



BERKSHIRE HATHAWAY | Fox & Roach, REALTORS® HomeServices

EXCLUSIVE LISTING CONTRACT

1. Property

Address _____
Municipality (City, Borough, Township) _____
County _____ School District _____
Zoning and Present Use _____
Identification Number _____
(tax ID number, parcel number, deed book page, recording date, if known to Seller)

2. Seller (List *all* individuals and entities with any ownership interest)

Name _____
Name _____
Name _____
Mailing Address _____
Phone Number _____ Alternate Number _____
Email Address _____

3. Broker's Licensee/License #: _____

Additional Licensee/License #: _____
Office Address _____
Office Phone Number _____ Alternate Number _____
Email Address _____

4. Purpose of Contract. Seller is hiring Broker/Licensee (collectively, "Broker") to market the Property and find a Buyer (or if directed, a Lessee). During the term of this Contract, Seller will not hire any other broker to perform these or any other services related to the sale or lease of the Property. Seller agrees that Broker may list other properties for sale or rent and that Broker may show other properties to prospective Buyers or tenants.

5. Listed Price \$ _____

Seller has final authority over the setting of this price and any subsequent adjustment thereto.

6. Start and End Dates of Listing Contract ("Term"). This Contract starts on the date it has been signed by all Seller(s) and Broker, and ends at 5:00 p.m. 365 days following the starting date, unless a sale/rental is being negotiated. In that event, Broker will continue to represent the Seller until either negotiations are terminated without an agreement to sell/rent or settlement occurs. Either Seller or Broker can terminate this representation on or after 180 days from the starting date by providing written notice to the other party 30 days in advance of the desired termination.

7. Broker's Fee. The Broker's Fee is (check one) six percent (6%), seven percent (7%), eight percent (8%) of the sale price, and is to be paid by the Seller to Broker at time of final settlement. Seller and Broker agree that Broker will pay from Broker's Fee:

- (a) A fee to another broker (Buyer Agent), who represents the Buyer. Yes No _____ % or \$
 - (b) A fee to another broker (Transaction Licensee), who does not represent either the Seller or a buyer. Yes No _____ % or \$
- BHHS Fox & Roach will not pay a fee to another broker acting as a sub-agent.

8. Obligation to Pay Broker's Fee. Seller must pay Broker's Fee to Broker if a ready, willing and able buyer (one who will pay the Listed Price, or a price mutually agreed to by Buyer and Seller, for the Property) is found by Broker or by anyone, including Seller. In addition, the Broker's Fee is owed by Seller if:

_____ Seller initials p. 1 of 5

(a) During the term of this Contract, Seller enters into an agreement to sell, exchange, lease or otherwise transfer any aspect of ownership of the Property, whether such agreement is brought by Broker, Broker's licensees, Seller or any other person or broker, at the above Listed Price or any other price acceptable to Seller. Provided the transaction closes, then Broker's Fee is to be paid at settlement. **OR**

(b) Within one year of the ending date of this Contract, Seller enters into an agreement to sell, exchange, lease or otherwise transfer any aspect of ownership of the Property with a Buyer who was shown or negotiated to buy the Property during the term of this Contract. Provided the transaction closes, then Broker's Fee is to be paid at settlement.

In the event that Seller is, by agreement or adjudication, entitled to retain some or all of a Buyer's deposit in connection with a terminated agreement to sell, exchange, lease or otherwise transfer any aspect of ownership of the Property, then Seller will pay to Broker either one half (50%) of the retained deposit money or Broker's Fee, whichever is less. In the event that Broker is holding said deposit in escrow, then Seller hereby authorizes Broker to retain and apply said deposit on account of this obligation prior to any disbursement to Seller.

In the event that Seller enters into an agreement to lease the Property during the term of this Contract (or within one year of the ending date hereof to a lessee who was introduced to, shown or negotiated to buy or lease the Property during the term of this Contract), then Seller must pay a Leasing Broker's Fee to Broker in the amount of 1/12th of the annualized rent upon commencement of the lease.

In the event that subsequent to the termination of Broker's representation of Seller, Seller enters into an agreement to sell, exchange or otherwise transfer ownership of the Property while Seller is party to a *bona fide* exclusive listing contract with another broker, then Seller will not owe Broker the Broker's Fee.

9. Agency Relationships. An agency relationship between Broker and Seller cannot be presumed. Seller has the right to be represented by a broker (agency relationship) and may do so by agreeing to the terms of Seller Agency.

(a) Dual Agency. Seller agrees that Broker/Licensee(s) may also represent the Buyer(s) of the Property. Broker/Licensee is a DUAL AGENT when representing both Seller and the buyer in the sale of a property. Seller acknowledges that as a DUAL AGENT, Broker/Licensee will take no action that is adverse or detrimental to either party's interest in a transaction. Confidential information obtained within the fiduciary relationship of Designated Agency with Seller will not be disclosed without prior written consent.

(b) Designated Agency. Broker will designate licensee(s) to represent the interests of the Seller. Licensee(s) is/are the Designated Agent, who will act exclusively for the Seller. If Licensee(s) is/are also representing the Buyer(s), then Licensee(s) is/are a DUAL AGENT.

(c) Multiple Buyers.

1. More than one buyer may seek to purchase property through the Broker; it is agreed that Broker may represent those buyers whether such representation arises prior to, during, or after the end of this Contract. In the event that Broker represents multiple buyers seeking to purchase the same property, **it is agreed that Licensee will disclose to each buyer the existence of the other offer(s).**

2. In the event a Licensee represents multiple buyers who have competing interests in the same property, **it is agreed that Licensee will disclose to each buyer the existence of the Licensee's other offer.**

Only at the direction of and with Seller's written instruction during the negotiation of licensees other offer will Broker/Licensee disclose any material terms of any other offer to any buyer.

Seller agrees to Designated Agency with Disclosed Dual Agency _____ / _____ (Seller initials)

10. Possession. Seller will give possession of the Property to Buyer at the time of settlement. If the Property is currently rented, a copy of the lease is to be attached to this Contract. Seller will not enter into or renew any lease during the term of this Contract or allow anyone else to occupy the Property.

11. Taxes and Association Fees. Prior to settlement, Seller will provide the title company with the following required information: Real Estate Property Tax Assessment, yearly taxes, trash and sewer fees, wage/income tax rate, per capita tax, and association fees, as applicable.

12. Title. At settlement Seller will give full rights of ownership, free and clear of debt, to Buyer. Seller represents that Seller has or will have sufficient funds to complete settlement and pay all settlement costs. Seller does not need approval from a court, lender or any other person or entity to sell, exchange or otherwise transfer the Property.

_____ Seller initials p. 2 of 5

13. Inclusions.

Items included in the price of the Property _____

Items rented by Seller _____

14. Exclusions.

Items not included in the price of the Property _____

Items rented by Seller _____

15. Inspection. Seller will make the Property available for inspection by brokers, licensees, and any potential buyers they may bring, insurance representatives, mortgage lenders, appraisers, municipal officials, surveyors and inspectors provided that an appointment has been made reasonably in advance of inspection.

16. Limitation of Liability. a. Seller represents and warrants that reasonable and customary homeowner's property and liability insurance coverage are in full force and effect for the Property and will so remain during the term of this Agreement. In the event that such coverage is cancelled, Seller will immediately notify Broker thereof in writing.

Seller agrees that Broker/Licensee(s) are not responsible for any damage to the Property or any loss or theft of personal goods from the Property unless such damage, loss or theft is solely and directly caused by Broker/Licensee(s).

Seller agrees that Broker's/Licensee's total maximum liability to Seller for any claim arising out of Broker's/Licensee's representation of Seller is limited to a refund of commission which Seller has paid or would otherwise owe under this Contract. Seller shall defend, indemnify and hold harmless Broker/Licensee from any claims, lawsuits or actions arising out of Broker's/Licensee's representation of Seller including, but not limited to, those arising out of the condition of and/or assessments, fines or taxes on the Property and/or failure to provide disclosure thereof, but not including any claims, lawsuits or actions arising out of Broker's/Licensee's negligence or misconduct.

Seller, Broker and Licensee knowingly, voluntarily, and intentionally waive their present or future rights to: (a) a jury trial in any action to resolve any dispute to which Seller, on the one hand, and Broker and/or Licensee, on the other hand, are adverse to each other arising under or relating to this Contract; and/or (b) consolidate or transfer any such action with or to another action where any of them might otherwise be entitled to a jury trial.

b. Dispute Resolution Procedures. Seller and Broker/Licensee will submit to mediation all claims, disputes or controversies between Seller and Broker/Licensee that in any way arise from or relate to this Contract and/or the services, advertising, disclosures, practices and procedures related to the foregoing ("Claim"). Mediation will be conducted in accordance with the mediation system offered or endorsed by the local Association of REALTORS®. Mediation fees charged by the Association or mediator will be paid by Broker/Licensee. The mediation process must be concluded without resolution before either Seller or Broker may initiate legal proceedings. The statute of limitations related to the Claim will be tolled until fourteen calendar days following the conclusion of the mediation process. In the event that mediation is unsuccessful in resolving the claim, dispute or controversy, then the parties hereto agree to be bound by and follow the policies, procedures and limitations set forth in *Arbitration of Certain Disputes and Waiver of Class Actions*, which is fully incorporated herein by reference and which has been received by Seller.

_____ (Seller initials)

17. Signs and keys – Seller allows:

Sale sign Yes No
Sold sign Yes No

Lock box: Electronic Yes No
 Key Yes No
 Combination Yes No
Key in office: Yes No

Other _____

18. Multiple Listing Service (MLS)/Internet Advertising. Seller authorizes Broker/Licensee to put a description of the Property in the MLS/Internet. Broker/Licensee is not responsible for mistakes in the MLS/Internet. The final sale price for the Property will be reported to MLS at time of settlement.

_____ Seller initials p. 3 of 5

- 19. Publication of Sale Price.** The final sale price for the Property is a matter of public record beyond the control of Broker/Licensee, and may be published by various media after settlement.
- 20. Use of Photographs/Buyer Information.** Seller agrees to allow Broker/Licensee to take interior and exterior photographs of the Property to help market the Property, which photographs remain the property of the Broker/Licensee. Broker/Licensee may make copies of the photographs and include copies of the photographs in the MLS and/or internet. Seller will not hold Broker/Licensee responsible in any way for using the photographs to help market the Property. Broker/Licensee is not liable for any loss of or damage to the photographs, or any unauthorized use of the photographs by any third party. Any information regarding potential Buyers (sign-in sheets, sales lead tracking, etc.) which comes into Broker's possession as a result of this Listing is and will remain the property of Broker.
- 21. Disclosure.** Most sellers of residential property are required by state law to complete a Seller's Property Disclosure Form. Unless exempted by law, Seller will complete this form before Broker/Licensee will list the Property for sale. Seller ALONE is responsible for the accuracy of the information contained in any Seller Property Disclosure Statement.
- 22. Deposit Money.** Pursuant to state law, Broker will place all deposit monies it receives into an escrow account, although Seller agrees that Broker may wait to deposit any check received as deposit money until the Seller signs the Agreement of Sale. Broker will only release the deposit monies in connection with final settlement, unless prior to final settlement and while the agreement of sale is still in effect Broker receives a written disbursement directive signed by all Buyers and Sellers.
- In the event that final settlement does not occur, state law does not allow a Broker holding deposit monies to determine who is entitled to the deposit monies, regardless of the apparent entitlement thereto. If the agreement of sale is terminated for any reason, Broker can only release the monies:
1. If there is no dispute between Buyers and Sellers over entitlement to the monies.
 2. According to the terms of a written agreement signed by Buyers and Sellers directing Broker how to distribute some or all of the monies.
 3. According to the terms of a final order of Court.
 4. According to the terms of a prior written agreement between Buyer and Seller that directs the Broker how to distribute the deposit monies in the event of an unresolved dispute.
 5. By paying the monies into Court and requesting that the Court decide entitlement thereto.
- Broker shall have no liability if the monies are released on any of the grounds set forth above. In the event that Seller joins the Broker/Licensee in a lawsuit for the return of the monies, Seller will pay all of Broker's reasonable attorney fees and costs incurred in connection with such litigation.
- 23. Services to Buyer.** Broker may provide services to Buyer for which Broker may accept a fee. These services may include financing, title insurance and document preparation. The companies providing the service may be under common control with Broker and the services may be paid for by the Buyer. Broker will disclose to Seller if any such fees are to be paid by Buyer.
- 24. Conflict of Interest.** A conflict of interest is when the Broker has a financial or personal interest where Broker cannot put Seller's interest before any other. If Broker or any of Broker's licensees has a conflict of interest, Broker will notify Seller in a timely manner. Disclosed dual agency is not, *per se*, a conflict of interest.
- 25. Home Warranties.** A home warranty can help protect you from the cost of a failure in your home's major systems and appliances while your Property is for sale. At settlement, the warranty can be assigned to the Buyer in order to continue the protection subject to the terms of the warranty. Broker's Licensee will provide you with more detailed information about home warranties.
- 26. Offer.** All offers to purchase the Property will be made through the Broker/Licensee. All offers received by the Broker/Licensee will be presented to the Seller unless the Seller has already fully executed an Agreement of Sale.
- 27. Broker's Fee and Term of Contract.** The terms and length of the business relationship, the fees and the range of services that Broker will provide are determined as a result of negotiations between Broker and Seller and have not been recommended by any association of REALTORS®.

_____ Seller initials p. 4 of 5

- 28. Transfer of This Contract.** Seller agrees that Broker may transfer this Contract to another real estate broker if: Broker stops doing business; Broker forms a new real estate business; or Broker joins its business with another for any other reason. If transfer occurs, Seller will follow all requirements of this Contract with new Broker. Should Seller give or transfer the Property or an ownership interest in it, to anyone during the term of this Contract, all owners must follow the requirements of this Contract.
- 29. Recovery Fund.** Pennsylvania has a Real Estate Recovery Fund to repay any person who has received a final court ruling against a Pennsylvania real estate licensee because of fraud, misrepresentation, or deceit in a real estate transaction. The Fund repays persons who have not been able to collect the judgment after trying all lawful ways to do so. For complete details about the Fund, call (717) 783-3658.
- 30. Notice to Persons Offering to Solicit or Rent Housing in Pennsylvania.** Federal and State law makes it illegal for a seller, a broker, or anyone to use RACE, COLOR, RELIGION OR RELIGIOUS CREED, SEX, NATIONAL ORIGIN, HANDICAP OR DISABILITY (physical or mental), FAMILIAL STATUS (children under 18 years of age), AGE (40 or older), USE, HANDLING, or TRAINING OF SUPPORT OR GUIDE ANIMALS, or the FACT OF RELATIONSHIP OR ASSOCIATION WITH AN INDIVIDUAL KNOWN TO HAVE A DISABILITY 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 or rental of property.
- 31. Entire Contract.** This Listing Contract constitutes the entire agreement between the parties and any prior contracts, whether written or oral, have been merged and integrated into this Contract. All modifications to and/or terminations of this Contract are binding only when in writing and signed by all Sellers and Broker/Licensee.
- 32. Confidential Information.** After the termination of this Contract, Broker/Licensee is obligated to keep confidential any confidential information provided by Seller during the term of this Contract, subject to the laws of the Commonwealth of Pennsylvania.
- 33. Consumer Notice.** Seller acknowledges that Seller has received and understands the business relationships described in **the Consumer Notice adopted by the Pennsylvania Real Estate Commission at 49 Pa. Code §35.336. The duties and definitions of business relationships stated therein, are incorporated here as part of this Listing Contract as though written here in their entirety.**
- 34. Additional Terms and Conditions.** _____

**IF YOU DO NOT UNDERSTAND ALL OF THE TERMS OF THIS DOCUMENT,
 THEN YOU SHOULD SEEK LEGAL ADVICE BEFORE SIGNING IT**

All Sellers must sign this Contract.

SELLER _____ DATE _____

SELLER _____ DATE _____

SELLER _____ DATE _____

ACCEPTED ON BEHALF OF BROKER, FOX & ROACH LP d/b/a BERKSHIRE HATHAWAY HOME SERVICES FOX & ROACH, REALTORS® BY:

_____ DATE _____

Designated Licensee & License Number

_____ DATE _____

Additional Designated Licensee & License Number

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