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Seller Customer Service Agreement - Commercial Commission Agreement For Property Not Listed

Form 535

for use in the Province of Ontario

GENERAL USE: This Form is a contract between a Seller and a Brokerage that gives the Brokerage permission to work with the Seller when they offer their Property for sale. A written agreement is necessary in order to secure commission and to ensure compliance with the REBBA, 2002, Code of Ethics.

TYPE OF AGREEMENT: This is a non-exclusive agreement, the Seller is able to sign with other Brokerages, while noting the obligations to the specific Buyer below.

This Is A Non-Exclusive Seller Customer Service Agreement

IDENTIFICATION OF PARTIES AND PROPERTY: The section at the top identifies the parties involved in the Agreement.

BETWEEN:

BROKERAGE:

(the "Brokerage") Tel.No.

AND

SELLER:

(the "Seller")

for the real property known as: (the "Property")

RELEVANT BUYER & AGREEMENT PERIOD: The next section identifies the prospective buyer the Agreement is pertaining to and the time frame for which the contract is valid. The REBBA, 2002, Code of Ethics requires that the Seller(s) initial if the listing period extends beyond six months.

and for the following Buyer: (the "Buyer")

The Brokerage agrees to provide customer service to the Seller for the sale of the above described Property to the Buyer and the Seller acknowledges and agrees to the terms as stated in this Agreement.

This non-exclusive Seller Customer Service Agreement:

commences at on the day of, 20.....

(a.m./p.m.)

and expires at 11:59 p.m. on the day of, 20..... (Expiry Date)

Seller acknowledges that the time period for this Agreement is negotiable between the Seller and the Brokerage, however, in accordance with the Real Estate and Business Brokers Act, 2002, (REBBA), **if the time period for this Agreement exceeds six months, the Brokerage must obtain the Seller's initials.**

(Seller's Initials)

SELLER REPRESENTS AND WARRANTS: The Seller is warranting that the Property is not listed with another real estate brokerage and that the Seller has the sole authority to list and sell the Property.

The Seller hereby represents and warrants that the Property is not listed for sale with any other registered real estate brokerage and that the Seller has the sole and exclusive authority to execute this Agreement and to offer the Property for sale.

(Seller's Initials)

1. DEFINITIONS AND INTERPRETATIONS: This section of the form defines the terms that follow in the document, including Seller, Buyer, purchase, etc.

1. DEFINITIONS AND INTERPRETATIONS: For the purposes of this Agreement: "Seller" includes Vendor and "Buyer" includes a purchaser, or a prospective purchaser. "Real property" includes real estate as defined in the Real Estate and Business Brokers Act (2002). A purchase shall be deemed to include the entering into of any agreement to exchange, or the obtaining of an option to purchase which is subsequently exercised. For purposes of this Agreement, anyone introduced to or shown the Property shall be deemed to include any spouse, heirs, executors, administrators, successors, assigns, related corporations and affiliated corporations. Related corporations or affiliated corporations shall include any corporation where one half or a majority of the shareholders, directors or officers of the related or affiliated corporation are the same person(s) as the shareholders, directors, or officers of the corporation introduced to or shown the Property. Commission shall be deemed to include other remuneration. This Agreement shall be read with all changes of gender or number required by the context.

2. COMMISSION: This part of the document sets out the fee to be paid by the Seller to the real estate company if they are successful in selling the property. In addition, the Seller would have to pay commission if the Seller sells the property to the Buyer within the period of days stated after the expiration of this agreement.

2. COMMISSION: In consideration of the Brokerage showing the Property to the Buyer and/or introducing the Buyer to the Seller for the purpose of discussing the sale of the Property, the Seller agrees to pay the Brokerage a commission of % of the sale price of the Property or

for any valid offer to purchase the Property entered into between the Seller and the Buyer during the term of this Agreement.

Seller acknowledges that the commission as described above is payable to the Brokerage even if the Seller enters into an agreement to pay commission to another registered real estate brokerage during the currency of this Agreement or any extension thereof.

The Seller agrees to pay such commission as calculated above if an agreement with the Buyer to purchase the Property is agreed to or accepted by the Seller or anyone on the Seller's behalf within days after the expiration of this Agreement. If, however, the offer from the Buyer for the purchase of the Property is pursuant to a new agreement in writing to pay commission to another registered real estate brokerage, and if the new agreement was entered into after the expiration of this Agreement, the Seller's liability for commission shall be reduced by the amount paid by the Seller under the new agreement.

INITIALS OF BROKERAGE:

INITIALS OF SELLER(S):

The Seller agrees to pay such commission as described above even if the transaction contemplated by an agreement to purchase agreed to or accepted by the Seller or anyone on the Seller's behalf is not completed, if such non-completion is owing or attributable to the Seller's default or neglect. The commission as described above shall be payable on the date set for completion of the purchase of the Property. Any deposit in respect of any agreement where the transaction has been completed shall first be applied to reduce the commission payable. Should such amounts paid to the Brokerage from the deposit or by the Seller's solicitor not be sufficient, the Seller shall be liable to pay to the Brokerage on demand, any deficiency in commission and taxes owing on such commission. All amounts set out as commission are to be paid plus applicable taxes on such commission.

3. REPRESENTATION AND CUSTOMER SERVICE: *The following section confirms that the Salesperson has explained the different types of agency relationships that may occur in a real estate transaction. This would include Customer Service being offered under this agreement.*

3. REPRESENTATION AND CUSTOMER SERVICE: The Seller acknowledges that the Brokerage has provided the Seller with written information explaining agency relationships, including information on Seller Representation, Sub-Agency, Buyer Representation, Multiple Representation and Customer Service.

The Seller acknowledges that the Brokerage will be providing customer service to the Seller and will not be representing the interests of the Seller in a transaction.

The Brokerage may be representing the interests of the Buyer for the transaction. When the Brokerage is representing the Buyer, the Buyer is considered to be the Brokerage's client, and the Brokerage's primary duties are to protect and promote the interests of the Buyer/client. The Brokerage will disclose all pertinent information to a Buyer/client obtained from or about the Seller.

Even though the Brokerage's primary duties may be to the Buyer, the Brokerage may provide many valuable customer services to the Seller.

When providing customer service to the Seller, the Brokerage's duties to the Seller include:

- the **Ethical** duty to deal fairly, honestly and with integrity;
- the **Legal** duty to exercise due care when answering questions and providing information; and
- the **Legal** duty to avoid misrepresentation.

The Seller further acknowledges and agrees that the payment of commission by the Seller to the Brokerage will not create or constitute representation by the Brokerage of the Seller as a client.

The Seller understands and agrees that the Brokerage also provides representation and customer service to other sellers and buyers. If the Brokerage represents or provides customer service to more than one seller or buyer for the same trade, the Brokerage shall, in writing, at the earliest practicable opportunity and before any offer is made, inform all sellers and buyers of the nature of the Brokerage's relationship to each seller and buyer.

4. DEPOSIT: *Generally a deposit comes with an Agreement of Purchase and Sale. The deposit is going to be held by the Brokerage and the amount will be a credit to the Buyer against the purchase price.*

4. DEPOSIT: The Seller and Brokerage agree that the deposit for a transaction shall be held in trust by the Brokerage. Any deposit in respect of any agreement where the transaction has been completed shall be first applied to reduce the commission payable. Should such amounts paid to the Brokerage from the deposit or by the Seller's solicitor not be sufficient, the Seller shall be liable to pay the Brokerage on demand, any deficiency in commission and taxes owing on such commission.

5. FINDERS FEES: *This provides consent for the Salesperson to accept any finders fee that a mortgage company may offer to them. It also states that this fee would be collected by the Salesperson in addition to the stated commission. It should be noted that a specific consent will be required at the time a finders fee arises.*

5. FINDERS FEES: The Seller acknowledges that the Brokerage may be receiving a finder's fee, reward and/or referral incentive, and the Seller consents to any such benefit being received and retained by the Brokerage in addition to the commission as described above.

6. INDEMNIFICATION AND INSURANCE: *The Seller will not hold the Brokerage liable for loss or damage to the property or contents unless it was caused by the Brokerage's gross negligence or a willful act. The Seller warrants that the property is insured, including personal liability insurance.*

6. INDEMNIFICATION AND INSURANCE: The Seller will not hold the Brokerage and representatives of the Brokerage responsible for any loss or damage to the Property or contents occurring during the term of this Agreement caused by the Brokerage or anyone else by any means, including theft, fire or vandalism, other than by the Brokerage's gross negligence or wilful act. The Seller agrees to indemnify and save harmless the Brokerage and representatives of the Brokerage from any liability, claim, loss, cost, damage or injury, including but not limited to loss of the commission payable under this Agreement, caused or contributed to by the breach of any warranty or representation made by the Seller in this Agreement. The Seller warrants the Property is insured, including personal liability insurance against any claims or lawsuits resulting from bodily injury or property damage to others caused in any way on or at the Property and the Seller indemnifies the Brokerage and all of its employees, representatives, salespersons and brokers for and against any claims against the Brokerage made by anyone who attends or visits the Property.

7. VERIFICATION OF INFORMATION: *The following authorizes the Brokerage to obtain information that would be appropriate and necessary to facilitate the transaction. This may include information, such as, mortgage amounts or information from government agencies.*

7. VERIFICATION OF INFORMATION: The Seller authorizes the Brokerage to obtain any information from any regulatory authorities, governments, mortgagees or others affecting the Property and the Seller agrees to execute and deliver such further authorizations in this regard as may be reasonably required.

8. ENVIRONMENTAL INDEMNIFICATION: *The Seller indemnifies the Brokerage if the Brokerage suffers any losses as a result of any contamination etc.*

8. ENVIRONMENTAL INDEMNIFICATION: The Seller agrees to indemnify and save harmless the Listing Brokerage and any co-operating brokerage from any liability, claim, loss, cost, damage or injury as a result of the Property being affected by any contaminants or environmental problems.

9. USE AND DISTRIBUTION OF INFORMATION: *This provision is necessary in order to comply with the Personal Information Protection and Electronic Documents Act (privacy legislation). The Seller consents to use of personal information, such as the sale price, to be used in statistical data to provide comparative market analyses.*

9. USE AND DISTRIBUTION OF INFORMATION: The Seller consents to the collection, use and disclosure of personal information by the Brokerage for the purpose of compiling, retaining and publishing any statistics including data which may be used by the Brokerage to conduct comparative market analyses; and make such other use of information as the Brokerage deems appropriate in connection with the listing, marketing, selling of real estate.

INITIALS OF BROKERAGE:

INITIALS OF SELLER(S):



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10. **FAMILY LAW ACT:** *The Seller is warranting that if spousal consent is necessary the spouse has signed consenting below.*
- 10. FAMILY LAW ACT:** The Seller hereby warrants that spousal consent is not necessary under the provisions of the Family Law Act, R.S.O. 1990, unless the spouse of the Seller has executed the consent hereinafter provided.
11. **SUCCESSORS AND ASSIGNS:** *This states that heirs, estate trustees or any other party legally acting on behalf of the Seller must also abide by the terms of this Agreement.*
- 11. SUCCESSORS AND ASSIGNS:** The heirs, executors, administrators, successors and assigns of the undersigned are bound by the terms of this Agreement.
12. **CONFLICT OR DISCREPANCY:** *In the event something is added to the agreement, for example by way of a schedule and the added part is in conflict or there is a discrepancy with a pre-printed clause, then the added part overrides the pre-printed provision.*
- 12. CONFLICT OR DISCREPANCY:** If there is any conflict or discrepancy between any provision added to this Agreement (including any Schedule attached hereto) and any provision in the standard pre-set portion hereof, the added provision shall supersede the standard pre-set provision to the extent of such conflict or discrepancy. This Agreement, including any Schedule attached hereto, shall constitute the entire Agreement between the Seller and the Brokerage. There is no representation, warranty, collateral agreement or condition, which affects this Agreement other than as expressed herein.
13. **ELECTRONIC COMMUNICATION:** *This confirms that communications may occur electronically and will still be binding.*
- 13. ELECTRONIC COMMUNICATION:** This Agreement and any agreements, notices or other communications contemplated thereby may be transmitted by means of electronic systems, in which case signatures shall be deemed to be original. The transmission of this Agreement by the Seller by electronic means shall be deemed to confirm the Seller has retained a true copy of the Agreement.
14. **ELECTRONIC SIGNATURES:** *If the parties are using electronic signatures this clause is consent for those.*
- 14. ELECTRONIC SIGNATURES:** If this Agreement has been signed with an electronic signature the parties hereto consent and agree to the use of such electronic signature with respect to this Agreement pursuant to the *Electronic Commerce Act, 2000, S.O. 2000, c17* as amended from time to time.
15. **SOLD SIGN:** *The Seller with their initials agrees to permit the Brokerage to place a Sold sign on the property once the property has been sold.*
- 15. SOLD SIGN:** The Seller hereby agrees and consents by the Seller initialling this term of the Agreement that, upon the Seller entering into a binding Agreement to sell the Property with the Buyer, the Brokerage is authorized to place the Brokerage's Sold sign on the Property.
16. **SCHEDULE(S):** *Schedules allow for the addition of terms not found in the pre-set clauses. These would include special provisions.*
- 16. SCHEDULE(S)** attached hereto form(s) part of this Agreement.


(Seller's Initials)

BROKERAGE SERVICES: *The Brokerage is only providing Customer Service to the Seller. The Seller is therefore, not a client. The Brokerage is to work to get the acceptance of an agreement to purchase between the Seller and the Buyer.*

THE BROKERAGE AGREES TO PROVIDE CUSTOMER SERVICE TO THE SELLER IN AN ENDEAVOUR TO OBTAIN THE ACCEPTANCE OF AN AGREEMENT TO PURCHASE BETWEEN THE SELLER AND THE BUYER.

BINDING THE BROKERAGE: *The Salesperson signs this on behalf of the Brokerage.*

.....
(Authorized to bind the Brokerage) (Date) (Name of Person Signing)

SELLER ACKNOWLEDGEMENT: *The Seller acknowledges having read and understood the terms of this Agreement.*

THIS AGREEMENT HAS BEEN READ AND FULLY UNDERSTOOD BY ME, I ACCEPT THE TERMS OF THIS AGREEMENT AND I ACKNOWLEDGE ON THIS DATE I HAVE SIGNED UNDER SEAL.

SIGNED, SEALED AND DELIVERED I have hereunto set my hand and seal:

.....
(Name of Seller)

.....
(Signature of Seller/Authorized Signing Officer) (Seal) (Date) (Tel. No.)

.....
(Signature of Seller/Authorized Signing Officer) (Seal) (Date) (Tel. No.)

SPOUSAL CONSENT: The undersigned spouse of the Seller hereby consents to the sale of the Property pursuant to the provisions of the Family Law Act, R.S.O. 1990 and hereby agrees to execute all necessary or incidental documents to further any transaction provided for herein.

.....
(Spouse) (Seal) (Date) (Tel. No.)

DECLARATION OF INSURANCE: *The Declaration of Insurance is signed by the Salesperson/Broker stating that they carry insurance as required by the Real Estate and Business Brokers Act.*

DECLARATION OF INSURANCE

The Salesperson/Broker/Broker of Record
hereby declares that he/she is insured as required by REBBA.
.....
(Name of Salesperson/Broker/Broker of Record)

.....
(Signature(s) of Salesperson/Broker/Broker of Record)

ACKNOWLEDGEMENT OF COPY: *The Seller acknowledges that they understand the terms of the Agreement and that they have received a copy of the document.*

ACKNOWLEDGEMENT

The Seller(s) hereby acknowledge that the Seller(s) fully understand the terms of this Agreement and have received a copy of this Agreement on the day of, 20

.....
(Signature of Seller) (Date)

.....
(Signature of Seller) (Date)