceeding, including an interpleader action, LISTING BROKER shall be reimbursed by SELLER: (i) for LISTING BROKER'S reasonable attorneys' fees and costs; and (ii) to receive from SELLER interest at the legal rate on the amount due LISTING BROKER. This does not prohibit the SELLER from agreeing to pay the buyer's broker on behalf of the buyer under any agreement for sale of the PROPERTY.

(c) All disputes, claims or controversies arising out of or related to this Agreement shall, upon demand of either party, be submitted for binding arbitration, to the local association/board of REALTORS® or, in the event the association/board declines to hear the matter, to the American Arbitration Association ("AAA") or, upon mutual agreement, to another dispute resolution service. The REALTOR® arbitration proceedings shall be conducted by a panel of at least three (3) arbitrators according to the then current rules of the association/board of REALTORS® (or, if before AAA, by a single arbitrator according to the consumer arbitration rules, or if not applicable, to the commercial arbitration rules of the AAA), and all proceedings will be conducted at a location in Massachusetts chosen by the arbitrator. Except as provided for proceedings pursuant to paragraph (b), reasonable attorneys' fees and costs shall be awarded to the generally prevailing party in the arbitration or lawsuit. Should either party file a claim for violation of General Laws Chapter 93A, the prevailing party (including any agent of the LISTING BROKER) shall be entitled to recover reasonable attorneys' fees and costs, but no fees and costs shall be recovered in the event that a tender of settlement was made in advance of suit, but rejected, and the court or arbitrator determines that the rejected tender was reasonable in relationship to the injury actually suffered.



5. **Buyer Broker's Fee.** SELLER is not required to offer or provide compensation to brokers who represent the buyer, however, SELLER may direct the LISTING BROKER to offer compensation to licensed buyer brokers who procure a ready, willing and able buyer to purchase the PROPERTY. These fees are not set by law and are negotiable and shall not alter the terms of this Agreement except if the LISTING BROKER and SELLER have agreed in writing. SELLER hereby:

- agrees and authorizes LISTING BROKER to offer a Buyer Broker's Fee pursuant to the Massachusetts Association of REALTORS® **AUTHORIZATION TO OFFER BUYER BROKER COMPENSATION ADDENDUM** attached and incorporated herein.
- does NOT authorize nor agree to have LISTING BROKER offer a Buyer Broker's Fee.

SELLER understands that there are other ways that a buyer broker fee may be requested or paid, such as payment as a term of an agreement for the sale of the PROPERTY, none of which are set by law and each of which are fully negotiable.

6. **Consent to Designated Agency.** A designated agent is a real estate licensee who has been appointed by a broker or salesperson to represent a buyer as a "designated buyer's agent" or to represent a seller as a "designated seller's agent." When a buyer or seller consents to designated agency only that designated agent represents the buyer or the seller. Any other agents affiliated with the LISTING BROKER may represent another party to the transaction and by consenting to designated agency the buyer or seller permits those agents to represent another party. Individuals who are designated agents owe fiduciary duties to their respective clients. SELLER is further advised that: (a) the designated seller's agent will represent the SELLER and will owe the SELLER the duties of loyalty, full disclosure, confidentiality, to account for funds, reasonable care and obedience to lawful instruction; (b) all other licensees affiliated with the appointing LISTING BROKER will not represent the SELLER nor will they owe the other duties specified in paragraph (a) to that SELLER, and may potentially represent the buyer; and (c) if designated agents affiliated with the same broker represent the SELLER and buyer in a transaction, the appointing broker shall be a dual agent and neutral as to any conflicting interests of the SELLER and buyer, but will continue to owe the SELLER and buyer the duties of confidentiality to material information and to account for funds. **By signing this Agreement, SELLER consents to designated agency.** If LISTING BROKER is a designated agent for buyer and SELLER in a transaction, a notice will be given. The designated agent(s) for the SELLER is/are: _____.

In the event that the designated agent(s) appointed to represent SELLER cease to be associated with the LISTING BROKER, SELLER hereby consents to appointment by LISTING BROKER of one or more agents associated with the LISTING BROKER to represent SELLER. Written notice of that appointment will be given by the LISTING BROKER to SELLER in a timely manner.

7. **Consent to Dual Agency.** The SELLER understands that the designated seller's agent with whom SELLER is working also represents buyers and that if the designated seller's agent introduces a buyer-client to the PROPERTY a "dual agency" will be created. The designated seller's agent may act as a dual agent who represents both prospective buyer and seller with their informed written consent. A dual agent is authorized to assist the buyer and seller in a transaction, but shall be neutral with regard to any conflicting interest of the buyer and seller. Consequently, a dual agent will not have the ability to satisfy fully the duties of loyalty, full disclosure, reasonable care and obedience to lawful instructions, but shall owe the duty of confidentiality of material information and duty to account for funds. SELLER understands that material information received from either client that is confidential may not be disclosed by the dual agent, except: (1) if disclosure is expressly authorized; (2) if such disclosure is required by law; (3) if such disclosure is intended to prevent illegal conduct; or (4) if such disclosure is necessary to prosecute a claim against a person represented or to defend a claim against the LISTING BROKER or salesperson affiliated with the LISTING BROKER. This duty of confidentiality shall continue after termination of the brokerage relationship. When the agent with whom the seller is working is a dual agent, the broker with whom the agent is affiliated is also a dual agent and shall remain neutral as to any conflicting interests of the buyer and seller. **By signing this Agreement, SELLER authorizes the designated seller's agent(s) to act as a dual agent and consents to dual agency and further agrees that if any Buyer Broker's Fee is authorized in paragraph 5, said fee identified in the attached AUTHORIZATION TO OFFER BUYER BROKER COMPENSATION ADDENDUM will be payable to the LISTING BROKER per the terms of that Authorization, unless the SELLER and LISTING BROKER otherwise agree in writing.** Except as expressly provided, this dual agency shall not extend to other licensees affiliated with the LISTING BROKER. If dual agency occurs in a transaction, notice of dual agency will be given.



8. Entire Agreement/Governing Law. This Agreement is the entire agreement between the parties. SELLER has read this Agreement, understands its contents and has received a copy of the same at the time of signing. This Agreement is binding upon the parties' heirs, successors, and personal representatives. Assignment shall not limit the rights of the LISTING BROKER. This Agreement shall be governed by the laws of the Commonwealth of Massachusetts. Unless otherwise stated, this Agreement may not be modified, except in writing signed by both parties.

9. Additional Terms.

This is a legally binding contract. If legal advice is desired, consult an attorney.

DATED

SELLER Or Authorized Representative

LISTING BROKER Or Authorized Representative

SELLER Or Authorized Representative

