

## DISCLOSURE OF BROKERAGE RELATIONSHIP TO UNREPRESENTED PARTY

**DISCLOSURE OF BROKERAGE RELATIONSHIP:** The Code of Virginia of 1950, as amended ("Code"), § 54.1-2100, et seq., sets forth the statutory framework which governs the obligations and responsibilities of real estate agents and brokers to the public, which framework is further supplemented by regulations issued by the Virginia Real Estate Board ("VREB"). The following is intended to give you a brief explanation of that framework. Real estate brokers and their agents are sometimes called "**licensees**" because they are required to obtain licenses from the VREB to sell real estate.

1. **AGENCY:** *Agency* is the relationship formed when a real estate licensee acts for or represents a person as an agent by express authority in a commercial or residential real estate transaction, unless a different relationship is intended. People whom licensees represent are called **clients**. People who receive services from licensees without being represented by licensees are called **customers**. A licensee does not necessarily represent the person who pays the licensee. As a result, a licensee may represent the buyer, but be paid by the seller. Agency relationships must be formed by a written agreement; you should not assume that any person represents you unless you have a written agreement. The contractual relationship between the licensee and the client defines the **brokerage relationship**. A licensee is required to treat all parties honestly and shall not knowingly give any party to the transaction false information. A licensee engaged by the seller shall disclose to prospective buyers all material adverse facts pertaining to the physical condition of the property which are actually known to the real estate agent. A licensee engaged by a buyer shall disclose to a buyer material facts related to the property or concerning the transaction of which the licensee has actual knowledge. A licensee engaged by a buyer shall also disclose to a seller the buyer's intent to occupy the property as a principal residence. A licensee may provide assistance to other parties by performing *ministerial acts*. *Any real estate licensee who acts for or represents a client in an agency relationship in a residential real estate transaction shall either represent such client as a standard agent or a limited service agent.*

2. **CLIENT/ REPRESENTED PARTY STATUS:** A buyer or seller may enter into a brokerage relationship with a licensee for that licensee to represent such buyer or seller. For sellers, this agreement is usually called a **listing**. For buyers, this agreement is usually called a **buyer broker or exclusive right to represent buyer agreement**. The buyer or seller is then that licensee's **client**. If the agreement is an exclusive agreement, the client is required to work through that licensee. The licensee will generally be entitled to a commission if the buyer buys or seller sells property, even if they do not use the services of that licensee.

3. **CUSTOMER/UNREPRESENTED PARTY STATUS:** A buyer or seller may elect not to establish a brokerage relationship with a licensee (although they may be required to sign a disclosure form such as this one), but rather have the licensee perform **ministerial acts**. Ministerial acts are routine acts which a licensee can perform for a person which do not involve discretion or the exercise of the real estate agent's own judgment. The buyer or seller is then the real estate licensee's **customer**. The licensee may represent the other party in the transaction, who will be the licensee's client. The licensee may give the customer general advice and is required to treat the customer honestly and disclose material facts actually known to the licensee regarding the physical condition of the property, but the licensee generally may not give advice regarding price or assistance in negotiating favorable terms. The licensee is *required to disclose* to its client any information regarding the customer which might be helpful to the client. Another form of customer relationship arises when the seller does not offer a relationship to a selling firm. The selling firm would act only in the capacity of facilitating the transaction and would not represent either the seller or buyer. The buyer is not represented and would remain a customer of the selling firm. Selling firm responsibilities to the customer would remain the same as previously outlined in this paragraph.

4. **CHANGE IN STATUS:** If a licensee's relationship with a client or customer changes, the licensee shall disclose that fact in writing to all clients and customers already involved in the contemplated transaction.

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\*\*\*\*\* THIS IS NOT A CONTRACT \*\*\*\*\*

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*Prior to having substantive discussion about a specific property or properties, this Disclosure should be reviewed and signed by an unrepresented party who is not the client of the licensee and who is not represented by another licensee. See §54.1-2138 of the Code of Virginia of 1950, as amended.*

PRINTED NAME OF CUSTOMER / UNREPRESENTED PARTY: \_\_\_\_\_

PROPERTY ADDRESS (IF APPLICABLE): \_\_\_\_\_

The undersigned do hereby acknowledge that \_\_\_\_\_ (Name of Firm & Licensee) represent(s) the following party in a real estate transaction (Check One):

- SELLER(S)  BUYER(S)  LANDLORD(S)  TENANT(S)  OPTIONOR(S)  OPTIONEE(S)

Signature of Customer / Unrepresented Party \_\_\_\_\_ Date \_\_\_\_\_

Signature of Customer / Unrepresented Party \_\_\_\_\_ Date \_\_\_\_\_

Signature of Licensee \_\_\_\_\_ Date \_\_\_\_\_