

### **DISCLAIMER:**

Forms are created with a view to identify and satisfy general needs. The pre-set portion of any Form is complex and can be difficult to understand.

Be advised that the explanations contained herein are not meant to be a full and complete discussion of the meanings and implications of each provision, paragraph or section in each Form. The explanations are meant only to be a general simple overview and are not meant to replace the full text and legal ramifications of each Form and any provision, paragraph or section therein.

It is important and mandatory to understand that the use of a Form does not apply to every circumstance and extreme care should be exercised in that respect.

Everyone is encouraged and it is recommended that everyone seek and obtain professional advice to ensure a complete and accurate understanding of any Form and not rely on the explanations contained herein.

**TAKE NOTE THAT EVERY REAL ESTATE TRANSACTION IS UNIQUE AND THE TORONTO REAL ESTATE BOARD DOES NOT WARRANT AND IS NOT LIABLE OR RESPONSIBLE IN ANY WAY FOR THE ADEQUACY, SUFFICIENCY, APPLICABILITY, ACCURACY OR SUITABILITY OF ANY OF THE EXPLANATIONS OR PROVISIONS HEREINAFTER SET OUT.**

**PROCEED TO NEXT PAGE ...**

# Seller Customer Service Agreement

## Commission Agreement For Property Not Listed

*GENERAL USE: This Form is a contract between a Seller and a real estate company that gives the real estate company permission to act on the Seller's behalf when they offer their home for sale in the open market. A written agreement is necessary in order to secure commission and to ensure compliance with the REBBA Code of Ethics.*

*TOP SECTION OF THE AGREEMENT: The section at the top identifies the parties involved in the Agreement and sets the time frame for which the contract is valid. Ontario's governing body for real estate Salespeople, the Real Estate Council of Ontario (RECO), requires that the Seller(s) initial if the listing period extends beyond six months.*

### This Is A Non-Exclusive Seller Customer Service Agreement

**BETWEEN:**

**BROKERAGE:** .....

.....(the "Brokerage") Tel.No. (.....)

**AND:**

**SELLER:** .....

for the property known as:..... (the "Property")


and for the following Buyer:.....(the "Buyer")

The Brokerage agrees to provide customer service to the Seller for the sale or lease of the above described property to the Buyer and the Seller acknowledges and agrees to the terms as stated in this Agreement.

This non-exclusive Seller Customer Service Agreement:

**commences** at.....a.m./p.m. on the.....day of....., 20.....,

**and expires at** 11:59 p.m. on the.....day of....., 20.....(Expiry Date).

{ Seller acknowledges that the time period for this Agreement is negotiable between the Seller and the Brokerage, however, in accordance with the Real Estate and Business Brokers Act of Ontario; **If the time period for this Agreement exceeds six months, the Brokerage must obtain the Seller's initials.** }  (Seller's Initials)

**The Seller hereby represents and warrants that the Property is not listed for sale or lease with any other registered real estate brokerage and that the Seller has the sole and exclusive authority to execute this Agreement and to offer the property for sale or lease.**

*1. DEFINITIONS AND INTERPRETATIONS: The following section defines who will be referred to as the Buyer and Seller for the remainder of the document.*

**1. DEFINITIONS AND INTERPRETATIONS:** For the purposes of this Agreement, "Seller" includes Vendor and Landlord and "Buyer" includes a purchaser, a tenant, or a prospective purchaser or tenant. A purchase shall be deemed to include the entering into of any agreement to exchange, or the obtaining of an option to purchase which is subsequently exercised, and a lease includes any rental agreement, sub-lease or renewal of a lease. For purposes of this Agreement, anyone introduced to or shown the Property shall be deemed to include any spouse, heirs, executors, administrators, successors, assigns, related corporations and affiliated corporations. Related corporations or affiliated corporations shall include any corporation where one half or a majority of the shareholders, directors or officers of the related or affiliated corporation are the same person(s) as the shareholders, directors, or officers of the corporation introduced to or shown the Property. This Agreement shall be read with all changes of gender or number required by the context.

*2. COMMISSION: The following section declares the total fee that the Seller has agreed to pay to the real estate company if they are successful in selling the property.*

*It also indicates a period of days after the expiry of the contract that the real estate company is entitled to their fee, if the Seller ends up selling the property privately to a Buyer who was introduced or shown to the property within the contract period. This is known as the "holdover period".*

**2. COMMISSION:** In consideration of the Brokerage showing the Property to the Buyer and/or introducing the Buyer to the Seller for the purpose of discussing the sale or lease of the Property, the Seller agrees to pay the Brokerage a commission of.....% of the sale price of the

Property or.....

for any valid offer to purchase or lease the Property entered into between the Seller and the Buyer during the term of this Agreement.

**Seller acknowledges that the commission as described above is payable to the Brokerage even if the Seller enters into an agreement to pay commission to another registered real estate brokerage during the currency of this Agreement or any extension thereof.**

**INITIALS OF BROKERAGE:** 

**INITIALS OF SELLER(S):** 

The Seller agrees to pay such commission as calculated above if an agreement with the Buyer to purchase or lease the Property is agreed to or accepted

by the Seller or anyone on the Seller's behalf within.....days after the expiration of this Agreement.

If, however, the offer from the Buyer for the purchase or lease of the Property is pursuant to a new agreement in writing to pay commission to another registered real estate brokerage, and if the new agreement was entered into after the expiration of this Agreement, the Seller's liability for commission shall be reduced by the amount paid by the Seller under the new agreement.

The Seller agrees to pay such commission as described above even if the transaction contemplated by an agreement to purchase or lease agreed to or accepted by the Seller or anyone on the Seller's behalf is not completed, if such non-completion is owing or attributable to the Seller's default or neglect. The commission as described above shall be payable on the date set for completion of the purchase of the Property or, in the case of a lease or tenancy, the earlier of the date of occupancy by the tenant or the execution of the lease or the date set for commencement of the lease or tenancy.

Any deposit in respect of any agreement where the transaction has been completed shall first be applied to reduce the commission payable. Should such amounts paid to the Brokerage from the deposit or by the Seller's solicitor not be sufficient, the Seller shall be liable to pay to the Brokerage on demand, any deficiency in commission and taxes owing on such commission. All amounts set out as commission are to be paid plus applicable taxes on such commission.

**3. REPRESENTATION AND CUSTOMER SERVICE:** *The following section confirms that the Salesperson has explained the different types of agency relationships that may occur in a real estate transaction. It also authorizes the real estate company to co-operate with any other real estate companies to market the Seller's property, and breaks down the commission sharing structure between the parties.*

**3. REPRESENTATION AND CUSTOMER SERVICE:** The Seller acknowledges that the Brokerage has provided the Seller with written information explaining agency relationships, including information on Seller Representation, Sub-Agency, Buyer Representation, Multiple Representation and Customer Service. The Seller acknowledges that the Brokerage will be providing customer service to the Seller and will not be representing the interests of the Seller in a transaction.

The Brokerage may be representing the interests of the Buyer for the transaction. When the Brokerage is representing the Buyer, the Buyer is considered to be the Brokerage's client, and the Brokerage's primary duties are to protect and promote the interests of the Buyer/client. The Brokerage will disclose all pertinent information to a Buyer/client obtained from or about the Seller.

Even though the Brokerage's primary duties may be to the Buyer, the Brokerage may provide many valuable customer services to the Seller.

When providing customer service to the Seller, the Brokerage's duties to the Seller include:

- the **Ethical** duty to deal fairly, honestly and with integrity;
- the **Legal** duty to exercise due care when answering questions and providing information; and
- the **Legal** duty to avoid misrepresentation.

The Seller further acknowledges and agrees that the payment of commission by the Seller to the Brokerage will not create or constitute representation by the Brokerage of the Seller as a client.

The Seller understands and agrees that the Brokerage also provides representation and customer service to other sellers and buyers.

If the Brokerage represents or provides customer service to more than one seller or buyer for the same trade, the Brokerage shall, in writing, at the earliest practicable opportunity and before any offer is made, inform all sellers and buyers of the nature of the Brokerage's relationship to each seller and buyer.

**4. DEPOSIT:** *The Buyer includes a deposit in the Offer to give it authenticity and to show their sincerity to the Seller. The deposit is considered part of the purchase price and is ultimately deducted from the proceeds on closing.*

**4. DEPOSIT:** The Seller and Brokerage agree that the deposit for a transaction shall be held in trust by the Brokerage. Any deposit in respect of any agreement where the transaction has been completed shall be first applied to reduce the commission payable. Should such amounts paid to the Brokerage from the deposit or by the Seller's solicitor not be sufficient, the Seller shall be liable to pay the Brokerage on demand, any deficiency in commission and taxes owing on such commission.

**5. FINDERS FEES:** *This provides consent for the Salesperson to accept any finders fee that a mortgage company may offer to them. It also states that this fee would be collected by the Salesperson in addition to the stated commission. It should be noted that a specific consent will be required at the time a finders fee arises.*

**5. FINDERS FEES:** The Seller acknowledges that the Brokerage may be receiving a finder's fee, reward and/or referral incentive, and the Seller consents to any such benefit being received and retained by the Brokerage in addition to the commission as described above.

**6. INSURANCE:** *The Seller warrants that the property is insured, including personal liability insurance.*

**6. INSURANCE:** The Seller warrants the Property is insured, including personal liability insurance against any claims or lawsuits resulting from bodily injury or property damage to others caused in any way on or at the Property and the Seller indemnifies the Brokerage and all of its employees, representatives, salespersons and brokers for and against any claims against the Brokerage made by anyone who attends or visits the Property.

**7. VERIFICATION OF INFORMATION:** *The following section gives the Salesperson the authority to obtain and use any reasonable information regarding the property to help market the property (i.e. mortgage details, tax information).*

**7. VERIFICATION OF INFORMATION:** The Seller authorizes the Brokerage to obtain any information from any regulatory authorities, governments, mortgagees or others affecting the Property and the Seller agrees to execute and deliver such further authorizations in this regard as may be reasonably required.

**8. USE AND DISTRIBUTION OF INFORMATION:** *The following section gives Salespeople the right under the Privacy Act to use personal information provided to them by the Seller in order to assist in making the transaction happen. It also assures the Seller that this information will not be distributed to third parties (i.e. pool or moving companies).*

**8. USE AND DISTRIBUTION OF INFORMATION:** The Seller consents to the collection, use and disclosure of personal information by the Brokerage for the purpose of compiling, retaining and publishing any statistics including data which may be used by the Brokerage to conduct comparative market analyses; and make such other use of information as the Brokerage deems appropriate in connection with the listing, marketing, selling or leasing of real estate.

**9. FAMILY LAW ACT:** *The following section states, in the form of a warranty, that if spousal consent was required, then the spouse has signed.*

**9. FAMILY LAW ACT:** The Seller hereby warrants that spousal consent is not necessary under the provisions of the Family Law Act, R.S.O. 1990, unless the Seller's spouse has executed the consent hereinafter provided.

**INITIALS OF BROKERAGE:** 

**INITIALS OF SELLER(S):** 

10. **SUCCESSORS AND ASSIGNS:** This states that heirs, estate trustees or any other party legally acting on behalf of the Seller must also abide by the terms of this Agreement.

10. **SUCCESSORS AND ASSIGNS:** The heirs, executors, administrators, successors and assigns of the undersigned are bound by the terms of this Agreement.

11. **CONFLICT OR DISCREPANCY:** If there are other schedules (additional information) added to this Agreement by the parties involved that contain something specific that contradicts what is in the text of the Form, the information on the attachment supersedes what is on the Form.

11. **CONFLICT OR DISCREPANCY:** If there is any conflict or discrepancy between any provision added to this Agreement (including any Schedule attached hereto) and any provision in the standard pre-set portion hereof, the added provision shall supersede the standard pre-set provision to the extent of such conflict or discrepancy. This Agreement, including any Schedule attached hereto, shall constitute the entire Agreement between the Seller and the Brokerage. There is no representation, warranty, collateral agreement or condition, which affects this Agreement other than as expressed herein.

12. **ELECTRONIC COMMUNICATION:** This Agreement, if necessary, may be sent via electronic means and still be binding on all parties.

12. **ELECTRONIC COMMUNICATION:** This Agreement and any agreements, notices or other communications contemplated thereby may be transmitted by means of electronic systems, in which case signatures shall be deemed to be original. The transmission of this Agreement by the Seller by electronic means shall be deemed to confirm the Seller has retained a true copy of the Agreement.

13. **SOLD SIGN:** The Seller consents that when the property is sold, the Brokerage is allowed to put a Sold sign on the property.

13. **SOLD SIGN:** The Seller hereby agrees and consents by the Seller initialling this term of the Agreement that, upon the Seller entering into a binding Agreement to sell or lease the property with the Buyer, the Brokerage is authorized to place the Brokerage's Sold/Leased sign on the property.

  
(Seller's Initials)

14. **SCHEDULE(S):** If a specific Form or document has been added to this Agreement, it should be indicated here.

14. **SCHEDULE(S)**..... attached hereto form(s) part of this Agreement.

**This section states that the company representing the Seller will assist the Seller and endeavor to obtain an acceptable Offer for the Seller.**

**THE BROKERAGE AGREES TO PROVIDE CUSTOMER SERVICE TO THE SELLER IN AN ENDEAVOUR TO OBTAIN THE ACCEPTANCE OF AN AGREEMENT TO PURCHASE OR LEASE BETWEEN THE SELLER AND THE BUYER.**

..... DATE.....  
(Authorized to bind the Brokerage) (Name of Person Signing)

**THIS AGREEMENT HAS BEEN READ AND FULLY UNDERSTOOD BY ME AND I ACKNOWLEDGE THIS DATE I HAVE SIGNED UNDER SEAL AND HAVE RECEIVED A TRUE COPY OF THIS AGREEMENT.**

SIGNED, SEALED AND DELIVERED I have hereunto set my hand and seal:

..... DATE.....  
(Signature of Seller) (Seal) (Tel. No.)

..... DATE.....  
(Signature of Seller) (Seal)

**SPOUSAL CONSENT:** The undersigned spouse of the Seller hereby consents to the sale of the Property pursuant to the provisions of the Family Law Act, R.S.O. 1990 and hereby agrees that he/she will execute all necessary or incidental documents to further any transaction provided for herein.

..... DATE.....  
(Spouse) (Seal)

*The Declaration of Insurance is signed by the Salesperson stating that they carry insurance as required by the Real Estate and Business Brokers Act (REBBA).*

**DECLARATION OF INSURANCE**

The broker/salesperson.....  
(Name of Broker/Salesperson)

hereby declares that he/she is insured as required by the Real Estate and Business Brokers Act (REBBA) and Regulations.

.....  
(Signature(s) of Broker/Salesperson)