

INDEPENDENT CONTRACTOR AGREEMENT BETWEEN BROKER AND SALESMAN

THIS AGREEMENT by and between _____,
hereafter referred to as "BROKER" and _____,
hereafter referred to as "SALESMAN" for and in consideration of their mutual promises and for their mutual benefits.

WITNESSETH:

THAT, WHEREAS, BROKER, is duly licensed as a Real Estate Broker, and is duly qualified to, and does, procure purchases and lessees for real estate, and does perform other acts designated within Chapter 475, Florida Statutes and enjoys goodwill of, and a reputation for dealing with, the public, and also maintains an office for the purpose of serving the public as a Real Estate Broker and

WHEREAS, SALESMAN is a duly licensed Real Estate Salesman and properly qualified to deal with the public as such, and

WHEREAS, it is deemed to be to the mutual advantage of BROKER and SALESMAN to form the association hereinafter agreed to,

THEREFORE

- I. BROKER agrees that SALESMAN shall have access to all current listings of BROKER and listings made available to BROKER through offers of subagency, except such listing as BROKER in his discretion, may find necessary to place exclusively in the temporary possession of another SALESMAN.
- II. BROKER agrees that SALESMAN may use BROKER'S then existing office facilities for the performance of SALESMAN'S duties described herein.
- III. SALESMAN agrees to use SALESMAN'S best efforts to sell and lease real estate listed with BROKER, or available to sell or lease by BROKER through offers of subagency, and to solicit listings, clients and customers for BROKER.
- IV. SALESMAN agrees to conduct his business in a reputable manner and in conformance with all laws, rules, regulations, and codes of ethics that are binding upon or applicable to Real Estate Brokers and Salesmen. SALESMAN hereby agrees to indemnify and hold BROKER harmless from and against any and all liability arising from SALESMAN'S acts or omissions, whether arising from violation of said laws, rules, regulations, and codes of ethics, or from SALESMAN'S negligence or SALESMAN'S overt acts, or otherwise. SALESMAN recognizes and acknowledges his obligation to keep abreast of all legal and other issues which affect the real estate industry, as they may change from time to time.
- V. BROKER shall negotiate all terms and conditions of fees charged clients including, but not limited to, the amount of the fee and dates such fees become due. Where SALESMAN performs any services described in this Agreement and a fee is earned and collected by BROKER, SALESMAN, shall receive _____% of the fee as commission as listing agent, and _____% as selling agent; and BROKER shall receive the balance, except where expense for attorneys fees and costs are incurred in the collection of or in the attempt to collect the fee, then such amounts shall be deducted from SALESMAN'S commission in the same proportion as provided for herein in the division of the fee. SALESMAN shall be paid commissions owed him on any given transaction within _____ days after collection and clearance of the fee by BROKER. In no event shall BROKER be liable to SALESMAN for any fee, unless the same shall have been collected from the party who owed the fee, nor shall BROKER be required to prosecute or sue any party in order to collect any fee for services performed by SALESMAN. In the event that two or more SALESMEN participate in such a service, or claim to have done so, the amount of the fee due SALESMAN shall be determined by BROKER in his sole and absolute discretion. In the event that a Seller offers a premium, bonus, or other incentive, whether via an agency relationship with BROKER or via subagency, if such premium, incentive or bonus is in the form of money then

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In the event such premium, bonus or incentive is other than money (i.e., a cruise, trip, or other matter having economic value but not delivered in money), then such premium, bonus or incentive shall go to SALESMAN, the fair market value of same shall be reported by BROKER as income to SALESMAN, as same must be collected by BROKER and delivered to SALESMAN, to preserve the respective legal positions of the parties.

- VI SALESMAN shall be compensated by BROKER solely through commissions as described in Paragraph V. Such compensation from BROKER to SALESMAN shall be directly related to sales and rental output of SALESMAN and not to hours worked by SALESMAN. SALESMAN shall be provided no minimum salary, no vacation pay, no sick leave nor any other fringe benefit including the payment of licensing and membership dues.
- I. BROKER shall not be liable to SALESMAN for any expenses incurred by SALESMAN, nor for any of SALESMAN'S acts. SALESMAN shall have no authority to bind BROKER by any promise or representation, oral or otherwise, unless specifically authorized in writing in particular transaction. Suits, whether for fees or otherwise, against clients, customers and other in the real estate business shall be maintained only in the name of the BROKER, and SALESMAN shall be construed to be a subagent only with respect to the clients and customers from whom service shall be performed, and shall otherwise be deemed to be an independent contractor and not a servant, employee, joint adventurer or partner of BROKER for tax purposes, liability purposes or any other purpose. SALESMAN is responsible for providing all tools necessary to perform the duties outline herein except for those duties outline in Paragraph II of this Agreement. SALESMAN shall also be responsible for providing SALESMAN'S own automobile and is responsible for transportation expenses including insurance in the minimum amount of \$_____, for public liability and property damage insurance in the minimum amount of \$_____, and other expenses incidental to performing SALESMAN'S duties without receiving any reimbursement from BROKER. BROKER shall be named as an additional insured in all such policies.
- VIII. SALESMAN is responsible for paying SALESMAN'S own estimated income tax payments, selfemployment taxes and other taxes to the federal government. BROKER shall withhold neither federal income taxes, nor unemployment taxes from commissions due to SALESMAN, nor shall BROKER provide worker's compensation insurance for SALESMAN.
- IX. SALESMAN shall perform all duties without supervision or control of BROKER. Notwithstanding this provision, SALESMAN shall be deemed to be working under the supervision of BROKER in the context of Chapter 475, Florida Statutes. SALESMAN shall not be required to report on SALESMAN'S activities to BROKER, work a specific schedule, nor shall SALESMAN be required to meet certain sales quotas.
- X. This Agreement shall continue until terminated. Termination is effected with _____ days written notice from either party hereto to the other party. BROKER may terminate this Agreement without notice for wrongful conduct by SALESMAN. Failure by either party to maintain active licensure status pursuant to Chapter 475, Florida Statutes, shall be deemed automatic termination. SALESMAN shall not, after termination of this Agreement, use to his own advantage, or to the advantage of any other person or corporation, any information gained from the field of business of the BROKER, relating to the property for sale, lease or rental. **SALESMAN acknowledges that all pending sales and listings taken during the term of this Agreement are the property of BROKER. SALESMAN further acknowledges that commissions are earned and accrue to SALESMAN upon the actual closing of a transaction and that SALESMAN forfeits all entitlement to any pending commissions upon the termination of this Agreement.** All programs, forms, data, keys, manuals, signs, and other paraphernalia relative to the business of BROKER are property of BROKER, and shall be returned to BROKER, with no copies made by SALESMAN, upon termination of this Agreement. Exceptions to the foregoing provisions are as follows: _____

- XI. SALESMAN acknowledges that he has been advised that it is the policy of BROKER and BROKER'S company to support and practice Fair Housing and that Fair Housing is an integral aspect of the practices of BROKER.

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SALESMAN has been advised that failure to comply with Fair Housing principles shall result in appropriate disciplinary action, and possible termination of this Agreement. SALESMAN warrants and represents that it is SALESMAN'S intent to attend Fair Housing instructional programs and keep current on developments in Fair Housing as it affects real estate marketing and sales. SALESMAN understands this acknowledgment, warranty and representation and agrees to it voluntarily.

XII. Please check off and initial, or insert "NA" for not applicable as appropriate:

() BROKER maintains an office policy manual. SALESMAN has received a copy, and agrees to comply with it, and its modifications, addenda and changes as they may be incorporated therein from time to time

() BROKER maintains Errors and Omissions insurance which coverage includes the SALESMAN. SALESMAN shall pay a portion of Errors & Omissions coverage, as follows:

IN WITNESS WHEREOF, the parties hereto have signed or caused to be signed, these presents, this ____ day of _____, 20_____ .

WITNESSES:

CORPORATE NAME (if applicable)

Witness

BY: _____
BROKER

Witness

SALESMAN