

NAME OF DOCUMENT:

Better Homes Realty



**NEW JERSEY ASSOCIATION OF REALTORS® STANDARD FORM OF
BROKER-SALESPERSON
INDEPENDENT CONTRACTOR AGREEMENT**



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1 THIS AGREEMENT, is made and entered into this _____ day of _____, by and between
2
3 _____ (hereinafter referred to as the "Broker"),
4
5 having its principal office at _____,
6
7 _____, and _____
8
9 (hereinafter referred to as the "Salesperson"), residing at _____
10
11 _____

WITNESSETH

12 WHEREAS, Broker is engaged in business as a real estate broker trading as _____
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14 _____, with its principal office at
15 _____, and as such is duly licensed to
16 engage in activities including, but not limited to, selling, offering for sale, buying, offering to buy, listing and soliciting prospective
17 purchasers, and negotiating loans on real estate, leasing or offering to lease, and negotiating the sale, purchase or exchange of
18 leases, renting or placing for rent, or managing real estate or improvements thereon for another or others; and

19 WHEREAS, Broker has and does enjoy the goodwill of the public, and has a reputation for fair and honorable dealing
20 with the public; and

21 WHEREAS, Broker maintains an office in the State of New Jersey equipped with furnishings, listings, prospect lists and
22 other equipment necessary, helpful, and incidental to serving the public as a real estate broker; and

23 WHEREAS, Salesperson is duly licensed by the State of New Jersey as a real estate salesperson; and

24 WHEREAS, it is deemed to be to the mutual advantage of Broker and Salesperson to enter into this Agreement; and

25 WHEREAS, Salesperson acknowledges that he has not performed any acts on behalf of Broker nor has he been authorized
26 to act on behalf of Broker; and

27 WHEREAS, the parties acknowledge that they deem it desirable to enter into an agreement in compliance with the
28 provisions of N.J.A.C. 11:5-4.1;

29 NOW, THEREFORE, in consideration of the foregoing premises and the mutual covenants herein contained, it is
30 mutually covenanted and agreed by and between the parties hereto as follows:
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33 **1. SERVICES.** Salesperson agrees to proceed diligently, faithfully, legally, and with his best efforts to sell, lease, or rent
34 any and all real estate listed with Broker, except for any listings which are placed by Broker exclusively with another
35 salesperson(s), and to solicit additional listings and customers for Broker, and otherwise to promote the business of serving the
36 public in real estate transactions, and for the mutual benefit of the parties hereto.
37

38 **2. OFFICE SPACE.** Broker agrees to provide Salesperson with work space and other facilities at its office presently
39 maintained at _____,
40 or at such other location as determined by Broker at which Broker may maintain an office. The items furnished pursuant to this
41 Paragraph 2 shall be for the convenience of the Salesperson.
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43 **3. RULES AND REGULATIONS.** Salesperson and Broker agree to conduct business and regulate habits and working
44 hours in a manner which will maintain and increase the goodwill, business, profits, and reputation of Broker and Salesperson, and
45 the parties agree to conform to and abide by all laws, rules and regulations, and codes of ethics that are binding on, or applicable to,
46 real estate broker and real estate salespeople. Salesperson and Broker shall be governed by the Code of Ethics of the NATIONAL
47 ASSOCIATION OF REALTORS®, the real estate laws of the State of New Jersey, the Constitution and By-Laws of the
48 _____ Board/Association of REALTORS®, the rules and regulations of any
49 Multiple Listing Service with which Broker now or in the future may be affiliated with, and any further modifications or additions
50 to any of the foregoing. Salesperson acknowledges that it is his responsibility to familiarize himself with all current Code of Ethics,
51 the Local Board/Association By-Laws, the rules and regulations of any Multiple Listing Service with which Broker is now
52 affiliated, the Rules and Regulations of the Real Estate Commission and the License Law of the State of New Jersey. Broker agrees
53 to maintain copies of all the foregoing and to make the same available to Salesperson. Salesperson agrees also to abide by the rules,
54 regulations, policies and standards promulgated by Broker.
55

56 **4. LICENSING AND ASSOCIATION MEMBERSHIP.** Salesperson represents that he is duly licensed by the State of
57 New Jersey as a real estate salesperson. Salesperson acknowledges that Broker is a member of the _____
58 _____ Board/Association of REALTORS®, the New Jersey Association of Realtors®
59 and the NATIONAL ASSOCIATION OF REALTORS®, and as a result thereof, Broker is subject to the rules and regulations of
60 those organizations. Salesperson agrees to be subject to and act in accordance with said rules and regulations. If Broker requires
61 Salesperson to become a member of any real estate organization, then Salesperson agrees that he shall become a member thereof
62 and shall pay all applicable fees and dues required to maintain said membership. As a result of Broker being a member of the
63 aforesaid groups, Broker and Salesperson agree to abide by all applicable rules, regulations and standards of such organizations,
64 including, but without limitation, those pertaining to ethics, conduct and procedure.
65

66 **5. COMPENSATION.** Salesperson's sole compensation from Broker shall be in the form of commissions. The
67 commissions for services rendered in the sale, rental, or leasing of any real estate and the method of payment, shall be determined
68 exclusively by Broker. Commissions, when earned and collected by Broker, shall be divided between Broker and Salesperson after
69 deduction of all expenses and co-brokerage commissions in accord with the Salesperson's Commission Schedule attached to this
70 Agreement as Schedule A which is an outline of compensation to be paid by Broker to Salesperson during the Salesperson's
71 affiliation with Broker.

72 **6. MULTIPLE SALESPEOPLE.** In the event that two (2) or more salespeople under contract with Broker participate in
73 a sale and claim a commission thereon, then and in that event the amount of commissions allocable to each salesperson shall be
74 divided in accordance with a written agreement among said salespeople. In the event that the salespeople shall be unable to agree,
75 the dispute shall be submitted to and be determined by Broker, in his sole discretion.
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77 **7. RESPONSIBILITY OF BROKER FOR COMMISSIONS.** In no event shall Broker be liable to Salesperson for any
78 commissions not collected, nor shall Salesperson be personally liable for any commissions not collected. It is agreed that
79 commissions collected shall be deposited with the Broker and subsequently divided and distributed in accordance with the terms of
80 this Agreement.
81

82 **8. DIVISION AND DISTRIBUTION OF COMMISSIONS.** The division and distribution of the earned commissions as
83 provided for in this Agreement which may be paid to or collected by the Broker, but from which Salesperson is due certain
84 commissions, shall take place as soon as practicable after collection and receipt of such commissions, but in no event more than ten
85 (10) business days after receipt by the Broker, or as soon thereafter as such funds have cleared the Broker's bank.
86

87 **9. RESPONSIBILITY FOR EXPENSES.** Unless otherwise agreed in writing, Broker shall not be liable to Salesperson
88 for any expenses incurred by Salesperson or for any of his acts, nor shall Salesperson be liable to Broker for Broker's office help or
89 expenses, or for any of Broker's acts other than as specifically provided for herein.
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91 **10. ADVANCES.** Broker may from time to time and in his sole discretion make advances to Salesperson on account of
92 future commissions; it being expressly agreed, however, that such advances are temporary loans by Broker for the accommodation
93 of Salesperson which are due and payable on demand or as otherwise agreed to by the Broker, and are not compensation. Upon
94 notice to Salesperson, Broker shall have the right to charge interest on any and all advances made to Salesperson, either at the time
95 of making the advance or thereafter, at a rate chosen by Broker in his sole discretion, but not in excess of the maximum rate
96 permitted by law. Upon receipt of payment of commissions, Broker shall credit the account of Salesperson (first toward interest, if
97 any, and then toward principal) with the portion of such commissions due Salesperson. If at any time, the advances made to
98 Salesperson together with interest thereon, if any, exceed the credits to his account for his share of commissions collected, then
99 such excess shall be owing by Salesperson to Broker and shall be due and payable upon demand. After such demand, interest at the
100 maximum rate permitted by law shall accrue upon the amount due Broker, notwithstanding the fact that any or all of the advances
101 made to Salesperson have initially been interest free or at a reduced rate of interest.
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103 **11. REAL ESTATE LICENSES, BONDS, DUES AND FEES.** Salesperson agrees to pay the cost of maintaining his
104 real estate license, dues for membership in the NATIONAL ASSOCIATION OF REALTORS® , the New Jersey Association of
105 REALTORS®, the local Board/Association of REALTORS® and other dues and fees related to the rendering of services by
106 Salesperson as a real estate salesperson.
107

108 **12. AUTHORITY TO CONTRACT.** Salesperson shall have no authority to bind, obligate, or commit Broker by any
109 promise or representation, either verbally or in writing, unless specifically authorized in writing by Broker in a particular
110 transaction. However, Salesperson shall be and is hereby authorized to execute listing agreements for and on behalf of Broker as
111 his agent subject to Broker's office policy.
112

113 **13. CONTROVERSIES WITH OTHERS.** In the event any transaction in which Salesperson is involved results in a
114 dispute, litigation or legal expense, Salesperson shall cooperate fully with Broker. Broker and Salesperson shall share the payment
115 of all judgments, awards, settlement and other expenses connected therewith, in the same proportion as they normally would share
116 the commission resulting from such transaction if there were no dispute or litigation. It is the policy to avoid litigation wherever
117 possible, and Broker, within his sole discretion may determine whether or not any litigation or dispute shall be prosecuted,
118 defended, compromised or settled, and the terms and conditions of any compromise or settlement, or whether or not legal expense
119 shall be incurred. Salesperson shall not have the right to directly or indirectly compel Broker to institute or prosecute litigation
120 against any third party for collection of commissions, nor shall Salesperson have any cause of action against Broker for its failure
121 to do so. In the event a commission is paid to Broker in which Salesperson is entitled to share, but another real estate broker
122 disputes or may dispute the right of Broker to receive all or any portion of such commission, Salesperson agrees that Broker may
123 hold said commission in trust until such dispute is resolved or sufficient time has passed to indicate to Broker in his sole and
124 absolute judgment that no action or proceeding will be commenced by such other real estate broker regarding the subject
125 commission. In the event Broker shall pay any commission to Salesperson and thereafter, either during or subsequent to
126 termination of this Agreement, Broker shall become obligated, either by way of final judicial determination, arbitration award or
127 good faith negotiation, to repay all or any part of such commission to others, Salesperson agrees to reimburse Broker his pro rata
128 share thereof. In any such instance, Broker agrees to keep Salesperson reasonably informed of any proceeding.
129

130 **14. OWNERSHIP OF LISTINGS.** Salesperson agrees that any and all listings of property, and all actions taken in
131 connection with the real estate business and in accordance with the terms of this Agreement shall be taken by Salesperson in the
132 name of Broker. In the event Salesperson receives a listing, it shall be filed with Broker no later than twenty four (24) hours after
133 receipt of same by Salesperson. Broker agrees, but is not obligated, to generally make available to Salesperson all current listings
134 maintained by its office. However, all listings shall be and remain the separate and exclusive property of Broker unless otherwise
135 agreed to in writing by the parties hereto.
136

137 **15. DOCUMENTS.** Broker and Salesperson agree that all documents generated by and relating to services performed by
138 either of them in accordance with this Agreement, including, but without limitation, all correspondence received, copies of all
139 correspondence written, plats, listing information, memoranda, files, photographs, reports, legal opinions, accounting information,
140 any and all other instruments, documents or information of any nature whatsoever concerning transactions handled by Broker or by
141 Salesperson or jointly are and shall remain the exclusive property of the Broker.
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143 **16. COMMUNICATIONS.** Broker shall determine and approve all correspondence from the Broker's office pertaining to
144 transactions being handled, in whole or in part, by the Salesperson.
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146 **17. FORMS AND CONTRACTS.** Broker shall determine and approve the forms to be used and the contents of all
147 completed contracts and other completed forms before they are presented to third parties for signature.
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18. INDEPENDENT CONTRACTOR. This Agreement does not constitute employment of Salesperson by Broker and Broker and Salesperson acknowledge that Salesperson's duties under this Agreement shall be performed by him in his capacity as an independent contractor. Nothing contained in this Agreement shall constitute Broker and Salesperson as joint ventures or partners and neither shall be liable for any obligation incurred by the other party to this Agreement, except as provided herein. The Salesperson shall not be treated as an employee for Federal, State or local tax purposes with respect to services performed in accordance with the terms of this Agreement. Effective as of the date of this Agreement, Broker will not (i) withhold any Federal, State, or local income or FICA taxes from Salesperson's commissions; (ii) pay any FICA or Federal and State unemployment insurance on Salesperson's behalf; or (iii) include Salesperson in any of its retirement, pension, or profit sharing plans. Salesperson shall be required to pay all Federal, State, and local income and self-employment taxes on his income, as required by law, and to file all applicable estimated and final returns and forms in connection therewith.

19. NOTICE OF TERMINATION. This Agreement, and the relationship created hereby may be terminated by either party hereto with or without cause, at anytime upon three (3) days written notice. However, this Agreement shall immediately terminate upon Salesperson's death. Except as otherwise provided for herein, the rights of the parties hereto to any commissions which were accrued and earned prior to the termination of this Agreement shall not be divested by the termination of this Agreement.

20. SERVICES TO BE PERFORMED SUBSEQUENT TO TERMINATION. Upon termination of this Agreement, all negotiations commenced by Salesperson during the term of this Agreement shall continue to be handled through Broker and with such assistance by Salesperson as is determined by Broker. The Salesperson agrees to be compensated for such services in accordance with Schedule B attached hereto.

21. LIST OF PROSPECTS. Upon termination of this Agreement, Salesperson shall furnish Broker with a complete list of all prospects, leads and foreseeable transactions developed by Salesperson, or upon which Salesperson shall have been engaged with respect to any transaction completed subsequent to termination of this Agreement in which Salesperson has rendered assistance in accordance with the terms of this Agreement. Except as expressly provided for in Paragraph 20 of this Agreement, Salesperson shall not be compensated in respect of any transaction completed subsequent to termination of this agreement unless agreed to in writing by the Broker.

22. DUTY OF NON-DISCLOSURE. Salesperson agrees that upon termination of this Agreement, he will not furnish to any person, firm, company, corporation, partnership, joint venture, or any other entity engaged in the real estate business, any information as to Broker or its business, including, but not limited to, Broker's clients, customers, properties, prices, terms of negotiations, nor policies or relationships with prospects, clients and customers. Salesperson, shall not, after termination of this Agreement, remove from the files or from the office of the Broker, any information pertaining to the Broker's business, including, but not limited to, any maps, books, publications, card records, investor or prospect lists, or any other material, files or data, and it is expressly agreed that the aforementioned records and information are the property of Broker.

23. COMPENSATION SUBSEQUENT TO TERMINATION. Upon termination of this Agreement, Salesperson shall be compensated only in accordance with the appended Schedule B.

24. ESCROW DEPOSIT. All contracts of sale shall be accompanied by an escrow deposit in an amount as determined by Broker. Salesperson will, at all times, require purchaser or prospective purchasers, to put up such escrow deposit unless a higher or lower sum shall be mutually agreed to by Broker and Salesperson. Salesperson is expressly prohibited from accepting a smaller escrow deposit, a post-dated check, or agreeing not to deposit an escrow check, unless such action has been expressly authorized by Broker.

25. AUTOMOBILE. Salesperson agrees to furnish his own automobile, pay all expenses in connection with the operation and maintenance of said automobile, and that Broker shall have no responsibility therefor. Salesperson agrees to carry throughout the terms of this Agreement public liability insurance upon his automobile with minimum limits not less than _____ (\$ _____) for each person and _____ (\$ _____) for each accident, and property damage insurance with a minimum limit of not less than _____ (\$ _____). Upon request, Salesperson agrees to furnish to Broker certificates certifying as to such insurance prepared by the insurance company.

26. ASSIGNABILITY AND BINDING EFFECT. This Agreement is personal to the parties hereto and may not be assigned, sold or otherwise conveyed by either of them.

27. NOTICE. Any and all notices, or any other communication provided for herein shall be in writing and shall be personally delivered or mailed by registered or certified mail, return receipt requested prepaid postage, which shall be addressed to the parties at the addresses indicated herein, or to such different address as such party may have fixed. Any such notice shall be effective upon receipt, if personally delivered, or three (3) business days after mailing.

28. GOVERNING LAW. This Agreement shall be subject to and governed by the laws of the State of New Jersey, including the conflicts of laws, irrespective of the fact that Salesperson may be or become a resident of a different state.

29. WAIVER OF BREACH. The waiver by the Broker of a breach of any provision of this Agreement by the Salesperson shall not operate or be construed as a waiver of any subsequent breach by the Salesperson.

30. ENTIRE AGREEMENT. This Agreement constitutes the entire agreement between the parties and contains all of the agreement between the parties with respect to the subject matter hereof; this Agreement supersedes any and all other agreements, either oral or in writing between the parties hereto with respect to the subject matter hereof.

31. GENDER. When used in this Agreement, the masculine shall be deemed to include the feminine.

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32. SEPARABILITY. If any provision of this Agreement is invalid or unenforceable in any jurisdiction, the other provisions herein shall remain in full force and effect such jurisdiction and shall be liberally construed in order to effectuate the purpose and intent of this Agreement, and the invalidity or unenforceability of any provision of this Agreement in any jurisdiction shall not affect the durability or enforceability of any such provision in any other jurisdiction.

33. MODIFICATION. This Agreement may not be modified or amended except by an instrument in writing signed by the parties hereto. Any modification to this Agreement between the parties after the date of the Agreement shall be of no effect unless such modification is in writing and is signed by both Broker and Salesperson.

34. PARAGRAPH HEADINGS. The paragraph headings contained in this Agreement are for reference purposes only and shall not affect in any way the meaning or interpretation of this Agreement.

35. SURVIVAL OF PROVISIONS. The provisions of this Agreement shall survive the termination of the Salesperson's services under this Agreement.

36. COPY RECEIVED. Salesperson acknowledges receipt of a fully executed copy of this Agreement, duly signed by Broker and Salesperson.

IN WITNESS WHEREOF, the undersigned have set their hands and seals, or if a corporation, has caused this Agreement to be signed and sealed by its duly authorized corporate officer, the day and year first above written.

WITNESS:

WITNESS:

(Broker)

(Salesperson)

SCHEDULE A

SALESPERSON'S COMMISSION SCHEDULE WHILE AFFILIATED WITH BROKER

Salesperson shall be entitled to receive the following percentage as his portion of the commission earned by Broker as a result of closed sales, listings, rentals, leases, after deducting all expenses and co-brokerage commissions:

SALES TRANSACTIONS

1. _____ % for written listings produced by Salesperson.
2. _____ % for written listings produced and sold by Salesperson.
3. _____ % for selling property listed by co-operating broker.

RENTAL/LEASE TRANSACTIONS

1. _____ % for written listings produced by Salesperson.
2. _____ % for written listings resulting in a signed lease agreement.
3. _____ % for signed lease agreement listed by co-operating broker.

ADDITIONAL PROVISIONS (IF ANY):

SCHEDULE B

SALESPERSON'S COMMISSION SCHEDULE AFTER TERMINATION OF AFFILIATION WITH BROKER

The rate of compensation to be paid by Broker to Salesperson pertaining to transactions which close and on renewals which occur subsequent to the termination of Salesperson's affiliation with Broker is as follows:

1. AS TO SALES TRANSACTIONS

A. Listings

As to written listings which have been produced by Salesperson prior to the date of termination, Salesperson shall be entitled to receive the following percentage of his portion of the commission pursuant to Schedule A for each such transaction, upon collection by Broker.

- (I) _____ % if a contract of sale has been executed by all parties and all contingencies contained therein have been satisfied as of such date;
- (II) _____ % if a contract of sale has been executed by all parties but any contingencies contained therein have not been satisfied as of such date;
- (III) _____ % if a contract of sale has not been executed by all parties as of such date. In the event a listing originally produced by Salesperson expires, and is renewed after such termination date, Salesperson shall be entitled to receive _____ % of his portion of the commission for any such transaction upon collection in full by Broker.

B. Sales

As to transaction in which a prospective purchaser has been produced by Salesperson prior to the date of termination, Salesperson shall be entitled to receive the following percentage of his portion of the commission pursuant to Schedule A for any such transaction, upon collection by Broker:

- (I) _____ % if the title has closed, but the commission has not been collected as of such date;
- (II) _____ % if a contract of sale has been executed by all parties and all contingencies contained therein have been satisfied as of such date;
- (III) _____ % if a contract of sale has been executed by all parties but any contingencies contained therein have not been satisfied as of such date;
- (IV) _____ % if a contract of sale has not been executed by all parties as of such date; but thereafter a contract is executed by all parties.

2. AS TO RENTAL TRANSACTIONS

A. Listings

As to written listings which have been produced by Salesperson prior to the date of termination, Salesperson shall be entitled to receive the following percentage of his portion of the commission pursuant to Schedule A in any such transaction upon collection by Broker:

- (I) _____ % if a lease agreement has been executed by all parties as of such date, but the commission has not yet been received;
- (II) _____ % if a lease agreement has not been executed by all parties as of such date, but thereafter, a lease agreement is executed by all parties.

B. Leases

As to rental transactions in which Salesperson has produced a prospective lessee prior to the date of termination, Salesperson shall be entitled to receive the following percentage of his portion of the commission pursuant to Schedule A upon collection by Broker:

- (I) _____ % if a lease agreement has been executed by all parties as of such a date, but the commission has not yet been received;
- (II) _____ % if a lease agreement has not been executed by all parties as of such date, but thereafter, a lease agreement is executed by all parties.

3. ADDITIONAL PROVISIONS (IF ANY):