

## BROKER-AGENT EMPLOYEE AGREEMENT

**NOTE:** This form is used by an employing broker when entering into an agreement employing a sales agent or a broker on terms calling for income tax withholding and tax treatment as an employee, to establish the duties of the broker and agent, earned fees and how fees due the employee will be allocated and shared.

**DATE:** \_\_\_\_\_, 20\_\_\_\_, at \_\_\_\_\_, California.

1. Broker hereby employs Agent as a real estate sales agent or broker-associate, until terminated by either party, on the following stated terms.

1.1 Agent to be treated as an employee for tax and employment purposes.

2. **AGENT** agrees:

2.1 To maintain a real estate license in the State of California.

2.2 To provide brokerage services only on behalf of Broker.

2.3 To follow the Broker's policy manual and any directions orally given by Broker.

2.4 To use only those real estate forms authorized by Broker.

2.5 To make complete and immediate disclosure to Broker of any correspondence or document made or received.

2.6 To immediately deliver and account to Broker for funds received by Agent in the course of this employment.

2.7 To participate in educational programs and meetings specified by Broker.

2.8 To fully inspect the physical conditions of any property to be sold or bought for clients.

2.9 To obligate Broker to no agreement without Broker's prior consent.

2.10 To expose Broker to no liability to any third party without Broker's prior consent.

2.11 To furnish their own transportation and carry a liability and property damage insurance policy in an amount satisfactory to Broker with a policy rider naming Broker as co-insured.

2.12 To faithfully adhere to the Real Estate Law of the State of California.

2.13 To join and pay fees for membership to professional organizations in which Broker is a member.

2.14 To contribute to the defense and settlement of litigation arising out of transactions in which Agent was to or shared fees, in an amount equal to Agent's percentage share of the fees.

2.15 Social Security Number \_\_\_\_\_/\_\_\_\_\_/\_\_\_\_\_

2.16 Other \_\_\_\_\_

3. **BROKER** agrees:

3.1 To maintain a real estate Broker's license in the State of California.

3.2 To maintain office(s) with proper facilities to operate a general real estate brokerage business.

3.3 To maintain membership in the following professional organization(s):

Multiple Listing Service

Local Branch of the California Association of Realtors and National Association of Realtors

\_\_\_\_\_

3.4 To maintain listings.

3.5 To provide advertising approved by Broker.

3.6 To provide worker's compensation insurance for Agent.

3.7 To maintain the following insurance coverages for Agent:

Errors and Omissions     Life     Health     Dental

3.8 To pay Agent as specified in the Broker's fee schedule.

3.9 To withhold from Agent's share of fees all appropriate state and federal income taxes, state disability and unemployment insurance and social security taxes.

3.10 Other \_\_\_\_\_

4. **General Provisions:**

4.1 Agent has the right to purchase any properties listed by Broker on full disclosure to the seller of the Agent's activities as a principal, and without diminution of fees to Broker.

4.2 Broker has the right to reject any listing or retainer obtained by Agent.

4.3 Broker to determine whether any litigation or dispute involving Broker, or their business and third parties, arising from Agent's activities, will be prosecuted, defended or settled.

4.4 Arbitration: Any dispute between Agent and Broker or with any other Agent employed by Broker that cannot be settled by Broker, or resolved by the State Labor Commission or by non-binding mediation, will be arbitrated under the rules of the American Arbitration Association.

4.5  See addendum for additional provisions. [See RPI Form 250]

5. **Broker's Fee Schedule:**

5.1 Broker is to pay Agent a fee for participating in a sales transaction evidenced by a purchase agreement which confirms Agent is acting as an agent for the Broker and Broker receives a brokerage fee on the transaction.

- 5.2 The amount of fee due Agent is \_\_\_\_\_% of the funds remaining from the brokerage fee received by Broker under sections 5.1 or 5.10b after first deducting the following amounts:
  - a. Payment to other brokerage offices of sums due them for their participation in the transaction;
  - b. Payment to Broker's franchisor of the fee due the franchisor from the transaction;
  - c. Payment to Broker of one-half of the then remaining funds if another Agent of Broker is entitled to a fee for negotiating the other end of the transaction;
  - d. Other deductions \_\_\_\_\_.
- 5.3 From each fee due Agent and before disbursement, Broker will deduct the following amounts and any amounts otherwise due Broker from Agent:
  - a. An advertising or promo charge of \$\_\_\_\_\_.
  - b. An errors and omissions insurance coverage charge of \$\_\_\_\_\_.
  - c. A charge of \$\_\_\_\_\_ for \_\_\_\_\_.
  - d. Disbursement to another Agent of the Broker, transaction coordinator or finder with whom Agent agreed to share the fee due under section 5.2.
- 5.4 The percentage participation by Agent in the funds remaining under sections 5.2 is adjusted to \_\_\_\_\_% on the following event \_\_\_\_\_, and will apply until \_\_\_\_\_, 20\_\_\_\_\_.
- 5.5 Agent is to pay Broker, on the first of each month of employment, a desk fee of \$\_\_\_\_\_.
- 5.6 Any expenses incurred by Broker in a transaction negotiated by Agent, such as travel expenses, meals, attorney fees, printing, listing service fees, etc., will be deducted from the fee due Agent.
- 5.7 If all or part of the fee is received in property other than cash, Agent is to obtain Broker's prior approval. In this event, Broker will make one of the following determinations for disposition of the property:
  - a. Divide the property between Broker and Agent in kind, based on the fee schedule; or
  - b. Pay Agent their dollar share of the fee in cash; or
  - c. Retain the property in the names of Broker and Agent, or their trustee, and thereafter dispose of it when and on terms Broker and Agent previously agree. Any ownership income and expenses will be shared between Broker and Agent in proportion to their share of ownership.
- 5.8 On termination, Agent to be paid as follows:
  - a. Closed Transactions: Agent will receive their share of fees on all transactions which are closed before termination.
  - b. Pending Transactions: Agent will receive their share of fees on all pending transactions which close after termination, subject to fee limitations under section 5.9.
  - c. Unexpired Listings and Retainers: Agent will receive their share of fees if the client enters into a transaction during the written listing or retainer period. Agent will not earn a fee under any extension of the listing or retainer obtained after termination, subject to fee limitations under section 5.9.
- 5.9 Fee Limitation: If on termination Agent has pending transactions under section 5.1 or unexpired listings or retainers procured by Agent which require further services normally rendered by Agent, Broker will direct another employed Agent or himself to perform these services. For these services after termination, a reasonable share of the fee will be deducted from the fee due Agent.
- 5.10 Compensation From Prior Employment: Monies received by Broker from Agent's prior employing brokers representing fees earned by Agent while employed by that broker are to be disbursed by Broker as follows:
  - a.  Agent to receive 100% of the monies received by Broker.
  - b.  The monies are to be shared with Agent at the percentage set in section 5.2.
  - c.  Broker and Agent, respectively, to share the monies \_\_\_\_\_ : \_\_\_\_\_.

**I agree to render services on the terms stated above.**

Date: \_\_\_\_\_, 20\_\_\_\_\_

Agent's Name: \_\_\_\_\_

Agent's Signature: \_\_\_\_\_

Address: \_\_\_\_\_

Phone: \_\_\_\_\_

Cell: \_\_\_\_\_

Email: \_\_\_\_\_

**I agree to employ Agent on the terms stated above.**

Date: \_\_\_\_\_, 20\_\_\_\_\_

Broker's Name: \_\_\_\_\_

Broker's Signature: \_\_\_\_\_

Address: \_\_\_\_\_

Phone: \_\_\_\_\_

Cell: \_\_\_\_\_

Email: \_\_\_\_\_