



INDEPENDENT CONTRACTOR AGREEMENT



2008 Printing

This Agreement made the date of _____, 20____, by and between _____ **RE / PRO, INC.** _____,

Hereinafter referred to as "Broker," and _____, hereinafter referred to as "Licensee."

WHEREAS, Broker and Licensee are duly licensed under the laws of the State of Georgia; and

WHEREAS, Broker and Licensee desire to work together in the real estate brokerage business in a broker-licensee relationship as set forth in this Agreement.

NOW, THEREFORE, IN CONSIDERATION of the mutual covenants contained herein, the parties agree as follows:

1. Obligations of Licensee. Licensee covenants and agrees to:

- A. work diligently to sell, lease, rent, and/or manage any and all real estate listed with Broker, to solicit additional real estate brokerage business from customers and clients of Broker, and otherwise to promote the business of Broker in real estate transactions.
- B. maintain real estate license in good standing pursuant to the laws of the State of Georgia. Licensee will be solely responsible for the payment of all professional license fees.
- C. be a member in good standing at Licensee's sole expense of a local board of REALTORS® (approved by Broker) within Georgia.
- D. abide by the Code of Ethics of the National Association of REALTORS®.
- E. maintain such property, casualty, liability, errors and omissions, and other insurance coverages as set forth in the following
 Exhibit "____", policy and procedures manual, **OR** as may be required by Broker upon 15 (fifteen) days written notice to Licensee.
- F. indemnify and hold Broker harmless from and against any and all claims, causes of action, lawsuits, damages, liabilities, fines, costs, expenses and deductibles (hereinafter collectively referred to as "Claims") arising out of or related to any violation of this Agreement by Licensee, or Licensee's negligent acts, intentional acts of wrongdoing, or acts outside the scope of Licensee's authority or responsibilities hereunder, but only to the extent that there is not a policy of insurance which actually pays the Claim or reimburses the costs thereof to Broker. This indemnification obligation shall specifically survive the termination of this Agreement.
- G. abide by all local, state, and federal laws and the Rules and Regulations of the Georgia Real Estate Commission.
- H. abide by all policies and procedures now or hereafter established by Broker upon being notified of the same.
- I. permit Broker to use Licensee's name, picture, recorded voice, or description in its training materials, advertising, or other publications.
- J. immediately notify Broker of the following: (a) all investigations of Licensee by the Georgia Real Estate Commission; (b) all claims or causes of action (threatened or otherwise) against Licensee relating to the performance of Licensee's duties herein; and (c) any pending charges of criminal wrongdoing against Licensee for which a conviction could impair Licensee's ability to act as a licensed real estate salesperson.
- K. attend such sales meetings and training programs as Broker may require to familiarize Licensee with among other things, the office policies and procedures of Broker, sales and marketing information, and current developments in real estate regulations and law.
- L. keep Broker informed of Licensee's business activities on behalf of Broker, and to maintain with the Broker complete copies of all offers, counteroffers, real estate purchase and sale agreements, leases and other documents relating to real estate transactions with which Licensee is involved.
- M. immediately report to Broker any threat of a claim or lawsuit against either Broker, Licensee or both.
- N. not provide any service as part of a real estate transaction or closing (other than brokerage services) without the express written consent of Broker.
- O. not enter into any brokerage engagement agreement in which Broker or Licensee owe any duties greater than what is provided under the Brokerage Relationships in Real Estate Transactions Act ("BRRETA").

2. Obligations of Broker. Broker covenants and agrees to:

- A. maintain its broker's license with the State of Georgia and may maintain from time to time membership in the National Association of REALTORS®, the Georgia Association of REALTORS®, Inc., and various local Boards of REALTORS®.
- B. hold Licensee's real estate license.
- C. make available to Licensee the use of Broker's office and office management services at 1960 DAY DRIVE, SUITE 700 (address), DULUTH (city), Georgia for Licensee's use in the real estate business, and upon request, provide advice, information, and assistance relative to real estate brokerage and transactions.
- D. provide Licensee with a copy of all policies and procedures with which Licensee is expected to comply.
- E. make available to Licensee all current listings except those listings which Broker, for valid business reasons, may place exclusively in the temporary possession of some other licensee. However, Licensee shall not be required to accept or service any listing offered by Broker. Broker shall not have the right or authority to direct that Licensee service particular parties or to restrict Licensee's activities to particular areas.
- F. pay over to Licensee the commissions or fees earned by Licensee after such commissions or fees are collected by Broker.
- G. indemnify and hold Licensee harmless from and against any and all claims, causes of action, lawsuits, damages, liabilities, fines, costs, expenses and deductibles (hereinafter collectively referred to as "Claims") arising out of or related to any violation of this Agreement by Broker, or Broker's negligent acts, intentional acts of wrongdoing, or acts outside the scope of Broker's authority or responsibilities hereunder, but only to the extent that there is not a policy of insurance which actually pays the Claim or reimburses the costs thereof to Licensee. This indemnification obligation shall specifically survive the termination of this Agreement.

3. **Compensation.**

A. The division and distribution of earned commission shall be in accordance with the published commission schedule of the Broker. The commission schedule under which licensee is to be paid is attached hereto as Exhibit "**A**." The published commission schedule is subject to change by the Broker upon 15 (fifteen) days written notice to Licensee. Commissions are earned when Broker has received payment in certified or collected funds.

For the purposes of this Agreement, the term "commission" shall include all fees, bonuses, and other valuable consideration paid or given in connection with the following: (a) performance of real estate brokerage services (as defined by O.C.G.A. § 43-40-1(2)); and (b) the performance by Licensee of any permitted real estate settlement service (as that term is defined by federal law).

In the event that this contract is terminated, Licensee's share of any commission (in accordance with the current commission schedule) on any transaction where funds are not yet collected, shall, upon receipt of funds, be paid by the Broker to the Licensee. However, if said transactions require additional work normally rendered by a licensee, Broker may perform the required work either directly or through another licensee of Broker and deduct from Licensee's share of the commission the reasonable value of said work as may be determined in the sole discretion of Broker.

B. Neither of the parties shall be liable to the other for any expenses, except as set forth in Exhibit "**N/A**" or policy procedure manual.

C. Broker shall have the sole and final authority to decide: (1) whether or not to pursue the collection of a disputed commission; (2) all questions regarding the entitlement to a commission between Licensee and any other broker or licensee; and (3) whether Licensee initiated, consummated or was the procuring cause of any real estate transaction. Suits and other actions for commissions and/or expenses and costs incurred by Licensee in connection with a real estate transaction shall only be maintained in the name of Broker.

D. Licensee acknowledges that claims regarding the entitlement to a real estate commission may be asserted against Broker after Licensee has been paid his or her share of the real estate commission. Licensee agrees to immediately reimburse Broker for his or her pro rata share of any commission amount paid to Licensee and later ordered to be refunded, returned or paid to another party by a duly authorized mediator, arbitrator, arbitration panel, or court of competent jurisdiction. This obligation on the part of Licensee shall survive the termination of this Agreement.

4. Legal Status and Relationship. This Agreement shall create an independent contractor relationship for all purposes under state and federal law and shall not create an employer-employee, joint venture, or partnership relationship. Licensee shall be responsible for filing all personal federal income tax forms and for paying all income taxes and self-employment taxes for each taxable year. Licensee shall, at all times during this Agreement, perform Licensee's duties and responsibilities without any direct supervision or control by the Broker, except that Broker may exercise such supervision as Broker deems necessary to comply with Georgia law, the Code of Ethics of the National Association of REALTORS®, and the rules and regulations of the Georgia Real Estate Commission.

5. **Terms and Termination.**

A. This Agreement shall be for a period of two years from the date hereof and shall, unless otherwise terminated, automatically renew for successive periods of 2 (two) years. Either party may terminate this Agreement upon written notice given to the other party.

B. Upon termination of this Agreement, a list shall be prepared of all pending or unfinished business involving any sale procured by the Licensee, which list shall be signed by both parties, and neither party shall have any claim except as set forth in such list. Any net earned commissions thereafter shall be distributed as provided in this Agreement. Licensee agrees that on expiration or termination of this Agreement: (a) all listings, office keys, files on pending transactions, materials, property of Broker, or other similar items shall be returned to Broker; (b) all fees or charges owing to Broker by Licensee and all loans and advances made by Broker to Licensee shall be due and immediately paid to Broker; (c) Licensee shall do no further work on behalf of Broker except with the written permission of Broker; and (d) Licensee shall not induce any client of Broker to break any listing or any other brokerage engagement agreement or contract between the client and Broker in violation of Georgia law.

C. Licensee acknowledges that all listing and sales files maintained by Broker and any and all correspondence, papers, documents, and other materials furnished or otherwise available to Licensee are confidential business information and the property of Broker. After termination or expiration of this Agreement, Licensee shall not use such information to Licensee's advantage or to the advantage of any other person or entity.

6. Authority. Licensee shall not have the authority to bind, obligate, or commit Broker by any promise or representation, unless specifically authorized by Broker in writing with respect to a particular transaction; provided, however, that Licensee is hereby authorized to execute on behalf of Broker the following: (a) purchase and sale, listing, and agency agreements in accordance with any policies, limitations, and procedures of Broker; and (b) such other forms and agreements as may be authorized in writing by Broker.

7. **Notices.**

A. All Notices Must Be In Writing. All notices, including but not limited to offers, counteroffers, acceptances, amendments, demands, notices of termination and other notices, required or permitted hereunder shall be in writing, signed by the party giving the notice.

B. Method of Delivery of Notice. Subject to limitations and conditions set forth herein, notices may only be delivered: (1) in person; (2) by an overnight delivery service, prepaid; (3) by facsimile transmission (FAX); (4) by registered or certified U. S. mail, pre-paid, return receipt requested; or (5) by e-mail.

C. When Notice is Deemed Received. Except as may be provided herein, a notice shall not be deemed to be given, delivered or received until it is actually received. Notwithstanding the above, a notice sent by FAX shall be deemed to be received by the party to whom it was sent as of the date and time it is transmitted provided that the sending FAX produces a written confirmation showing the correct date and the time of the transmission and the telephone number referenced herein to which the notice should have been sent.

8. Waiver. A party's failure to strictly enforce this Agreement or any of its provisions or any default hereunder shall not be construed as or operate as a waiver of such party's right to demand strict performance of this or any provision or any default under this Agreement.

9. Assignment. This Agreement may not be assigned in whole or in part by the Licensee, except upon Broker's prior written consent. This Agreement may be assigned in whole or in part by Broker to any successor to its business.

10. **Agreements and Amendments.** This Agreement is the sole and entire agreement between the parties with relation to the subject matter hereof and supersedes any previous agreement or understanding, whether verbal or otherwise. This Agreement may not be amended, altered or modified except in writing signed by all the parties to this Agreement.
11. **Legal Construction.** This Agreement may be signed in multiple counterparts and shall be interpreted in accordance with the laws of the State of Georgia. If any portion or provision of this Agreement is deemed invalid or void at law, this Agreement shall be construed as though such portion or provision had not been inserted and the remainder of this Agreement shall remain in full force and effect. Time is of the essence of this Agreement. All exhibits referenced in this Agreement are incorporated herein.
12. **Real Estate Teams.** The Broker does or does not consent to Licensee having a Real Estate team or being a member of a Real Estate team. If does is marked above the parties will enter into the Agreement for Licensee Use of a Real Estate Assistant (GAR form CO2). Notwithstanding any provision to the contrary contained herein, if Licensee works with one or more other licensees of Broker as part of a real estate brokerage team, Licensees shall enter into a written agreement with the other members of the team (and maintain with the Broker a current copy of the same) addressing, among other things; (1) How Broker is to pay the team its share of commissions on real estate transactions involving the team; and (2) How such payments will be affected if licensees are added to or leave the team or if the team stops operating together as a team.
- Broker shall be the sole and final arbiter of any and all disputes arising between current and former team members regarding: (1) their entitlement to commissions; and (2) the meaning of any written agreement between team members dealing with questions of how Broker is to compensate current or former team members for their share of commissions earned.
13. **Corporations.** The Broker does or does not consent to Licensee having a personal corporation for the operation of the Licensee's real estate business. If "does" box is checked above, then the parties will enter into the Amendment to Independent Contractor Agreement to Provide for Payment of Commission to Corporation (GAR form CO3).
14. **Out of State License.** The Broker does or does not consent to Licensee having a Real Estate License with a different Broker in another State. If "does" box is checked above, the parties will enter into the Agreement between Licensee, Georgia Broker and Out - of - State Broker (GAR form CO4).
15. **Agent Rental Property.**
- A. Broker does or does not consent to Licensee owning any interest (whether as an individual, in a corporation, partnership, LLC, or Trust) in rental property in this State or any State, Territory or Possession of the United States. If "does" box is checked above, Licensee will provide Broker a written list of all such property and give Broker written notice prior to acquiring any additional property.
- B. Broker does or does not consent to Licensee Managing Property owned Solely by Licensee (no unlicensed co-owners including spouses or family, and property not owned as a Corporation, Partnership, LLC, or Trust). If "does" box is checked above, Licensee must manage the property utilizing the Licensee's own resources the Licensee may not utilize the Facilities, Equipment or Staff or the Broker.
- C. Broker does or does not consent to Licensee having a personal Escrow Account. If does is marked Licensee must register the account with the Georgia Real Estate Commission. Licensee must maintain the bookkeeping system required of the Georgia Real Estate Commission. Licensee must reconcile the account by providing the Broker a copy of the bank statement along with a written reconciliation statement at least quarterly.
16. **Performance of Settlement Services Other Than Real Estate Brokerage Services.** Licensee agrees not to perform any settlement services other than real estate brokerage services in any real estate transaction without the prior written consent of Broker. Licensee further agrees not to accept anything of value for the referral of settlement services business, other than real estate brokerage services, in any residential real estate transaction covered by the Real Estate Settlement Procedures Act ("RESPA") 12 U.S.C. §2601 et. seq. "Settlement Services" shall have the same meaning as that term is defined under RESPA.

SPECIAL STIPULATIONS: The following Special Stipulations, if conflicting with any preceding paragraph, shall control:

1. Agent agrees to pay fees and/or dues to Broker on the 1st. of each month. A late fee of \$50. will be paid to Broker after the 10th. of each month. All balance must/will be paid off before Agent leaves the company.
2. Agent understands that the Real Estate Commission will audit company files from time to time and Agent agrees to pay any fines/penalties charged by the Commission for Agent's incomplete file.
3. Agent understands that any Earnest Money given to Agent becomes a major responsibility for Agent. If Company holds the Earnest Money in the Trust Account, the Agent must make sure that it is in our possession within one business day of receiving it, so that Company can make sure it is deposited within Five(5) business days of acceptance date (unless directed otherwise in the contract).
4. Agent agrees to fax all binding contracts ASAP to Broker for review. If Agent has any question regarding the transaction or contract, then Agent agrees to call Managing Broker or Office Manager ASAP.
5. Agent agrees to turn in the following documents after closing, so that Agent can be paid any commission:
 - 5.A Signed Contract (with acceptance date) and Seller's Property Disclosure Statement.
 - 5.B All Exhibits, Attachments, HUD Statement & Commission Check(s).

Mark box if additional pages are attached.

Broker's Signature

166269

(H-56592)

License #

RE / PRO, INC.

Print or Type Name

Address: **1960 Day Drive, Suite 700**

Duluth, GA 30096

Licensee's Signature

License #

Print or Type Name

Address: _____