

Chautauqua-Cattaraugus Board of REALTORS®, Inc

EXCLUSIVE RIGHT TO SELL CONTRACT

This is a legally binding contract. If not fully understood, we recommend consulting an attorney before signing.

Location _____, City (Town) Of _____
County Of _____, Tax ID# _____
Owner _____, Phone _____
Address _____, City _____ State _____ Zip _____
Listings Agent _____
Broker _____ Phone _____ Attorney _____

1. GRANT OF EXCLUSIVE RIGHT TO SELL/TERM OF LISTING

In consideration of _____(hereinafter referred to as BROKER) submitting the above described property to WNYREIS Multiple Listing Service (hereinafter referred to as MLS) and in further consideration of said BROKER undertaking to find a purchaser for said property, the undersigned OWNER (the word OWNER refers to each and all parties who have ownership interest in the property and the undersigned represent (s) they are the sole and exclusive owners and are fully authorized to enter into this agreement) hereby grants to said BROKER the sole and exclusive right to sell the property located at

_____ for \$ _____ from _____ until _____

The OWNER hereby authorizes the BROKER to submit this listing to the MLS within 24 hours following the signing of this Exclusive Right to Sell Contract for circulation to all members of the service.

2. SUBAGENCY

_____By checking the line preceding this paragraph, OWNER hereby authorizes the BROKER to make an offer for subagency to all participant in the MLS. OWNER is further aware that OWNER could be liable for the misrepresentations, if any, of agents and subagents. If OWNER incurs a loss, as a result of misrepresentation of the agent and subagents, OWNER may be entitled to bring legal action against the responsible agent and subagents for reimbursement of such loss.

3. BROKER AGENCY

_____By checking the line preceding this paragraph, OWNER herby authorizes the BROKER to make an offer of Broker agency to all participants in the MLS. As a general rule, those agents owe fiduciary duties to your agent and to you. However, unlike subagency, you are not vicariously liable for their conduct.

4. BUYER AGENCY

_____By checking the line preceding this paragraph, OWNER herby authorizes BROKER to cooperate with agents who represent buyers with the understanding that such buyers' agents will be representing only the interest of the perspective buyer.

5. FAIR HOUSING

It is agreed that this property is listed in full compliance with local, state and federal fair housing laws against discrimination on the basis of race, color, religion, sex, national origin, handicap, age, marital status and/or familial status or other prohibited factors.

6. BROKER'S OBLIGATIONS

In accordance with the provisions of this agreements, the BROKER (a) will undertake to find a purchaser for said property, upon terms and conditions acceptable to the OWNER, (b) will make available to prospective purchasers upon the request information regarding the availability of inspections and financing alternatives, (c) will report to the OWNER regarding expressions of interest in the property, (d) will assist in the preparing a purchase offer with an attorney approval clause, (e) will follow up with the purchaser and/or purchaser's designee once a contract is negotiated and (f) will update the OWNER regarding fulfillment of contract contingencies.

7. OWNERS AUTHORIZATIONS AND OBLIGATION

- A. The OWNER understands that in order to facilitate the sale of said property, the OWNER hereby authorizes the BROKER to make and use photographs of said property, grants the BROKER exclusive "FOR SALE" sign privilege on said property, consents that said property may be shown at any reasonable hour, and agrees to refer any and all inquiries concerning said property to BROKER.
- B. The OWNER authorizes the use of lockbox and accepts any responsibility for any damage for loss arising from the use of the lockbox. The OWNER understand that by providing the BROKER with a key and/or lockbox to the property does not in anyway make the BROKER the custodian of said property or responsible therefore.
- C. The OWNER authorizes the listing/selling BROKER to submit all offers to the OWNER.
- D. The OWNER will provide a Property Condition Disclosure Statement which will be furnished to potential purchasers and to real estate licensees. OWNER may be held liable for the accuracy of any disclosure.

Owner (s) Initials

Broker Initials

E. The OWNER has received a copy of the "Disclosure Regarding Real Estate Agency Relationships."

8. MARKETING ACTIVITY

The OWNER grants to the BROKER full discretion to determine the appropriate marketing approach for the property. BROKER will undertake to find a ready, willing and able purchaser and in order to do so will engage in marketing activity which may include advertising, showing of listed premises and/or the conduct of open houses. OWNER acknowledges the Broker/Salesperson is not responsible for the winterization process or for any damage caused by failure to winterize.

9. PURCHASER'S MORTGAGE

The OWNER agrees to accept a sales agreement contingent, for a reasonable period of time, on the purchaser's ability to finance the purchase price by any of the prevailing methods of mortgage financing. Any other type of mortgage loan or financing must be approved by the OWNER.

10. INSPECTION CONTINGENCIES

The OWNER agrees to accept a purchase offer contingent, for a reasonable period of time, on the Purchaser's ability to obtain inspections regarding unknown circumstances which could affect the habitability of the property.

11. BOARD OF MULTIPLE LISTINGS SERVICE ARE NOT AGENTS

The OWNER understands and agrees that the Chautauqua-Cattaraugus County Board of REALTORS and MLS are not the OWNER'S agents and that none of the terms of this agreement shall make them the OWNER'S agents.

12. RENTAL OF PROPERTY

Should the OWNER desire to rent the property during the period of this agreement, the BROKER is hereby granted the sole and exclusive right to rent the property, exclusive "FOR RENT" sign privilege and the OWNER agrees to pay the BROKER a rental commission of _____. The applicable commission for the first month of the lease is due and will be paid (check) upon the lease upon date of occupancy.

13. APPLICATION OF DEPOSIT

The OWNER hereby authorizes the LISTING BROKER to accept and hold all money paid for deposited as a binder on this property in an escrow account until closing, cancellation of the purchase contract or notification of written mutual consent of the parties, whichever is sooner. The OWNER authorizes the BROKER to apply and pay any deposits or other money received as part of the purchase price towards the brokerage fee which is due under this agreement. In the event of a claim of default by the Seller or the PURCHASER, or in the event of a claim to the deposit by both the SELLER and the PURCHASER, the deposit(s) shall be held by the BROKER in escrow pending a final resolution of its proper disposition or the written mutual consent of the parties. In the event a purchase contract subsequently provides that any deposit are to be held by another escrow agent (for example: the seller's attorney), the Listing Broker is authorized and directed to transfer deposits accordance with the written agreement of the SELLER and PURCHASER.

14. BROKERAGE FEE: AMOUNT, WHEN DUE AND PAYABLE

OWNER agrees the brokerage fee will be due and payable to BROKER:

- A. If prior to expiration of the listing contract, a purchaser for the property is secured by the OWNER or by any other person on the sales price and terms contained in the contract or for any other sales price and terms acceptable to OWNER of the OWNER agrees to sell, transfer or exchange the property, or
- B. If within _____ months after the expiration date of the term of this contract, the OWNER agrees to sell, transfer or exchange said property to or with any person to whom the property has been shown during the term of this listing, as if BROKER had arranged the transaction. If during the term of said protection period, a valid exclusive right to sell agreement is entered into with another licensed real estate broker, any payments made there under may be credited against the sums otherwise due and owing pursuant to this agreement.

15. AMOUNT OF BROKERAGE FEE

SELLER understands that compensation is not set by law or any Realtor® association or MLS and that compensation is fully negotiable between the SELLER and the LISTING BROKER. An offer of compensation to the COOPERATING BROKER who produces the buyer for the listed property is not required. However, SELLER may choose to offer compensation through the LISTING BROKER or directly from the SELLER to that COOPERATING BROKER. A SELLER may receive requests for compensation from a COOPERATING BROKER as part of the purchase offer or separately. The SELLER has the right to accept, deny or negotiate the amount of compensation being requested by the COOPERATING BROKER. ____/____ PLEASE INITIAL

OWNER agrees that the brokerage fee will be _____% of the gross selling price or \$_____ whichever is the greater amount. (In the event of transfer or exchange, "fair market value" rather than "gross selling price" shall apply). The commission offered by the BROKER to subagents shall be _____% of the gross selling price or \$_____ whichever is the greater amount. The commission offered by the BROKER to buyer's agent shall be _____% of the gross selling price or \$_____ whichever is the greater amount.

OWNER is not offering compensation to COOPERATING BROKERS. ____/____ PLEASE INITIAL

Owner (s) Initials

Broker Initials

Dual Agency

In the event of dual agency, dual agency with designated sales agent or an unrepresented buyer, SELLER shall pay the LISTING BROKER compensation of _____ percent (%) of the selling price or a fee of _____ dollars (\$) at closing whichever is the greater sum. (for an explanation of the types of agency, please see the NYS Agency Disclosure Form).

16. ONE COMMISSION

In authorizing subagency, broker agency and/or buyer agency as described above, OWNER will not be liable for more than one (1) commission totaling _____% of the gross selling price or \$ _____, whichever is the greater amount.

Effective JANUARY 1, 2009, Broker shall have the rights set forth in Real Property Law Section 294-b, the Commission Escrow Act. Notice is hereby given to the Seller that:

At the time of closing, you may be required to deposit the broker’s commission with the county clerk in the event that you do not pay the broker his or her commission as set forth herein. Your obligation to deposit the broker’s commission with the county clerk may be waived by the broker.

17. ALLEGANY/CATTARAUGUS COUNTY HEALTH DEPARTMENT WATER-SEWER SURVEY

OWNER(s) acknowledge being made aware of the Allegany/Cattaraugus County Health Departments Well and Sewer requirements as stated on the Water-Sewage Survey. Owner (s) Initials

18. TERMINATION

I understand that if I terminated the BROKER’S authority prior to the expiration of its term, the Broker shall retain its contact rights (including but not limited to recovery of its commission, advertising expenses and/or any other damages incurred by reason of my termination of this agreement.)

19. ENTIRE AGREEMENT

The OWNER has read and understands this agreement and does hereby acknowledge receipt of copy thereof. This agreement is the entire agreement between the parties and may not be changed except in writing signed by both parties. This agreement shall be binding upon the parties hereto, their respective heirs, successors, assignees.

20. EXPLANATION

An “exclusive right to sell” listing agreement means that if you, the OWNER of the property, find a buyer for your house, or if another Broker finds a buyer, you must pay the agreed commission to the present broker. An “exclusive agency” listing means that if you, the owner of the property, find a buyer, you will not have to pay commission to the broker. However, if another broker finds a buyer, you will owe a commission to both the selling broker and your present broker.

Owner’s Signature

Date

Owner’s Signature

Date

Listing Agent

Date