

From The Office of RichHaen.com Realty

SAMPLE VALUED CLIENT SAVINGS PROGRAM EXCLUSIVE PROPERTY LISTING AGREEMENT

Date: _____ Concerning the Property Located At: _____ Listing Price: _____

In consideration of the mutual covenants and agreements herein contained, the undersigned Seller hereby gives to the undersigned Broker the sole and exclusive right to sell the said property for the price and on the terms and conditions herein set forth.

1. **The period of this Agreement shall be from** _____
2. The Broker agrees to use reasonable efforts to procure a ready, willing, and able Buyer of the property in accordance with the price, terms, and conditions of this Agreement.
3. The Broker is granted the sole authority to market the property on MLSpin.com. To introduce the property to other brokers and solicit their assistance in procuring a buyer, the Broker will arrange to have this listing distributed through the multiple listing service "MLSpin," commonly known as "MLS." The Seller expressly authorizes the Broker to list the property for sale in the MLSpin. Any data regarding the property submitted by the Broker to MLSpin should be verified by the Seller. Such data, together with any other information provided to or obtained by the Broker with respect to the property, may be disclosed to prospective buyers and other brokers. Once an offer has been accepted by the seller in writing and a transaction is pending, the Broker shall have no obligation to market the property or present offers to the Seller, and the property's MLS status will be changed to "Under Agreement." If this property listing is removed from the market for any reason during the period of time noted above in this agreement, this listing agreement shall be extended the same number of days this property is removed from the market. While this property listing is removed from the market, the Broker shall have no obligation to market the property or present offers to Seller.
4. **The Broker agrees to cooperate with all MA licensed Buyer Agents in a reasonable manner. The Broker agrees to compensate all MA Licensed Real Estate Buyer Agents 50% of the Listing Fee as outlined below.** However, RichHaen.com Realty believes it to be in the Seller's best interest not to cooperate with any agencies practicing sub-agency in order to avoid possible legal ramifications of "vicarious liability". Vicarious liability is a form of strict, secondary liability that arises under the common law doctrine of agency – *respondet superior* – the responsibility of the superior for the acts of their subordinate, or, in a broader sense, the responsibility of any third party that had the "right, ability or duty to control" the activities of a violator. It can be distinguished from contributory liability, another form of secondary liability, which is rooted in the tort theory of enterprise liability.
4. The Seller agrees to refer all inquiries and offers for the purchase of said property to the Broker within 24 hours of receipt and to cooperate with the Broker in every reasonable way. The property will be marketed in compliance with all acceptable fair housing laws, both state and federal.
5. **The Seller agrees to compensate RichHaen.com Realty at closing a gross commission of: Five Percent (5.0%)** of the purchase price for the sale of the property identified above in this listing agreement, if the Seller is not simultaneously purchasing a new property with RichHaen.com Realty as their Exclusive Buyer's Agent. **Four Percent (4.0%)** of the purchase price for the sale of the property identified above in this listing agreement, if the Seller simultaneously purchases a new property with RichHaen.com Realty as their Exclusive Buyer's Agent. The gross commission rate will be reduced to **Three Percent (3.0%)** of the purchase price for the sale of the property identified above in this listing agreement, if the Buyer who purchases the property identified above in this listing agreement, is NOT being represented by another Broker, Buyer Agent or Facilitator for RichHaen.com Realty to compensate at closing.

THE COMMISSION WILL BE PAID ONLY IF & WHEN THIS TRANSACTION IS RECORDED AT THE APPROPRIATE REGISTRY OF DEEDS, AND WHEN:

- (1) A Buyer is procured ready, willing, and able to buy said property or any part thereof, in accordance with the price, terms, and conditions of this Agreement, or such other price, terms, and conditions acceptable to the Seller.
- (2) The said property, or any part thereof, is sold through the efforts of anyone, including the Seller.
- (3) The said property, or any part thereof, is sold within 180 days after the term of this Agreement to anyone who was introduced to the said property through the efforts of the Broker or his agents prior to the expiration of the term.

Broker: _____

RichHaen.com Realty MA License # 9510195

Seller: _____

Print Name: _____

Seller: _____

Print Name: _____

TYPES OF AGENCY REPRESENTATION

SELLER'S AGENT

A seller can engage the services of a real estate agent to sell his property (called the listing agent) and the real estate agent is then the agent for the seller who becomes the agent's client. This means that the real estate agent represents the seller. The agent owes the seller undivided loyalty, reasonable care, disclosure, obedience to lawful instruction, confidentiality and accountability, provided, however, that the agent must disclose known material defects in the real estate. The agent must put the seller's interests first and negotiate for the best price and terms for their client, the seller. (The seller may authorize sub-agents to represent him/her in marketing its property to buyers, however the seller should be aware that wrongful action by the real estate agent or sub-agents may subject the seller to legal liability for those wrongful actions).

BUYER'S AGENT

A buyer can engage the services of a real estate agent to purchase property and the real estate agent is then the agent for the buyer who becomes the agent's client. This means that the real estate agent represents the buyer. The agent owes the buyer undivided loyalty, reasonable care, disclosure, obedience to lawful instruction, confidentiality and accountability, provided, however, that the agent must disclose known material defects in the real estate. The agent must put the buyer's interests first and negotiate for the best price and terms for their client, the buyer. (The buyer may also authorize sub-agents to represent him/her in purchasing property, however the buyer should be aware that wrongful action by the real estate agent or sub-agents may subject the buyer to legal liability for those wrongful actions).

(NON-AGENT) FACILITATOR

When a real estate agent works as a facilitator that agent assists the seller and buyer in reaching an agreement but does not represent either the seller or buyer in the transaction. The facilitator and the broker with whom the facilitator is affiliated owe the seller and buyer a duty to present each property honestly and accurately by disclosing known material defects about the property and owe a duty to account for funds. Unless otherwise agreed, the facilitator has no duty to keep information received from a seller or buyer confidential. The role of facilitator applies only to the seller and buyer in the particular property transaction involving the seller and buyer. Should the seller and buyer expressly agree a facilitator relationship can be changed to become an exclusive agency relationship with either the seller or the buyer.

DESIGNATED SELLER'S AND BUYER'S AGENT

A real estate agent can be designated by another real estate agent (the appointing or designating agent) to represent either the buyer or seller, provided the buyer or seller expressly agrees to such designation. The real estate agent once so designated is then the agent for either the buyer or seller who becomes their client. The designated agent owes the buyer or seller undivided loyalty, reasonable care, disclosure, obedience to lawful instruction, confidentiality and accountability, provided, however, that the agent must disclose known material defects in the real estate. The agent must put their client's interest first and negotiate for the best price and terms for their client. In situations where the appointing agent designates another agent to represent the seller and an agent to represent the buyer then the appointing agent becomes a dual agent. Consequently, a dual agent cannot satisfy fully the duties of loyalty, full disclosure, obedience to lawful instructions which is required of an exclusive seller or buyer agent. The dual agent does not represent either the buyer or the seller solely only your designated agent represents your interests. The written consent for designated agency must contain the information provided for in the regulations of the Massachusetts Board of Registration of Real Estate Brokers and Salespeople (Board). A sample designated agency consent is available at the Board's website at www.mass.gov/dpl/re.

DUAL AGENT

A real estate agent may act as a dual agent representing both the seller and buyer in a transaction but only with the express and informed consent of both the seller and buyer. Written consent to dual agency must be obtained by the real estate agent prior to the execution of an offer to purchase a specific property. A dual agent shall be neutral with regard to any conflicting interest of the seller and buyer. Consequently, a dual agent cannot satisfy fully the duties of loyalty, full disclosure, obedience to lawful instructions which is required of an exclusive seller or buyer agent. A dual agent does, however, still owe a duty of confidentiality of material information and accounting for funds. The written consent for dual agency must contain the information provided for in the regulations of the Massachusetts Board of Registration of Real Estate Brokers and Salespeople (Board). A sample dual agency consent is available at the Board's website at www.mass.gov/dpl/re.