ADVANCED INFORMED CONSENT TO DUAL AGENCY WITH DESIGNATED SALES AGENTS

For residential real property, the use of this form is optional and is to be used as a supplement to the agency disclosure form found in Real Property Law section 443. Licensees who elect to use this form for residential real property must also complete an agency disclosure form.

This form was provided to me by (print name of licensee)_____

of (print name of company, firm or brokerage)_____, a licensed real estate broker.

1. What is "Dual Agency with Designated Sales Agents"

   In the event the Seller and Buyer are both represented by an Associate Broker or Salesperson from the same Principal Brokerage, the Seller and Buyer can each be represented by two "Designated Agents" within the Principal Brokerage. Those agents will be the "Designated Agent of the Seller" and "Designated Agent of the Buyer". "Designated Agents", may represent the best interest of their respective clients just like a Seller's Agent or Buyer's Agent except they are unable to provide undivided loyalty. This is so because whenever "Designated Agency" occurs, the Principal Broker will always be a "Dual Agent" since the Principal Broker must supervise the activities of each "Designated Agent" to assure they act in the best interest of the Seller or Buyer. As a "Dual Agent", the Principal Broker cannot advocate for the position of one client over another. The Principal Broker will also protect the confidential information of both parties.

2. Consent to the creation of "Dual Agency with Designated Sales Agents"

   If "Advanced Informed Consent to Dual Agency with Designated Sales Agents" has been acknowledged in the NYS Agency Disclosure Form, seller or buyer agree that any licensee associated with the Principal Broker may become a "Designated Sales Agent" in the following scenarios:

   a. Listing agent is holding an open house and an unrepresented buyer attends. The listing agent may refer the unrepresented buyer to another associated licensee with the listing broker to enter into a buyer's agency relationship with the unrepresented buyer followed immediately by Dual Agency with Designated Sales Agents and acting as a Designated Agent for the Buyer.

   b. Licensee associated with the listing broker, but who is not the listing agent, is holding an open house and an unrepresented buyer attends. If the listing agent will be acting as the Designated Agent for the Seller, the associated licensee with the listing broker may enter into a buyer's agency relationship with the buyer followed immediately by Dual Agency with Designated Sales Agents and acting as a Designated Agent for the Buyer.

   c. Licensee associated with the listing broker is contacted by an unrepresented buyer that shows interest in a property listed by the brokerage. The associated licensee with the listing broker may enter into a buyer's agency relationship with the buyer followed immediately by Dual Agency with Designated Sales Agent and acting as a Designated Agent for the Buyer. If the listing agent is contacted, they may refer the unrepresented buyer to another associated licensee with the listing broker to enter into a buyer's agency relationship with the unrepresented buyer followed immediately by Dual Agency with Designated Sales Agents and acting as a Designated Agent for the Buyer.

   d. An associated licensee of the listing broker already represents a buyer as a buyer's agent and the buyer shows interest in a property listed by the brokerage.

3. Description of "Designated Agents" role

   "Designated Agents" may each represent the best interest of their respective clients. "Designated Agents" may advocate and negotiate on behalf of the Seller or Buyer but are unable to provide the full range of fiduciary duties since "Designated Agents" cannot provide undivided loyalty. By consenting to "Dual Agency with Designated Sales Agents", the Seller or Buyer acknowledge and agree that the Principal Broker will act as a "Dual Agent".

4. Description of Principal Broker's Role: Confidentiality and Disclosure of Information:

   The Principal Broker will supervise the "Designated Agents" to assure that their respective clients are being fully represented. In Dual Agency with Designated Sales Agents, the Principal Broker is acting as a "Dual Agent" for both Seller and Buyer in the transaction. As a "Dual Agent", the Principal Broker shall remain impartial to Seller and Buyer. Seller or Buyer acknowledge that, prior to Dual Agency with Designated Sales Agents arising, the Principal Broker acted as the agent of the Seller and acted as the agent of the Buyer. In those separate roles, Principal Broker may have obtained information which, if disclosed, could harm the bargaining position of the party providing such information to Principal Broker. Seller or Buyer agree that Principal Broker shall not be liable to either party for refusing or failing to disclose information which in the sole discretion of Principal Broker would harm one party's bargaining position but would benefit the other party. Principal Broker is also prohibited from advocating or negotiating to the detriment of either party.

   Nothing contained herein shall prevent Principal Broker from disclosing to Buyer any known material defects that affect the property value. Principal Broker agrees not to disclose confidential information to the other party, such as (a) to Buyer information about what price or terms Seller will accept other than the listing price and terms or (b) to Seller information about what price or terms Buyer will agree to other than any written offering price.

5. Description of Seller's and Buyer's Role:

   Seller or Buyer acknowledge that they are aware of the implications and consequences of Principal Broker's Dual Agency role, rather than act as an advocate for one party over the other, and that they have determined that the benefits of entering into a transaction, with the Principal Broker acting as a Dual Agent and the Principal Broker's Agents acting as "Designated Agents" outweigh said implications and consequences.

6. Consequences of Dual Agency with Designated Sales Agents:

Seller or Buyer are giving up their right to have Principal Broker's undivided loyalty and obedience to act at all times solely in their individual best interests to the exclusion of all other interests. "Dual Agency" may thus adversely affect Buyer's and Seller's best interests to the exclusion of all other interests, and may deprive them of benefits they may have otherwise received in a single agency relationship. For example, as a Seller represented by an Agent, Seller has the right to expect that Seller's agent will attempt to obtain the full asking price for the property. As a Buyer, represented by an agent, Buyer has the right to expect the Agent to work toward bringing about a transaction at the lowest possible price. A Dual Agent will not work on behalf of either party regarding price.

7. Buyer and Seller have the absolute right to refuse to consent to a Dual Agency with Designated Sales Agents" relationship and the representation of an adverse interest by Principal Broker.

8. Buyer and Seller have the right to consent to a "Dual Agency with Designated sales Agents" relationship, with or without an adjustment in the amount of compensation to the Principal Broker.

9. Buyer and Seller each have the right to retain their own Agent to represent only their interest in a single agency relationship (i.e. Buyer's Agent or Seller's Agent).

10. Description of Limited Agency Services:

WHAT "DESIGNATED AGENT FOR THE SELLER" CAN DO FOR THE SELLER

Recommend or suggest a price the Seller should accept or counter.
Advocate on behalf of and in the best interest of the Seller.
Negotiate on behalf of the Seller.
Recommend specialists for the Seller (Attorneys, Appraisers, etc…)

WHAT "DESIGNATED AGENT FOR THE BUYER" CAN DO FOR THE BUYER

Recommend or suggest a price the Buyer should offer, accept or counter.
Advocate on behalf of the Buyer
Negotiate on behalf of the Buyer
Recommend specialists for the Buyer (Lenders, Attorneys, Home Inspectors, Appraisers, etc…)

WHAT PRINCIPAL BROKER CAN DO FOR SELLERS AND BUYERS WHEN ACTING AS A DUAL AGENT WITH DESIGNATED SALES AGENTS:

Will treat the Seller and Buyer honestly.
Will provide helpful information about the property and neighborhood to the Buyer.
Will respond accurately to questions about the property.
Will disclose all material facts about the property that are known to us.
Will disclose financial qualifications of the Buyer to the Seller.
Explain real estate terms and procedures.
Will act as a mediator and make recommendations for compromise between Seller and Buyer.

WHAT PRINCIPAL BROKER AND ITS SALESPERSONS CANNOT DISCLOSE TO SELLERS AND BUYERS:

Cannot disclose confidential information that we may know about the Seller and/or Buyer (e.g., motivation, to sell/buy; price terms; negotiating strategy), without written permission of the Seller and/or Buyer.

Cannot disclose the price the Seller will take other than the listing price without written permission of the Seller.

Cannot disclose the price the Buyer is willing to pay without written permission of the Buyer.

11. Principal Broker will act as an intermediary with respect to Seller and Buyer and except for the fiduciary duties to account for any monies which come into Principal Broker's possession and the duty to exercise reasonable care; Principal Broker will not have fiduciary duties to either Seller or Buyer to provide "undivided loyalty or obedience".

By signing the agency disclosure form and below, you approve and agree Principal Broker and its Salespersons have provided Advanced Informed Consent to "Dual Agency with Designated Sales Agents".

YOU SHOULD UNDERSTAND THAT THIS IS BEING PROVIDED AS A MEANS OF INFORMING THE SELLER OR BUYER AS TO DUAL AGENCY WITH DESIGNATED SALES AGENTS. IF YOU DO NOT UNDERSTAND THIS DOCUMENT OR FEEL THAT IT DOES NOT PROVIDE FOR YOUR LEGAL NEEDS, YOU SHOULD CONSULT AN ATTORNEY BEFORE YOU SIGN IT.

I have received and read this disclosure notice.

Seller/Buyer:_____ Date: _____

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