

AGENCY RELATIONSHIPS IN REAL ESTATE TRANSACTIONS

1. Page 1

2 **MINNESOTA LAW REQUIRES** that early in any relationship, real estate brokers or salespersons discuss with
3 consumers what type of agency representation or relationship they desire.⁹ The available options are listed below. This
4 is **not** a contract. **This is an agency disclosure form only. If you desire representation you must enter into a written**
5 **contract, according to state law** (a listing contract or a buyer representation contract). Until such time as you choose
6 to enter into a written contract for representation, you will be treated as a customer and will not receive any representation
7 from the broker or salesperson. The broker or salesperson will be acting as a Facilitator (see paragraph V on page
8 two (2)), unless the broker or sales person is representing another party, as described below.

9 **ACKNOWLEDGMENT: I/We acknowledge that I/we have been presented with the below-described options.**
10 **I/we understand that until I/We have signed a representation contract, I/we am/are not represented by the**
11 **broker/salesperson. I/We understand that written consent is required for a dual agency relationship.**

12 **THIS IS A DISCLOSURE ONLY, NOT A CONTRACT FOR REPRESENTATION.**

13 _____
(Signature)

(Date)

(Signature)

(Date)

14 I. **Seller's Broker:** A broker who lists a property, or a salesperson who is licensed to the listing broker, represents
15 the Seller and acts on behalf of the Seller. A Seller's broker owes to the Seller the fiduciary duties described
16 on page two (2).⁹ The broker must also disclose to the Buyer material facts as defined in MN Statute 82.22,
17 Subd. 8, of which the broker is aware that could adversely and significantly affect the Buyer's use or enjoyment
18 of the property. If a broker or sales person working with a Buyer as a customer is representing the Seller, he or
19 she must act in the Seller's best interest and must tell the Seller any information disclosed to him or her, except
20 confidential information acquired in a facilitator relationship (see paragraph V on page two (2)). In that case, the
21 Buyer will not be represented and will not receive advice and counsel from the broker or salesperson.

22 II. **Subagent:** A broker or salesperson who is working with a Buyer but represents the Seller. In this case, the Buyer
23 is the broker's customer and is not represented by that broker. If a broker or salesperson working with a Buyer as
24 a customer is representing the Seller, he or she must act in the Seller's best interest and must tell the Seller any
25 information that is disclosed to him or her. In that case, the Buyer will not be represented and will not receive advice
26 and counsel from the broker or salesperson.

27 III. **Buyer's Broker:** A Buyer may enter into an agreement for the broker or salesperson to represent and act on
28 behalf of the Buyer. The broker may represent the Buyer only, and not the Seller, even if he or she is being paid
29 in whole or in part by the Seller. A Buyer's broker owes to the Buyer the fiduciary duties described on page two
30 (2).⁹ The broker must disclose to the Buyer material facts as defined in MN Statute 82.22, Subd. 8, of which
31 the broker is aware that could adversely and significantly affect the Buyer's use or enjoyment of the property. If
32 a broker or salesperson working with a Seller as a customer is representing the Buyer, he or she must act in the
33 Buyer's best interest and must tell the Buyer any information disclosed to him or her, except confidential information
34 acquired in a facilitator relationship (see paragraph V on page two (2)). In that case, the Seller will not be represented
35 and will not receive advice and counsel from the broker or salesperson.

36 IV. **Dual Agency - Broker Representing both Seller and Buyer:** Dual agency occurs when one broker or salesperson
37 represents both parties to a transaction, or when two salespersons licensed to the same broker each represent a
38 party to the transaction. Dual agency requires the informed consent of all parties, and means that the broker and
39 salesperson owe the same duties to the Seller and the Buyer. This role limits the level of representation the broker
40 and salesperson can provide, and prohibits them from acting exclusively for either party. In a dual agency, confidential
41 information about price, terms and motivation for pursuing a transaction will be kept confidential unless one party
42 instructs the broker or salesperson in writing to disclose specific information about him or her. Other information
43 will be shared. Dual agents may not advocate for one party to the detriment of the other.⁹

44 Within the limitations described above, dual agents owe to both Seller and Buyer the fiduciary duties described
45 on page two (2).⁹ Dual agents must disclose to Buyers material facts as defined in MN Statute 82.22, Subd. 8, of
46 which the broker is aware that could adversely and significantly affect the Buyer's use or enjoyment of
47 the property.

48 _____ I have had the opportunity to review the "Notice Regarding Predatory Offender Information".
(initial) (initial)
49 on page two. (2)

AGENCY RELATIONSHIPS IN REAL ESTATE TRANSACTIONS

50

Page 2

51 V. **Facilitator:** A broker or salesperson who performs services for a Buyer, a Seller or both but does not represent
52 either in a fiduciary capacity as a Buyer's Broker, Seller's Broker or Dual Agent. **THE FACILITATOR BROKER**
53 **OR SALESPERSON DOES NOT OWE ANY PARTY ANY OF THE FIDUCIARY DUTIES LISTED BELOW,**
54 **EXCEPT CONFIDENTIALITY, UNLESS THOSE DUTIES ARE INCLUDED IN A WRITTEN FACILITATOR**
55 **SERVICES AGREEMENT.** The facilitator broker or salesperson owes the duty of confidentiality to the party but
56 owes no other duty to the party except those duties required by law or contained in a written facilitator services
57 agreement, if any. In the event a facilitator broker or salesperson working with a Buyer shows a property listed by
58 the facilitator broker or salesperson, then the facilitator broker or salesperson must act as a Seller's Broker (see
59 paragraph I on page one (1)). In the event a facilitator broker or salesperson, working with a Seller, accepts a
60 showing of the property by a Buyer being represented by the facilitator broker or salesperson, then the facilitator
61 broker or salesperson must act as a Buyer's Broker (see paragraph III on page one (1)).

62 [Ⓞ] This disclosure is required by law in any transaction involving property occupied or intended to be occupied by
63 one to four families as their residence.

64 [Ⓞ] The fiduciary duties mentioned above are listed below and have the following meanings:

65 Loyalty - broker/salesperson will act only in client(s)' best interest.

66 Obedience - broker/salesperson will carry out all client(s)' lawful instructions.

67 Disclosure - broker/salesperson will disclose to client(s) all material facts of which broker/salesperson has knowledge
68 which might reasonably affect the client's use and enjoyment of the property.

69 Confidentiality - broker/salesperson will keep client(s)' confidences unless required by law to disclose specific
70 information (such as disclosure of material facts to Buyers).

71 Reasonable Care - broker/salesperson will use reasonable care in performing duties as an agent.

72 Accounting - broker/salesperson will account to client(s) for all client(s)' money and property received as agent.

73 [Ⓞ] If Seller(s) decide(s) not to agree to a dual agency relationship, Seller(s) may give up the opportunity to sell the
74 property to Buyers represented by the broker/salesperson. If Buyer(s) decide(s) not to agree to a dual agency
75 relationship, Buyer(s) may give up the opportunity to purchase properties listed by the broker.

76 **NOTICE REGARDING PREDATORY OFFENDER INFORMATION:** Information regarding the predatory offender
77 registry and persons registered with the predatory offender registry under MN Statute 243.166 may be
78 obtained by contacting the local law enforcement offices in the community where the property is located,
79 or the Minnesota Department of Corrections at (651) 361-7200, or from the Department of Corrections Web site at
80 www.corr.state.mn.us.

MN:AGCYDISC-2 (8/07)