



**AUSTIN/CENTRAL TEXAS REALTY INFORMATION SERVICE
RESIDENTIAL REAL ESTATE LISTING AGREEMENT
MULTIPLE LISTING SERVICE (MLS)
EXCLUSIVE RIGHT TO SELL**

THIS FORM IS FURNISHED BY THE AUSTIN/CENTRAL TEXAS REALTY INFORMATION SERVICE FOR USE BY ITS PARTICIPANTS. USE OF THIS FORM BY PERSONS WHO ARE NOT PARTICIPANTS OF THE AUSTIN/CENTRAL TEXAS REALTY INFORMATION SERVICE IS NOT AUTHORIZED.

1. PARTIES: The parties to this agreement (this Listing) and the parties' contact information are:

Seller _____ Broker: _____
Address: _____ Address: _____
City, State, Zip: _____ City, State, Zip: _____
Phone: _____ Phone: _____
Fax: _____ Fax: _____
E-mail: _____ E-mail: _____

Seller appoints Broker as Seller's sole and exclusive agent and grants to Broker the exclusive right to sell the Property. All notices shall be in writing and effective when hand-delivered, mailed; or sent by facsimile transaction to the above.

2. PROPERTY: The Property is legally described as Lot _____, Block _____, Subdivision/Addition _____, Section _____, Phase _____, Unit _____, in the City of _____, County, Texas, known as _____ (mailing address and zip code), OR **as described on an attached exhibit**, together with the following items, if any: curtains and rods, draperies and rods, valances, blinds, window shades, screens, shutters, awnings, wall-to-wall carpeting, mirrors fixed in place, ceiling fans, attic fans, mail boxes, television antennas and satellite dish system, with controls and equipment, permanently installed heating and air-conditioning units, window air conditioning units, built-in security and fire detection equipment, plumbing and lighting fixtures including chandeliers, water softener, stove, built-in kitchen equipment, garage door openers with controls, built-in cleaning equipment, all swimming pool equipment and maintenance accessories, shrubbery, landscaping, permanently installed outdoor cooking equipment, built-in fireplace screens, artificial fireplace logs and all other property owned by Seller and attached to the above described real property except the following property which is not included: _____

The Property is is not subject to a mandatory membership in an Owners' Association and its assessments and requirements. (Note: If Property is a condominium see Condominium Addendum). All property described above is called "the Property." Seller is responsible for furnishing all information regarding mandatory Owner's Association in compliance with §207.003 of Texas Property Code, and keeping it current.

3. LISTING PRICE: Seller lists the Property for the gross amount of \$ _____ (Listing Price) and agrees to sell the Property for the Listing Price or for any other price Seller may accept. A sale of the Property may be financed through any one or a combination of the following terms: a conventional loan; an F.H.A. insured loan; a V.A. guaranteed loan; a loan under the Texas Veteran's Housing Assistance Program; an assumption of an existing note; cash; a loan financed by Seller; or through such other terms as Seller may accept. Seller shall pay all typical closing costs charged to sellers of residential real property in Texas. **NOTICE: Broker does not guarantee that the Property will be appraised or sold for the Listing Price nor does Broker guarantee any net amount Seller might realize from the sale of the Property. Broker advises seller to obtain a current balance on any existing liens within _____ days.**

4. TERM: This Listing shall commence on the _____ day of _____, _____ (commencement date) and shall terminate at 11:59 p.m. on the _____ day of _____, _____ (termination date). If on the termination date there is a pending contract for the sale of the Property, in whole or part, in effect between Seller and a buyer and the transaction described in such a contract has not closed, Broker's Fee is earned and shall be payable according to paragraph 5. If Seller enters into a binding written contract to sell the Property before the Commencement Date, this Listing shall not commence and shall be void.

5. BROKER'S FEE:

- (a) (i) a flat fee of \$ _____, of which \$ _____ shall be paid to the Other Broker, if any, as follows: \$ _____ as buyer's broker and \$ _____ as subagent; or
- (ii) _____ % of the sales price, of which _____ % shall be paid to the Other Broker, if any, as follows: _____ % as buyer's broker and _____ % as subagent.
- (iii) Additional Fee \$ _____ for _____

NOTE: Amounts shown above should agree with amounts shown on data entry and with ballot box selections in Paragraph 8.

ACTRIS/LA 07/01 Initialed for Identification by: _____, _____ Owner _____ Broker or Agent Page 1 of 7

(1) **Earned:** Broker's Fee shall be earned when any one of the following events occurs during the term of this Listing: (i) Broker individually or in cooperation with another broker procures a buyer who enters into a contract with Seller to buy the Property; (ii) Broker individually or in cooperation with another broker procures a buyer ready, willing, and able to buy the Property at the Listing Price and on terms stated in paragraph 3 or at any other price and on terms acceptable to Seller; (iii) Seller sells, exchanges, agrees to sell, or agrees to exchange the Property to anyone at any price on any terms; or (iv) Seller breaches this Listing.

(2) **Payable:** Once earned, Broker's Fee shall be payable, either during term of this Listing or after its termination, at the earlier of any one of the following events: (i) the closing and funding of any sale or exchange of the Property; (ii) Seller's refusal to sell the Property; (iii) Seller's breach of this Listing; or (iv) at such time as otherwise set forth in this Listing. Broker's Fee shall not be payable if a sale of the Property does not close or fund as a result of: (i) Seller's failure, without fault of Seller, to deliver a title policy to a buyer; (ii) loss of ownership due to foreclosure or other legal proceeding; or (iii) Seller's failure to restore the Property, as a result of casualty loss, to its previous condition by the closing date set forth in a contract for the sale of the Property.

(b) If a buyer, with whom Seller has entered into a contract for the sale of the Property during the term of this Listing, breaches such a contract and Seller receives earnest money or a portion thereof as liquidated damages, Seller shall pay Broker one-half of such amount, but not exceeding Broker's Fee stated in paragraph 5(a).

(c) If Seller collects the purchase price and/or damages either by suit, compromise, settlement or otherwise from a buyer who breached a contract for the sale of the Property entered into during the term of this Listing, Seller shall pay Broker, after deducting attorneys' fees and other expenses of collection, an amount equal to one-half of the amount collected after deductions or the full amount of the Broker's Fee described in paragraph 5(a), whichever is less.

(d) If within _____ days after the termination of this Listing (the Protection Period) Seller enters into a contract to sell the Property or sells, exchanges or otherwise transfers a legal or equitable interest (excluding a lease with no right to purchase) of the Property to any person whose attention has been called to the Property by Broker, any other broker, or Seller during the term of this Listing, Seller shall pay Broker the Broker's Fee stated in paragraph 5(a), provided Broker, prior to or within five (5) days after the termination of this Listing, has delivered or sent by regular or certified mail to Seller written notice specifying the names of the persons to whose attention has been called to the Property during the term of this Listing. If during the term of the Protection Period such sale, exchange or transfer occurs while the Property is listed exclusively with another Texas licensed real estate broker this paragraph shall not apply and Seller shall not be obligated to pay Broker's Fee. The term "person" shall be broadly construed to include any individual or entity in any capacity.

(e) **ESCROW AUTHORIZATION:** Seller authorizes any escrow or closing agent authorized to close a transaction for the purchase or acquisition of the Property to collect and disburse to Broker the Broker's Fee due under this Listing. Seller authorizes Broker to instruct any closing or escrow agent to collect and disburse all broker fees due under this Listing.

6. ASSOCIATION AND FILINGS:

(a) **Association:** Broker is a member of ACTRIS and the _____ Association or Board of REALTORS® and is bound by its rules.

(b) Entering of Listing: (choose (i) or (ii)):

- (i) Within two (2) days after the commencement date of this Listing, Broker shall enter or cause to be entered the property data in a computerized system of the ACTRIS. As the status of and/or information about the Property changes, Broker will report changes within one working day to ACTRIS. Seller authorizes Broker, upon a final and closed sale of the Property to submit information about the sale, including price and terms, to the MLS for publication to subscribers for market evaluation or appraisal purposes and for disclosure of the sales price to bonafide customers and clients. **Any information or data, including information about a sale, shall become the property of the ABoR/ACTRIS for all purposes. NOTICE: Submission of information to ACTRIS ensures that persons who use and benefit from ACTRIS also contribute information.**
- (ii) Broker shall not enter this Listing with ACTRIS.
- Owner's Name to be withheld from MLS system. _____ (Seller's initials)

7. PROPERTY ACCESS:

(a) Keybox

NOTICE: A keybox is a locked container placed on the Property in which a key to the Property is placed. Keyboxes make it more convenient for cooperating brokers and their associates, home inspectors, appraisers, and/or repair personnel to facilitate the showing, inspecting, or repairing of the Property. All persons who have special combinations, keys, programmer keys, or electronic cards will have access to the Property if a keybox is placed on the Property. The use of the keybox will probably increase the number of showings, but involves risks (such as unauthorized entry, theft, property damage, or personal injury). Neither the Association nor ACTRIS requires the use of a keybox. Please discuss the advantages and disadvantages of keyboxes with your broker, insurance agent, and/or attorney.

- (i) Broker is is not authorized to place a keybox containing a key to the Property on the Property. If authorized, the keybox will remain on the Property until the earlier of (i) the termination of this Listing; or (ii) Broker receives written notice from Seller to remove the keybox.
- (ii) If a keybox is authorized, Seller shall protect, defend, indemnify and hold harmless Broker, Broker's associates, and other brokers and their associates, the Association, any listing service, and any keybox provider of and from any damages or claims arising from the use of keybox including, but not limited to, damages to or loss of real or personal property or personal injury not caused by Broker's negligence. Seller shall assume all risk of any loss, damage, or injury. Broker advises Seller to obtain personal property insurance.
- (iii) If the Property is occupied by a tenant at any time during this Listing, Seller shall furnish Broker a written statement, signed by all tenants, authorizing the use of a keybox or Broker may remove any keybox from the Property.

(b) **PHOTOS:** Broker is is not authorized to place interior photos of this property in the MLS system.

(c) **INTERNET:**

- (i) Broker is is not authorized to place listing on ABoR approved websites.
- (ii) Listing is is not available for Internet display by other Brokers.
- (iii) Property address will will not be available for display on Internet.

8. COOPERATION WITH OTHER BROKERS: Cooperating with and compensating other brokers means that Broker will allow other brokers to show the Property to prospective buyers and if another procures an acceptable offer, Broker will pay the other broker part of the fee described in paragraph 5(a). Broker shall cooperate with and compensate (choose only one) only buyers agents, only subagents of the seller, or both buyer agents and subagents.

9. AGENCY RELATIONSHIPS:

(a) Seller acknowledges receipt of the attached exhibit entitled "Information About Brokerage Services", which is incorporated in this Listing for all purposes.

(b) Broker shall exclusively represent Seller in negotiations for the sale of the Property unless Seller authorizes Broker, as set forth below, to act as intermediary in the event Broker also represents a buyer who offers to purchase the Property (*choose (1) or (2)*).

(1) **Intermediary Relationship Authorized:** Seller authorizes Broker to show the Property to prospective buyers Broker has agreed to represent. If Broker represents a buyer who offers to buy the Property, Seller authorizes Broker to act as an intermediary between the buyer and Seller, to present any offer such buyer may wish to make, and to assist both Seller and Buyer in negotiations for the sale of the Property. Broker's compensation shall be paid by Seller as provided in paragraph 5. **If Broker acts as an intermediary between Seller and a Buyer, Broker:**

- (i) **may not disclose to the buyer that the Seller will accept a price less than the asking price (Listing Price) unless otherwise instructed in a separate writing by the Seller;**
- (ii) **may not disclose to Seller that the buyer will pay a price greater than the price submitted in a written offer to Seller unless otherwise instructed in a separate writing by the buyer;**
- (iii) **may not disclose any confidential information or any information Seller or a buyer specifically instructs Broker in writing not to disclose unless otherwise instructed in a separate writing by the respective party, required to disclose the information by the Real Estate License Act or a court order, or the information materially relates to the condition of the Property;**
- (iv) **shall treat all parties to the transaction honestly; and**
- (v) **shall comply with the Real Estate License Act.**

If Broker acts as an intermediary, Broker may appoint a licensed associate(s) of Broker to communicate with, carry out instructions of, and provide options and advice to Seller and appoint another licensed associate(s) for the same purposes to a buyer.

(2) **Intermediary Relationship not Authorized:** Broker shall exclusively represent Seller and may not act as an intermediary between Seller and a buyer. Seller understands (*choose (i) or (ii)*):

- (i) Broker exclusively represents sellers of real property and does not represent buyers.
- (ii) Broker represents both buyers and sellers of real property. However, broker shall not show the Property to any buyer Broker represents.

10. CONFIDENTIAL INFORMATION: During this Listing or after it ends, Broker may not knowingly disclose information obtained in confidence from Seller except as authorized by Seller or required by law. Broker may not disclose to Seller any information obtained in confidence regarding any other person Broker represents or may have represented except as required by law.

11. BROKER'S AUTHORITY: Broker shall make reasonable efforts and act diligently to sell the Property. Seller authorizes Broker or Broker's associates to:

- (a) advertise the Property by means and methods as Broker determines;
- (b) place a "For Sale" sign on the Property in compliance with any State and local laws, rules, ordinances, restrictions, or covenants;
- (c) remove from the Property all other signs offering the Property for sale or lease;
- (d) furnish comparative marketing and sales information about other properties to prospective buyers;
- (e) disseminate information about the Property to other brokers or their associates;
- (f) enter the Property at reasonable times to show the Property to prospective buyers;
- (g) authorize other brokers or their associates, home inspectors, appraisers, and/or repair personnel to enter the Property at reasonable times to show the Property to prospective buyers or for other pertinent purposes;
- (h) obtain information from any holder of any note secured by a lien on the Property;
- (i) **upon a final and closed sale of the Property, disclose the sales price and terms of sale to other brokers, appraisers, or other real estate professionals;** and
- (j) accept earnest money and deposit the earnest money in trust in accordance with the terms of the earnest money contract. Broker is not authorized to execute any document in the name of or on behalf of Seller with respect to the Property without a written Power of Attorney executed between the parties.

12. SELLER'S REPRESENTATIONS: Seller represents that:

- (a) Seller has fee simple title to and peaceable possession of the Property and all its improvements and fixtures thereon, unless rented, and the legal capacity to convey the Property;
- (b) Seller is not now a party to a listing agreement with another broker for the sale, exchange or lease of the Property;
- (c) any pool or spa and any required enclosures, fences, gates, and latches comply with all applicable laws and ordinances;
- (d) no person or entity has any right to purchase, lease, or acquire the Property by virtue of an option, right of first refusal, or other agreement;
- (e) there are no delinquencies or defaults under any deed of trust, mortgage, or other encumbrance on the Property;
- (f) the Property is not subject to the jurisdiction of any court;
- (g) the name of any employer, relocation company, or other entity that provides benefits to Seller when selling the Property is: _____
_____:
- (h) Seller learned of Broker's firm by: _____:
- (i) all written information relating to the Property provided to Broker by Seller is true and correct.

13. SELLER'S ADDITIONAL PROMISES: Seller agrees to:

- (a) cooperate fully in good faith with Broker to facilitate the showing and marketing of the Property;
- (b) not rent or lease the Property during the term of this Listing without the prior written approval of Broker;
- (c) not negotiate with any prospective buyer who may contact Seller directly, but refer all prospective buyers to Broker;
- (d) not enter into a listing agreement with another broker for the sale, exchange or lease of the Property to become effective during the term of this Listing;
- (e) employ a pool maintenance company, if there is a pool on the Property and the Property is or becomes vacant, to maintain the pool and all required enclosures in compliance with all applicable laws and ordinances;
- (f) provide Broker with copies of all leases or rental agreements, if any, pertaining to the Property and advise Broker of any tenants moving in or out of the Property;
- (g) complete any disclosures or notices required by law or a contract to sell the Property;
- (h) amend any applicable notices and disclosures if any material change occurs during this Listing;
- (i) Seller hereby grants Austin Board of REALTORS, Inc. the perpetual, irrevocable right and license to use all information regarding the listing and sale of the Property in any way determined advisable by Austin Board of REALTORS, Inc., including without limitation, use in the compilation of data regarding offers and sales of residential estate, and for this purpose, Austin Board of REALTORS, Inc., is hereby expressly made a third party beneficiary of this Agreement.

14. LIMITATION OF LIABILITY: Broker and any other broker shall not be responsible in any manner for personal injury to Seller resulting from acts of third-parties or loss or damage of personal or real property due to vandalism, theft, freezing water pipes, or any other damage or loss whatsoever not caused by Broker's negligence. If the Property is or becomes vacant during the term of this Listing, Seller shall notify Seller's casualty insurance company and request a "Vacancy Clause" to cover the Property. Broker shall not be responsible for the security of the Property nor for inspecting the Property on any periodic basis. Seller shall protect, defend, indemnify, and hold harmless Broker, Broker's associates, any other brokers and their associates, and the Association of and from any damages, costs, attorneys' fees or expenses whatsoever, arising from acts of third parties or loss or damage of personal or real property due to vandalism, theft, freezing water pipes or any other damage not caused by Broker's negligence.

15. SPECIAL PROVISIONS:

16. DEFAULT: If Seller breaches this Listing (including but not limited to leasing or selling the Property without Broker's prior consent) Seller is in default and will be liable to Broker for the amount of the Broker's fee specified in Paragraph 5(a) and any other fees Broker is entitled to receive under this Listing. If a sales price is not determinable in the event of an exchange or breach of this Listing, the Listing Price will be the sales price for purposes of computing Broker's Fee. If Broker breaches this Listing, Broker is in default and Seller may exercise any remedy at law.

17. MEDIATION: The parties agree to negotiate in good faith in an effort to resolve any dispute related to this Listing that may arise between the parties. If the dispute cannot be resolved by negotiation, the dispute shall be submitted to mediation before resorting to arbitration or litigation. If the need for mediation arises the parties to the dispute shall choose a mutually acceptable mediator and shall share the cost of mediation equally.

18. ATTORNEYS' FEES: If Seller or Broker is a prevailing party in any legal proceeding brought as a result of a dispute under this Listing or any transaction related to or contemplated by this Listing, such party shall be entitled to recover from the non-prevailing party all costs of such proceeding and reasonable attorneys' fees.

19. ADDENDA AND OTHER DOCUMENTS: Addenda and other documents that are part of this Listing.

SELLER'S DISCLOSURE NOTICE: §5.008 of the Texas Property Code requires a seller of residential real property of not more than one dwelling unit to deliver a Seller's Disclosure Notice to a buyer on or before the effective date of a contract for the sale of the Property unless otherwise exempt by statute. Seller authorizes Broker and Broker's associates to furnish prospective buyers and other brokers with a copy of the attached Seller's Disclosure Notice. Seller represents that the attached Seller's Disclosure Notice was completed to the best of Seller's knowledge and belief and that Seller has disclosed all known material defects and material facts affecting the Property in the attached Seller's Disclosure Notice. Seller agrees to keep the Seller's Disclosure Notice current. Additionally, Seller agrees to provide Broker with any written reports, and oral or written notices, information regarding individual repairs to the Property over \$500, tests, treatments, and warranty claims affecting the Property. Seller shall protect, defend, indemnify and hold harmless Broker, Broker's associates, and any other brokers or their associates of and from any damages, costs, attorney's fees or expenses arising from Seller's failure to disclose any material or relevant information or the giving of any incorrect information to Broker, Broker's associates, any other brokers or their associates, or prospective buyers.

(a) If applicable, Seller will deliver the following disclosures or notices to Broker, Seller must complete the required disclosures or notices to the best of Seller's knowledge and belief. Seller authorizes Broker and Broker's associates to furnish prospective buyers and other brokers with copies of all applicable disclosures or notices.

- (i) Seller's Disclosure Notice (§5.008, Texas Property Code) Attached Will Obtain
- (ii) Addendum for Seller's Disclosure of Information on Lead-Based Paint and Lead-Based Paint hazard (required by federal law if Property was built before 1978) Attached Will Obtain
- (iii) Resale Certificate for Property Subject to Mandatory Membership in an Owners Association (contractual).
 Attached Will Obtain
- (iv) MUD Disclosure Notice (Statutory Notice to Purchasers Under §49.452(b), Water Code)
 Attached Will Obtain
- (v) Condominium Resale Certificate and copies of Condominium Documents (chapter 82, Texas Property Code-see attached Condominium Addendum). Attached Will Obtain
- (vi) Any disclosures or addenda required by a relocation company or Seller's employer. Attached Will Obtain
- (vii) Information About Brokerage Services (as prescribed by SB 489) Attached
- (viii) Request for Mortgage Information;
- (ix) Information about On-Site Sewer Facility;
- (x) Keybox Authorization by Tenant; and
- (xi) _____

20. AGREEMENT OF PARTIES:

- (a) Addenda: Addenda and other related documents which are part of this Listing are: Information About Brokerage Services, those disclosures or notices market in Paragraph 19, and _____
- (b) Entire Agreement: This Listing contains the entire agreement between the parties and may not be changed except by written agreement.
- (c) Assignability: This Listing may not be assigned by either party without the written approval of the other party.
- (d) Binding Effect: This Listing is binding upon the parties, their heirs, administrators, executors, successors, and permitted assigns.
- (e) Joint and Several: All Sellers executing this Listing are jointly and severally liable for the performance of all its terms.
- (f) Governing Law: The laws of the State of Texas govern the interpretation, validity, performance, and enforcement of this Listing.
- (g) Severability: If any clause in this Listing is found to be invalid or unenforceable by a court of law, the remainder of this Listing will not be affected and all other provisions of this Listing will remain valid and enforceable.

21. ADDITIONAL NOTICES

- (a) Commission rates, broker's fees, or the sharing of fees between brokers are not fixed, controlled, recommended, suggested, or maintained by the Association of REALTORS® or any listing service. The amount a seller agrees to pay a broker is negotiable.
- (b) Fair housing laws require the Property to be shown and made available for sale to all persons without regard to race, color, religion, national origin, sex, disability or familial status. Local ordinances may add additional requirements.
- (c) Whether a keybox is authorized or not, Seller is advised to safeguard and/or remove jewelry and other valuables located in the Property.
- (d) City ordinances, codes, and statutes may regulate the safety and maintenance of certain items in the Property (for example, swimming pool, septic system, etc). Non-compliance with the ordinances, codes, and statutes may delay a transaction and may result in fines, penalties, and liability to Seller.
- (e) **BACK-UP OFFERS:** Broker shall not be obligated to continue to market the Property after Seller has entered into a binding contract to sell the Property. If a subsequent or back-up offer for the sale of the Property is submitted to Broker after Seller has entered into a binding contract to sell the Property, Broker shall shall not submit the subsequent or back-up offer to Seller. If Broker is to submit subsequent or back-up offers, and if the contract form used does not specifically provide such rights, the Seller shall specifically state in such contract that "Seller may continue to show the Property for sale and receive, negotiate and accept back-up offers unless expressly prohibited in writing by the parties to the contract."
- (f) If the Property was built before 1978, federal law requires that before a buyer is obligated under a contract to buy the Property, the Seller shall: (1) provide the buyer with a lead hazard information pamphlet (as prescribed by EPA); (2) disclose the presence of any known lead-base paint or hazards (including providing the buyer with any lead hazard evaluation report available to the Seller); and (3) permit the buyer to conduct a risk assessment or inspection for the presence of lead-base paint hazards. A contract for the sale of Property built before 1978 must contain a statutorily prescribed Lead Warning Statement to the buyer.
- (g) **RESIDENTIAL SERVICE CONTRACTS:** Residential Service Contracts are available from Residential Service Companies licensed under Article 6573b, Texas Civil Statutes. A residential service contract is an agreement whereby the Residential Service Company may, under the terms of the agreement, repair or replace all or any part of the appliances, or electrical, plumbing, heating, cooling, or other systems. Any residential service contract that is purchased in connection with this transaction should be reviewed for the scope of coverage, exclusions and limitations. The purchase of a residential service contract is optional.
- (h) Broker cannot give legal advice. This is intended to be a legally binding agreement. READ IT CAREFULLY. If you do not understand the effect of this Listing, consult your attorney BEFORE signing.
- (i) **IRS:** The Internal Revenue Service (IRS) requires a closing agent to report the gross sales price, seller's tax identification number and other required information to the IRS. Seller shall provide to any closing agent such information at time of closing. IRS requires a buyer of real property to withhold a percentage of the sales price from the seller if the seller is a foreign person. A foreign person includes nonresident aliens, foreign corporations, foreign partnerships, foreign trusts, or foreign estates. In most sales the Seller will be required to deliver an affidavit that Seller is not a foreign person. Seller certifies that Seller is is not a foreign person.

Broker's Printed Name License No.

Seller's Signature Date

By: _____
Broker's or Association Signature Date

Seller's Signature Date

INFORMATION ABOUT BROKERAGE SERVICES

as prescribed by SB 489

Before working with a real estate broker, you should know that the duties of a broker depend on whom the broker represents. If you are a prospective seller or landlord (owner) or a prospective buyer or tenant (buyer), you should know that the broker who lists the property for sale or lease is the owner's agent. A broker who acts as a subagent represents the owner in cooperation with the listing broker. A broker who acts as a buyer's agent represents the buyer. A broker may act as an intermediary between the parties if the parties consent in writing. A broker can assist you in locating a property, preparing a contract or lease, or obtaining financing without representing you. A broker is obligated by law to treat you honestly.

IF THE BROKER REPRESENTS THE OWNER:

The broker becomes the owner's agent by entering into an agreement with the owner, usually through a written listing agreement, or by agreeing to act as a subagent by accepting an offer of subagency from the listing broker. A subagent may work in a different real estate office. A listing broker or subagent can assist the buyer but does not represent the buyer and must place the interests of the owner first. The buyer should not tell the owner's agent anything the buyer would not want the owner to know because an owner's agent must disclose to the owner any material information known to the agent.

IF THE BROKER REPRESENTS THE BUYER:

The broker becomes the buyer's agent by entering into an agreement to represent the buyer, usually through a written buyer representation agreement. A buyer's agent can assist the owner but does not represent the owner and must place the interests of the buyer first. The owner should not tell a buyer's agent anything the owner would not want the buyer to know because a buyer's agent must disclose to the buyer any material information known to the agent.

IF THE BROKER ACTS AS AN INTERMEDIARY:

A broker may act as an intermediary between the parties if the broker complies with The Texas Real Estate License Act. The broker must obtain the written consent of each party to the transaction to act as an intermediary. The written consent

must state who will pay the broker and, in conspicuous bold or underlined print, set forth the broker's obligations as an intermediary. The broker is required to treat each party honestly and fairly and to comply with The Texas Real Estate License Act.

A broker who acts as an intermediary in a transaction:

- (1) shall treat all parties honestly;
- (2) may not disclose that the owner will accept a price less than the asking price unless authorized in writing to do so by the owner;
- (3) may not disclose that the buyer will pay a price greater than the price submitted in a written offer unless authorized in writing to do so by the buyer; and
- (4) may not disclose any confidential information or any information that a party specifically instructs the broker in writing not to disclose unless authorized in writing to disclose the information or required to do so by The Texas Real Estate License Act or a court order or if the information materially relates to the condition of the property.

With the parties' consent, a broker acting as an intermediary between the parties may appoint a person who is licensed under The Texas Real Estate License Act and associated with the broker to communicate with and carry out instructions of one party and another person who is licensed under that Act and associated with the broker to communicate with and carry out instructions of the other party.

If You Choose to Have a Broker Represent You, you should enter into a written agreement with the broker that clearly establishes the broker's obligations and your obligations. The agreement should state how and by whom the broker will be paid. You have the right to choose the type of representation, if any, you wish to receive. Your payment of a fee to a broker does not necessarily establish that the broker represents you. If you have any questions regarding the duties and responsibilities of the broker, you should resolve those questions before proceeding.

Real Estate Licensee asks you acknowledge receipt of this information about brokerage services for the licensee's records.

Seller(s), Buyer, Landlord or Tenant

Date