



TEXAS ASSOCIATION OF REALTORS®
RESIDENTIAL REAL ESTATE LISTING AGREEMENT
EXCLUSIVE RIGHT TO SELL

USE OF THIS FORM BY PERSONS WHO ARE NOT MEMBERS OF THE TEXAS ASSOCIATION OF REALTORS® IS NOT AUTHORIZED.
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1. PARTIES: The parties to this agreement (this Listing) are:

Seller: Sam Seller and Sally Seller

Address: 123 Majestic Home Drive

City, State, Zip: Pearland, TX 77584

Phone: (281)123-4567 Fax: (281)123-7654

E-Mail: sam@happyseller.com

Broker: ERA Silver Star Realty name of listing agent

Address: 9430 Broadway, Suite 156

City, State, Zip: Pearland, TX 77584

Phone: (281)412-5050 Fax: (281)412-5051

E-Mail: agentname@SilverStarRealty.com

Seller appoints Broker as Seller's sole and exclusive real estate agent and grants to Broker the exclusive right to sell the Property.

2. PROPERTY: "Property" means the land, improvements, and accessories described below, except for any described exclusions.

A. Land: Lot 5, Block 7, Camelot West, Sec.11
 Addition, City of Pearland,
 in Brazoria County, Texas known as 123 Majestic Home Drive,
77584 (address/zip code),
 or as described on attached exhibit. (If Property is a condominium, attach Condominium Addendum.)

B. Improvements: The house, garage and all other fixtures and improvements attached to the above-described real property, including without limitation, the following permanently installed and built-in items, if any: all equipment and appliances, valances, screens, shutters, awnings, wall-to-wall carpeting, mirrors, ceiling fans, attic fans, mail boxes, television antennas and satellite dish system and equipment, heating and air-conditioning units, security and fire detection equipment, wiring, plumbing and lighting fixtures, chandeliers, water softener system, kitchen equipment, garage door openers, cleaning equipment, shrubbery, landscaping, outdoor cooking equipment, and all other property owned by Seller and attached to the above-described real property.

C. Accessories: The following described related accessories, if any: window air conditioning units, stove, fireplace screens, curtains and rods, blinds, window shades, draperies and rods, controls for satellite dish system, controls for garage door openers, entry gate controls, door keys, mailbox keys, above-ground pool, swimming pool equipment and maintenance accessories, and artificial fireplace logs.

D. Exclusions: The following improvements and accessories will be retained by Seller and excluded:
Antique woodburning stove

E. Owners' Association: The property is is not subject to mandatory membership in an owners' association.

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3. **LISTING PRICE:** Seller instructs Broker to market the Property at the following price: \$ 234,900.00 (Listing Price). Seller agrees to sell the Property for the Listing Price or any other price acceptable to Seller. Seller will pay all typical closing costs charged to sellers of residential real estate in Texas (seller's typical closing costs are those set forth in the residential contract forms promulgated by the Texas Real Estate Commission).

4. **TERM:**

- A. This Listing begins on January 23, 2007 and ends at 11:59 p.m. on July 23, 2007 .
- B. If Seller enters into a binding written contract to sell the Property before the date this Listing begins and the contract is binding on the date this Listing begins, this Listing will not commence and will be void.

5. **BROKER'S FEE:**

A. Fee: When earned and payable, Seller will pay Broker a fee of:

(1) _____ % of the sales price.

(2) 6% if co-op , 5% if no co-op _____ .

B. Earned: Broker's fee is earned when any one of the following occurs during this Listing:

- (1) Seller sells, exchanges, options, agrees to sell, agrees to exchange, or agrees to option the Property to anyone at any price on any terms;
- (2) Broker individually or in cooperation with another broker procures a buyer ready, willing, and able to buy the Property at the Listing Price or at any other price acceptable to Seller; or
- (3) Seller breaches this Listing.

C. Payable: Once earned, Broker's fee is payable either during this Listing or after it ends at the earlier of:

- (1) the closing and funding of any sale or exchange of all or part of the Property;
- (2) Seller's refusal to sell the Property after Broker's Fee has been earned;
- (3) Seller's breach of this Listing; or
- (4) at such time as otherwise set forth in this Listing.

Broker's fee is not payable if a sale of the Property does not close or fund as a result of: (i) Seller's failure, without fault of Seller, to deliver to a buyer a deed or a title policy as required by the contract to sell; (ii) loss of ownership due to foreclosure or other legal proceeding; or (iii) Seller's failure to restore the Property, as a result of a casualty loss, to its previous condition by the closing date set forth in a contract for the sale of the Property.

D. Other Fees:

- (1) Breach by Buyer Under a Contract: If Seller collects earnest money, the sales price, or damages by suit, compromise, settlement, or otherwise from a buyer who breaches a contract for the sale of the Property entered into during this Listing, Seller will pay Broker, after deducting attorney's fees and collection expenses, an amount equal to the lesser of one-half of the amount collected after deductions or the amount of the Broker's Fee stated in Paragraph 5A. Any amount paid under this Paragraph 5D(1) is in addition to any amount that Broker may be entitled to receive for subsequently selling the Property.
- (2) Service Providers: If Broker refers Seller or a prospective buyer to a service provider (for example, mover, cable company, telecommunications provider, utility, or contractor) Broker may receive a fee from the service provider for the referral. Any referral fee Broker receives under this Paragraph 5D(2) is in addition to any other compensation Broker may receive under this Listing.

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(3) Transaction Fees or Reimbursable Expenses: \$135 Transaction Fee

\$99 Early Termination Fee

E. Protection Period:

- (1) "Protection period" means that time starting the day after this Listing ends and continuing for 30 days. "Sell" means any transfer of any interest in the Property whether by oral or written agreement or option.
- (2) Not later than 10 days after this Listing ends, Broker may send Seller written notice specifying the names of persons whose attention was called to the Property during this Listing. If Seller agrees to sell the Property during the protection period to a person named in the notice or to a relative of a person named in the notice, Seller will pay Broker, upon the closing of the sale, the amount Broker would have been entitled to receive if this Listing were still in effect.
- (3) This Paragraph 5E survives termination of this Listing. This Paragraph 5E will not apply if:
 - (a) Seller agrees to sell the Property during the protection period;
 - (b) the Property is exclusively listed with another broker who is a member of the Texas Association of REALTORS® at the time the sale is negotiated; and
 - (c) Seller is obligated to pay the other broker a fee for the sale.

F. County: All amounts payable to Broker are to be paid in cash in Brazoria County, Texas.

G. Escrow Authorization: Seller authorizes, and Broker may so instruct, any escrow or closing agent authorized to close a transaction for the purchase or acquisition of the Property to collect and disburse to Broker all amounts payable to Broker under this Listing.

6. **LISTING SERVICES:**

A. Broker will file this Listing with one or more Multiple Listing Services (MLS) by the earlier of the time required by MLS rules or 5 days after the date this Listing begins. Seller authorizes Broker to submit information about this Listing and the sale of the Property to the MLS.

Notice: MLS rules require Broker to accurately and timely submit all information the MLS requires for participation including sold data. Subscribers to the MLS may use the information for market evaluation or appraisal purposes. Subscribers are other brokers and other real estate professionals such as appraisers and may include the appraisal district. Any information filed with the MLS becomes the property of the MLS for all purposes. **Submission of information to MLS ensures that persons who use and benefit from the MLS also contribute information.**

B. Broker will not file this Listing with a Multiple Listing Service (MLS) or any other listing service.

7. **ACCESS TO THE PROPERTY:**

A. Authorizing Access: Authorizing access to the Property means giving permission to another person to enter the Property, disclosing to the other person any security codes necessary to enter the Property, and lending a key to the other person to enter the Property, directly or through a keybox. To facilitate the showing and sale of the Property, Seller instructs Broker to:

- (1) access the Property at reasonable times
- (2) authorize other brokers, their associates, inspectors, appraisers, and contractors to access the Property at reasonable times; and
- (3) duplicate keys to facilitate convenient and efficient showings of the Property.

B. Scheduling Companies: Broker may engage the following companies to schedule appointments and to authorize others to access the Property: Centralized Showing Service Inc.

C. **Keybox:** A keybox is a locked container placed on the Property that holds a key to the Property. A keybox makes it more convenient for brokers, their associates, inspectors, appraisers, and contractors to show, inspect, or repair the Property. The keybox is opened by a special combination, key, or programmed device so that authorized persons may enter the Property, even in Seller's absence. Using a keybox will probably increase the number of showings, but involves risks (for example, unauthorized entry, theft, property damage, or personal injury). Neither the Association of REALTORS® nor MLS requires the use of a keybox.

(1) Broker is is not authorized to place a keybox on the Property.

(2) If a tenant occupies the Property at any time during this Listing, Seller will furnish Broker a written statement (for example, TAR No. 1411), signed by all tenants, authorizing the use of a keybox or Broker may remove the keybox from the Property.

D. **Liability and Indemnification:** When authorizing access to the Property, Broker, other brokers, their associates, any keybox provider, or any scheduling company are not responsible for personal injury or property loss to Seller or any other person. Seller assumes all risk of any loss, damage, or injury. **Except for a loss caused by Broker, Seller will indemnify and hold Broker harmless from any claim for personal injury, property damage, or other loss.**

8. **COOPERATION WITH OTHER BROKERS:** Broker will allow other brokers to show the Property to prospective buyers. Broker will offer to pay the other broker a fee as described below if the other broker procures a buyer that purchases the Property.

A. **MLS Participants:** If the other broker is a participant in the MLS in which this Listing is filed, Broker will offer to pay the other broker:

(1) if the other broker represents the buyer: 3.000 % of the sales price or \$ _____ ; and

(2) if the other broker is a subagent: - 0 - % of the sales price or \$ _____ .

B. **Non-MLS Brokers:** If the other broker is not a participant in the MLS in which this Listing is filed, Broker will offer to pay the other broker:

(1) if the other broker represents the buyer: 3.000 % of the sales price or \$ _____ ; and

(2) if the other broker is a subagent: - 0 - % of the sales price or \$ _____ .

9. **INTERMEDIARY:** (Check A or B only.)

A. **Intermediary Status:** Broker may show the Property to interested prospective buyers who Broker represents. If a prospective buyer who Broker represents offers to buy the Property, Seller authorizes Broker to act as an intermediary and Broker will notify Seller that Broker will service the parties in accordance with one of the following alternatives.

(1) If a prospective buyer who Broker represents is serviced by an associate other than the associate servicing Seller under this Listing, Broker may notify Seller that Broker will: (a) appoint the associate then servicing Seller to communicate with, carry out instructions of, and provide opinions and advice during negotiations to Seller; and (b) appoint the associate then servicing the prospective buyer to the prospective buyer for the same purpose.

(2) If a prospective buyer who Broker represents is serviced by the same associate who is servicing Seller, Broker may notify Seller that Broker will: (a) appoint another associate to communicate with, carry out instructions of, and provide opinions and advice during negotiations to the prospective buyer; and (b) appoint the associate servicing the Seller under this Listing to the Seller for the same purpose.

(3) Broker may notify Seller that Broker will make no appointments as described under this Paragraph 9A and, in such an event, the associate servicing the parties will act solely as Broker's intermediary representative, who may facilitate the transaction but will not render opinions or advice during negotiations to either party.

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- B. No Intermediary Status: Seller agrees that Broker will not show the Property to prospective buyers who Broker represents.

Notice: If Broker acts as an intermediary under Paragraph 9A, Broker and Broker's associates:

- may not disclose to the prospective buyer that Seller will accept a price less than the asking price unless otherwise instructed in a separate writing by Seller;
- may not disclose to Seller that the prospective buyer will pay a price greater than the price submitted in a written offer to Seller unless otherwise instructed in a separate writing by the prospective buyer;
- may not disclose any confidential information or any information Seller or the prospective buyer specifically instructs Broker in writing not to disclose unless otherwise instructed in a separate writing by the respective party or required to disclose the information by the Real Estate License Act or a court order or if the information materially relates to the condition of the property;
- may not treat a party to the transaction dishonestly; and
- may not violate the Real Estate License Act.

10. CONFIDENTIAL INFORMATION: During this Listing or after it ends, Broker may not knowingly disclose information obtained in confidence from Seller except as authorized by Seller or required by law. Broker may not disclose to Seller any confidential information regarding any other person Broker represents or previously represented except as required by law.

11. BROKER'S AUTHORITY:

- A. Broker will use reasonable efforts and act diligently to market the Property for sale, procure a buyer, and negotiate the sale of the Property.
- B. In addition to other authority granted by this Listing, Broker may:
- (1) advertise the Property by means and methods as Broker determines, including but not limited to creating and placing advertisements with interior and exterior photographic and audio-visual images of the Property and related information in any media and the Internet;
 - (2) place a "For Sale" sign on the Property and remove all other signs offering the Property for sale or lease;
 - (3) furnish comparative marketing and sales information about other properties to prospective buyers;
 - (4) disseminate information about the Property to other brokers and to prospective buyers, including applicable disclosures or notices that Seller is required to make under law or a contract;
 - (5) obtain information from any holder of a note secured by a lien on the Property;
 - (6) accept and deposit earnest money in trust in accordance with a contract for the sale of the Property;
 - (7) disclose the sales price and terms of sale to other brokers, appraisers, or other real estate professionals;
 - (8) in response to inquiries from prospective buyers and other brokers, disclose whether the Seller is considering more than one offer, provided that Broker will not disclose the terms of any competing offer unless specifically instructed by Seller;
 - (9) advertise, during or after this Listing ends, that Broker "sold" the Property; and
 - (10) place information about this Listing, the Property, and a transaction for the Property on an electronic transaction platform (typically an Internet-based system where professionals related to the transaction such as title companies, lenders, and others may receive, view, and input information).
- C. Broker is not authorized to execute any document in the name of or on behalf of Seller concerning the Property.

12. SELLER'S REPRESENTATIONS: Except as provided by Paragraph 15, Seller represents that:

- A. Seller has fee simple title to and peaceable possession of the Property and all its improvements and fixtures, unless rented, and the legal capacity to convey the Property;
- B. Seller is not bound by a listing agreement with another broker for the sale, exchange, or lease of the Property that is or will be in effect during this Listing;
- C. any pool or spa and any required enclosures, fences, gates, and latches comply with all applicable laws and ordinances;
- D. no person or entity has any right to purchase, lease, or acquire the Property by an option, right of refusal, or other agreement;
- E. there are no delinquencies or defaults under any deed of trust, mortgage, or other encumbrance on the Property;
- F. the Property is not subject to the jurisdiction of any court;
- G. all information relating to the Property Seller provides to Broker is true and correct to the best of Seller's knowledge; and
- H. the name of any employer, relocation company, or other entity that provides benefits to Seller when selling the Property is: _____ .

13. SELLER'S ADDITIONAL PROMISES: Seller agrees to:

- A. cooperate with Broker to facilitate the showing, marketing, and sale of the Property;
- B. not rent or lease the Property during this Listing without Broker's prior written approval;
- C. not negotiate with any prospective buyer who may contact Seller directly, but refer all prospective buyers to Broker;
- D. not enter into a listing agreement with another broker for the sale, exchange, or lease of the Property to become effective during this Listing;
- E. maintain any pool and all required enclosures in compliance with all applicable laws and ordinances;
- F. provide Broker with copies of any leases or rental agreements pertaining to the Property and advise Broker of tenants moving in or out of the Property;
- G. complete any disclosures or notices required by law or a contract to sell the Property; and
- H. amend any applicable notices and disclosures if any material change occurs during this Listing.

14. LIMITATION OF LIABILITY:

- A. If the Property is or becomes vacant during this Listing, Seller must notify Seller's casualty insurance company and request a "vacancy clause" to cover the Property. Broker is not responsible for the security of the Property nor for inspecting the Property on any periodic basis.
- B. **Broker is not responsible or liable in any manner for personal injury to any person or for loss or damage to any person's real or personal property resulting from any act or omission not caused by Broker's negligence, including but not limited to injuries or damages caused by:**
 - (1) other brokers, their associates, inspectors, appraisers, and contractors who are authorized to access the Property;
 - (2) acts of third parties (for example, vandalism or theft);
 - (3) freezing water pipes;
 - (4) a dangerous condition on the Property; or
 - (5) the Property's non-compliance with any law or ordinance.
- C. **Seller agrees to protect, defend, indemnify, and hold Broker harmless from any damage, costs, attorney's fees, and expenses that:**
 - (1) are caused by Seller, negligently or otherwise;
 - (2) arise from Seller's failure to disclose any material or relevant information about the Property; or
 - (3) are caused by Seller giving incorrect information to any person.

15. SPECIAL PROVISIONS:

If, during the listing period, the seller has a concern with the service of their ERA Silver Star Realty listing agent, they may put their concern in writing and present it to the agent. The agent will have 10 days to correct the issue.

16. DEFAULT: If Seller breaches this Listing, Seller is in default and will be liable to Broker for the amount of the Broker's fee specified in Paragraph 5A and any other fees Broker is entitled to receive under this Listing. If a sales price is not determinable in the event of an exchange or breach of this Listing, the Listing Price will be the sales price for purposes of computing Broker's fee. If Broker breaches this Listing, Broker is in default and Seller may exercise any remedy at law.

17. MEDIATION: The parties agree to negotiate in good faith in an effort to resolve any dispute related to this Listing that may arise between the parties. If the dispute cannot be resolved by negotiation, the dispute will be submitted to mediation. The parties to the dispute will choose a mutually acceptable mediator and will share the cost of mediation equally.

18. ATTORNEY'S FEES: If Seller or Broker is a prevailing party in any legal proceeding brought as a result of a dispute under this Listing or any transaction related to or contemplated by this Listing, such party will be entitled to recover from the non-prevailing party all costs of such proceeding and reasonable attorney's fees.

19. ADDENDA AND OTHER DOCUMENTS: Addenda that are part of this Listing and other documents that Seller may need to provide are:

- A. Information About Brokerage Services;
- B. Seller Disclosure Notice (§5.008, Texas Property Code);
- C. Seller's Disclosure of Information on Lead-Based Paint and Lead-Based Paint Hazards (required if Property was built before 1978);
- D. MUD, Water District, or Statutory Tax District Disclosure Notice (Chapter 49, Texas Water Code);
- E. Request for Information from an Owners' Association;
- F. Request for Mortgage Information;
- G. Information about On-Site Sewer Facility;
- H. Information about Special Flood Hazard Areas;
- I. Condominium Addendum to Listing;
- J. Keybox Authorization by Tenant;
- K. Seller's Authorization to Release and Advertise Certain Information; and
- L. _____

20. AGREEMENT OF PARTIES:

- A. Entire Agreement: This Listing is the entire agreement of the parties and may not be changed except by written agreement.
- B. Assignability: Neither party may assign this Listing without the written consent of the other party.

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- C. Binding Effect: Seller's obligation to pay Broker an earned fee is binding upon Seller and Seller's heirs, administrators, executors, successors, and permitted assignees.
- D. Joint and Several: All Sellers executing this Listing are jointly and severally liable for the performance of all its terms.
- E. Governing Law: Texas law governs the interpretation, validity, performance, and enforcement of this Listing.
- F. Severability: If a court finds any clause in this Listing invalid or unenforceable, the remainder of this Listing will not be affected and all other provisions of this Listing will remain valid and enforceable.
- G. Notices: Notices between the parties must be in writing and are effective when sent to the receiving party's address, fax, or e-mail address specified in Paragraph 1.

21. ADDITIONAL NOTICES:

- A. **Broker's fees or the sharing of fees between brokers are not fixed, controlled, recommended, suggested, or maintained by the Association of REALTORS®, MLS, or any listing service.**
- B. **Fair housing laws require the Property to be shown and made available to all persons without regard to race, color, religion, national origin, sex, disability, or familial status. Local ordinances may provide for additional protected classes (for example, creed, status as a student, marital status, sexual orientation, or age).**
- C. **Seller may review the information Broker submits to an MLS or other listing service.**
- D. **Broker advises Seller to remove or secure jewelry, prescription drugs, and other valuables.**
- E. **Statutes or ordinances may regulate certain items on the Property (for example, swimming pools and septic systems). Non-compliance with the statutes or ordinances may delay a transaction and may result in fines, penalties, and liability to Seller.**
- F. **If the Property was built before 1978, Federal law requires the Seller to: (1) provide the buyer with the federally approved pamphlet on lead poisoning prevention; (2) disclose the presence of any known lead-based paint or lead-based paint hazards in the Property; (3) deliver all records and reports to the buyer related to such paint or hazards; and (4) provide the buyer a period up to 10 days to have the Property inspected for such paint or hazards.**
- G. **Broker cannot give legal advice. READ THIS LISTING CAREFULLY. If you do not understand the effect of this Listing, consult an attorney BEFORE signing.**

ERA Silver Star Realty

Broker's Printed Name 0540474 License No.

Seller Date

Sam Seller

By: _____
Broker's Associate's Signature Date

Seller Date

name of listing agent

Sally Seller