



New Jersey Office: (Mailing Address)
 1110 Hamilton Blvd, Suite 2A, South Plainfield, NJ 07080
New York Office
 1745 Broadway, 17th Floor, New York, NY 10023
 Tel: 732-727-2285, Fax: 732-727-2280
 Email: INFO@RealmartRealty.com

REAL ESTATE LISTING AGREEMENT
Exclusive Right to Sell – Full Service

Street Address			
City:		County:	
State:		Zip:	
Owner Name:		Phone:	
Owner Email:			
Owner 2 Name:		Phone:	
Owner 2 Email:			

1. Listing Price: \$ _____. OWNER is responsible for determining the listing price.

2. Contract Term: This contract will be effective from _____ (MM/DD/YYYY) until _____ (MM/DD/YYYY). Listing will automatically terminate on the expiration date. Exception: if property is Under Contract during this period the contract will extend itself until the settlement/closing date arrives. OWNER may cancel this contract (unless OWNER has a pending offer on the table or is under contract to a buyer) at any time without any additional obligations. A status change form must be faxed or emailed with instructions to cancel the listing.

3. Brokers Obligations: Realmart Realty's (BROKER) obligations under this Agreement is in connection with the marketing of the Listed Property shall be limited to listing same on the MLS along with affiliated internet sites, and maintaining it until home is sold and closed out in the MLS, or until listing has expired or has been cancelled. BROKER shall provide the State required forms. BROKER will provide the OWNER with a current market analysis ("CMA") of the value of comparative properties upon request. BROKER will negotiate a potential transaction with a prospective buyer or a Cooperating Broker.

4. Broker Commission: OWNER agrees to be represented by the BROKER. OWNER has paid BROKER a flat fee upfront as a deposit. There will be a ____% (usually between 1-3%) of gross selling price or \$3695, whichever is greater amount total marketing fee due to the BROKER upon closing of this property. During the life of this contract, if any Agency/Brokerage including listing BROKER, finds a buyer who is ready, able, and willing to buy said property at said price and terms, or any other price or terms to which the OWNER may agree in writing, the OWNER hereby agrees to pay a commission of ____% (usually between 2-3%) upon closing of title. All of this commission will be paid to the buyer's Agency, minus a \$150 administrative fee due to listing BROKER. The \$150 is a standard processing fee paid by buyer's agency to BROKER at closing. There is no extra fee paid by the OWNER.

If a Cooperating Broker procures the buyer, OWNER will pay the agreed % of the sale price at closing/title. The Cooperating Broker will be representing their buyer as a Buyer's Agent OR Brokers Agent as outlined in the Agency Relationship Disclosure Form. BROKER will post commission rate (as required on the MLS) to the respective types of Cooperating Brokers. If OWNER request a commission to be changed/lowered (during contract term) then the following applies; a lower commission rate change would not be applicable to any broker with same buyer that has made a previous offer during our listing contract term. That same broker with same buyer would be entitled to the highest commission amount posted during listing contract term. All other brokers (meaning they had not made any offers during contract term) that make an offer would only receive what is posted at time of offer.

Commission paid at Title Transfer: Should a Cooperating Broker represent or procure a buyer who purchases the Listed Property, OWNER agrees to pay the agreed-upon commission previously stated upon transfer of title. OWNER and BROKER authorize the closing agent/attorney to pay the commissions directly from the sale proceeds upon the transfer of title at the closing not at a later date.

Commission escrow law: At the time of closing, you may be required to deposit the broker's commission with the county clerk in the event that you do not pay the broker his or her commission as set forth herein. Your obligation to deposit the broker's commission with the county clerk may be waived by the BROKER.

Owner Initials _____

5. Fair Housing: It is agreed that the Listed Property shall be listed in full compliance with local, state, and federal fair housing laws that prohibit discrimination on the basis of race, color, religion, sex, national origin, handicap, age, marital status, and/or familial status, or other prohibited factors. Federal and State laws make it illegal for OWNER, BROKER or anyone to use the above mentioned classifications as reasons for refusing to sell, show, or rent properties, loan money, or set deposit amounts, or as reasons for any decision relating to the sale of the property.

For additional information on federal Fair Housing laws please visit <http://hud.gov> or http://portal.hud.gov/hudportal/HUD?src=/program_offices/fair_housing_equal_opp/FHLaws/yourrights. Fines can be as much as \$65,000. So treat everyone the same every time.

6. OWNERS Authorizations & Obligations:

- a. In order to facilitate the sale of the Listed Property, the OWNER hereby grants to BROKER a non-exclusive, royalty-free license to use, sublicense, publish, display, and reproduce any photographs, images, graphics, video recordings, virtual tours, drawings, diagrams, written descriptions, remarks, narratives, pricing information, and other copyrightable elements of or relating to the Listed Property provided by OWNER to BROKER (hereinafter referred to as OWNER Listing Content), and to prepare derivative works of the OWNER Listing Content, and to reproduce, submit to the MLS, distribute, and publicly display the OWNER Listing Content or any derivative works thereof. OWNER represents and warrants to BROKER that the OWNER Listing Content, and the license granted to BROKER for the OWNER Listing Content, do not violate or infringe upon the rights, including any copyright rights, or any person or entity.
- b. OWNER authorizes the use of a lockbox, and accepts any and all responsibility for any damage, loss, or injury arising from the use of the lockbox. The OWNER understands that by providing the OWNER with a lockbox, the BROKER shall not be considered the custodian of or responsible for said Listed Property, lockbox, authorized or unauthorized use of said lockbox, or items placed therein.
- c. OWNER authorizes and directs the Cooperating Broker to submit all offers for the Listed Property to the OWNER.
- d. OWNER shall provide a "Property Condition Disclosure Statement" and "Lead Paint Disclosure Form" for homes built before 1978 to potential purchasers and to Cooperating Broker, unless instructed differently by owner's attorney. OWNER is entirely responsible and liable for the accuracy and completeness of the disclosures made therein, and may be liable to provide a credit to the buyer if a "Property Condition Disclosure Statement" is not provided before offer is made.
- e. OWNER represents and warrants that he/she has received a copy of the "Disclosure Regarding Real Estate Agency Relationships."
- f. OWNER represents and warrants to BROKER that OWNER is not under contract with or otherwise utilizing the services of any other licensed real estate broker or agent in connection with the Listed Property.
- g. OWNER represents that I am NOT more than two (2) months in arrears of my obligation to make mortgage payments on the property nor have I been notified that the property is subject to a foreclosure proceeding or tax sale. If during the term of this agreement I become more than two months in arrears of my obligation to make mortgage payments or I am notified the property is subject to a foreclosure proceeding or tax sale, I will notify the BROKER of the same within 48 hours. If owner is more than (2) months behind, a short sale addendum may apply to this listing agreement (HOME EQUITY THEFT PREVENTION ACT)
- h. Multiple Listing Service: OWNER understands and agrees that the Real Estate BOARD and MLS are not the OWNER'S agents and that none of the terms of this Agreement shall make them the OWNER'S agents. OWNER understands that the appropriate MLS may require additional listing forms and agrees to cooperate to complete the forms needed for BROKER to comply with MLS requirements.
- i. Escrow: OWNER acknowledges and agrees that BROKER will not act as an escrowee, and OWNER will not direct anyone verbally or in writing to have BROKER hold escrows or earnest money, or otherwise act as an escrowee. OWNER is advised to consult with his/her attorney prior to closing about any potential escrow monies.
- j. Faxes/Scan/Email: Facsimile (fax) transmission, Scan and Email of a signed copy of this Listing Agreement, and retransmission of a signed fax, shall be the same as delivery of an original. If this transaction involved multiple owners this Listing Agreement may be executed in counterparts. Electronic signatures are also accepted by state law.

7. Subsequent Offers: OWNER SHOULD CONSULT AN ATTORNEY REGARDING ANY SUBSEQUENT OFFERS, BECAUSE A BINDING CONTRACT FOR THE PROPERTY MAY ALREADY EXIST AND BROKERAGE COMMISSION CLAIMS MAY BE INVOLVED.

Owner Initials _____

8. Dispute Resolution: OWNER understands that should the Cooperating Broker take the Listing Broker to arbitration or court, OWNER will appear to testify if requested by the BROKER regardless of whether the venue has a legal right or jurisdiction to subpoena the OWNER. If Owner not available to appear, a notarized statement of events will suffice. OWNER consents to all service and/or notifications by Certified Mail. OWNER agrees to permit the BROKER to assign his/her rights for damages from the Owner for breach of the contract to the Cooperating Broker.

Should the Cooperating Broker prevail against the BROKER for a failure to pay commission and said unpaid commission was never paid by the OWNER to the BROKER, OWNER indemnifies and holds harmless BROKER and agrees to pay all damages awarded by an Arbitrator or a Court of Law to the Cooperating Broker.

OWNER agrees to be responsible for all legal fees incurred by BROKER to defend any claims arising out of OWNERS breach of this contract or fees incurred by the BROKER to collect fees provided by this agreement.

If, for any reason, the Cooperating Broker is not paid the commission set forth herein at the closing/passing of title (or the closing agent or Owner's lawyer does not pay said commission directly to the Cooperating Broker at closing), the OWNER shall immediately establish an escrow account with a party mutually agreeable to BROKER and OWNER and shall place into said escrow an amount equal to the applicable commission set forth herein. These monies shall be held in escrow until the parties' rights to the escrow monies have been determined (i) by the mutual agreement of the parties hereto, (ii) by order of a court of competent jurisdiction, or (iii) by some other process to which the parties hereto agree to in writing.

All claims, disputes, or other matters in question arising out of or relating to this Agreement, the Listed Property and/or the commission set forth herein shall be determined by arbitration before an arbitrator in the County where MLS Board of Realtors is located, pursuant to the Commercial Arbitration Rules of the American Arbitration Association. The award rendered by the arbitrator shall be final, and judgment may be rendered upon it in accordance with applicable law in a court of competent jurisdiction. In any proceeding to enforce any provision of this Agreement, or for damages caused by breach thereof or default there under, the prevailing party shall be entitled to reasonable attorney's fees, costs, and related expenses, such as expert witness fees, and fees paid to investigators. In the event the BROKER hires an attorney or collection agent to enforce the collection of any brokerage commission due hereunder and is successful in collecting all or any portion thereof with or without commencing an action, proceeding, or arbitration, OWNER agrees to pay such attorney's fees, costs, and expenses relating to the collection thereof.

9. Limitation of Liability: In no event will BROKER, its shareholders, directors, officers, employees, or agents be liable for any damages, losses, or liability, whether based on warranty, contracts, statutes, regulations, tort, or any other legal theory. The BROKER'S liability hereunder is limited to the Service Fee paid by OWNER to BROKER. If a commission was paid directly to a Cooperating Broker, OWNER agrees to make all claims for reimbursement (should such a cause arise) of said commission against the Cooperating Broker.

10. Indemnification: OWNER shall defend, indemnify and hold BROKER, its shareholders, directors, officers, employees, agents and representatives harmless from, any and all losses, claims, damages, liabilities and costs, including without limitation commission claims, court costs, reasonable attorney's fees and MLS penalties and fines, which arise from, are related to, or are in connection with (i) OWNER'S breach of this Agreement or violation of any federal, state or local law; (ii) OWNER'S provision of false, misleading, inaccurate or incomplete information, representations or warranties to BROKER, prospective buyer or buyers; or (iii) claims of third parties relating to the Listed Property, the sale thereof, and/or any compensation to be paid in connection with such sale (including, without limitation, a claim by the Cooperating Broker against BROKER for a commission).

11. Types of Listings: In accordance with the requirements of the State, the undersigned Owner(s) does (do) hereby acknowledge acceptance of the following two definitions:

- a. EXPLANATION OF EXCLUSIVE RIGHT TO SELL: An "exclusive right to sell" listing means that if you, the owner of the property, find a buyer for your house, or if another broker finds a buyer, you must pay the agreed commission to the present broker.
- b. EXPLANATION OF EXCLUSIVE AGENCY: An "exclusive agency" listing means that if you, the owner of the property, finds a buyer, you will not have to pay a commission to the broker. However, if another broker finds a buyer, you will owe a commission to both the selling broker and your present broker.

12. Rental Of Property: Should the OWNER desire to rent the property during the period of this agreement, the BROKER is hereby granted the sole and exclusive right to rent the property, exclusive "FOR RENT" sign privilege and the OWNER agrees that a rental commission of _____ month (usually 1 month) to be paid to the BROKER. Owner also agrees that BROKER may cooperate with another agency to secure the tenant for a split of the commission for _____ month (usually 0.5 month). The co-broker commission will be paid to the renter's Agency, minus a \$100 administrative fee due to listing BROKER. The \$100 is a standard processing fee paid by renter's agency to BROKER. There is no extra fee paid by the OWNER. The applicable

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