

# STATE OF MONTANA

## RELATIONSHIPS/CONSENTS IN REAL ESTATE TRANSACTIONS

(Combined Explanation and Disclosure)

Revised April 2021

*This relationship disclosure is required by Montana Law. Neither the execution of this document nor anything contained in this document shall be construed as creating a binding contract or other agreement between the parties.*

### Definition of Terms and Description of Duties

A **"Seller Agent"** is obligated to the **Seller** to:

- act solely in the best interests of the seller, except that a seller agent, after written disclosure to the seller and with the seller's written consent, may represent multiple sellers of property or list properties for sale that may compete with the seller's property without breaching any obligation to the seller;
- obey promptly and efficiently all lawful instructions of the seller;
- disclose all relevant and material information that concerns the real estate transaction and that is known to the seller agent and not known or discoverable by the seller unless the information is subject to confidentiality arising from a prior or existing agency relationship on the part of the seller agent with a buyer or another seller;
- safeguard the seller's confidences;
- exercise reasonable care, skill, and diligence in pursuing the seller's objectives and in complying with the terms established in the listing agreement;
- fully account to the seller for any funds or property of the seller that comes into the seller agent's possession; and
- comply with all applicable federal and state laws, rules, and regulations.

A **"Seller Agent"** is obligated to the **Buyer** to:

- disclose to a buyer or the buyer agent any adverse material facts that concern the property and that are known to the seller agent, except that the seller agent is not required to inspect the property or verify any statements made by the seller;
- disclose to a buyer or the buyer agent when the seller agent has no personal knowledge of the veracity of information regarding adverse material facts that concern the property;
- act in good faith with a buyer and a buyer agent; and
- comply with all applicable federal and state laws, rules, and regulations.

A **"Buyer Agent"** is obligated to the **Buyer** to:

- act solely in the best interests of the buyer, except that a buyer agent, after written disclosure to the buyer and with the buyer's written consent, may represent multiple buyers interested in buying the same property or properties similar to the property in which the buyer is interested or show properties in which the buyer is interested to other prospective buyers without breaching any obligation to the buyer;
- obey promptly and efficiently all lawful instructions of the buyer;
- disclose all relevant and material information that concerns the real estate transaction and that is known to the buyer agent and not known or discoverable by the buyer, unless the information is subject to confidentiality arising from a prior existing agency relationship on the part of the buyer agent with another buyer or a seller;
- safeguard the buyer's confidences;
- exercise reasonable care, skill, and diligence in pursuing the buyer's objectives and in complying with the terms established in the buyer broker agreement;
- fully account to the buyer for any funds or property of the buyer that comes into the buyer agent's possession; and
- comply with all applicable federal and state laws, rules and regulations.

A **"Buyer Agent"** is obligated to the **Seller** to:

- disclose any adverse material facts that are known to the buyer agent and that concern the ability of the buyer to perform on any purchase offer;
- disclose to the seller or the seller agent when the buyer agent has no personal knowledge of the veracity of information regarding adverse material facts that concern the ability of the buyer to perform on any purchase offer;
- act in good faith with a seller and a seller agent; and
- comply with all applicable federal and state laws, rules and regulations.

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**DUAL AGENCY** IF A SELLER AGENT IS ALSO REPRESENTING A BUYER OR A BUYER AGENT IS ALSO REPRESENTING A SELLER WITH REGARD TO A PROPERTY, THEN A DUAL AGENCY RELATIONSHIP MAY BE ESTABLISHED. IN A DUAL AGENCY RELATIONSHIP, THE DUAL AGENT IS EQUALLY OBLIGATED TO BOTH THE SELLER AND THE BUYER. THESE OBLIGATIONS MAY PROHIBIT THE DUAL AGENT FROM ADVOCATING EXCLUSIVELY ON BEHALF OF THE SELLER OR BUYER AND MAY LIMIT THE DEPTH AND DEGREE OF REPRESENTATION THAT YOU RECEIVE. A BROKER OR A SALESPERSON MAY NOT ACT AS A DUAL AGENT WITHOUT THE SIGNED, WRITTEN CONSENT OF BOTH THE SELLER AND THE BUYER.

A **"Dual Agent"** is obligated to a seller in the same manner as a seller agent and is obligated to a buyer in the same manner as a buyer agent, except that a dual agent:

- has a duty to disclose to a buyer or seller any adverse material facts that are known to the dual agent, regardless of any confidentiality considerations; and
- may not disclose the following information without the written consent of the person to whom the information is confidential;
  - (i) the fact that the buyer is willing to pay more than the offered purchase price;
  - (ii) the fact that the seller is willing to accept less than the purchase price that the seller is asking for the property;
  - (iii) factors motivating either party to buy or sell; and
  - (iv) any information that a party indicates in writing to the dual agent is to be kept confidential.

A **"Statutory Broker"** is not the agent of the buyer or seller but nevertheless is obligated to them to:

- disclose to:
  - (i) a buyer or a buyer agent any adverse material facts that concern the property and that are known to the statutory broker, except that the statutory broker is not required to inspect the property or verify any statements made by the seller; and
  - (ii) a seller or a seller agent any adverse material facts that are known to the statutory broker and that concern the ability of the buyer to perform on any purchase offer;
- exercise reasonable care, skill, and diligence in putting together a real estate transaction, and
- comply with all applicable federal and state laws, rules and regulations.

An **"Adverse material fact"** means a fact that should be recognized by a broker or salesperson as being of enough significance as to affect a person's decision to enter into a contract to buy or sell real property and may be a fact that:

- (i) materially affects the value, affects structural integrity, or presents a documented health risk to occupants of the property; or
- (ii) materially affects the buyer's ability or intent to perform the buyer's obligations under a proposed or existing contract.

"Adverse material fact" does not include the fact that an occupant of the property has or has had a communicable disease or that the property was the site of a suicide or felony.

## Disclosures/Consents

The undersigned Broker/Salesperson hereby discloses the relationship(s) as checked below, and the undersigned Seller or Buyer acknowledges receipt of such disclosure(s) and consents to the relationship(s) disclosed.

Check Applicable Relationship(s): ☐ Seller Agent ☐ Buyer Agent ☐ Dual Agent ☐ Statutory Broker

Seller: ☐ Consents to Broker/Salesperson representing multiple sellers of property that may compete with the Seller's property  
☐ Consents to Broker/Salesperson potentially acting as a dual agent.

Buyer: ☐ Consents to Broker/Salesperson representing multiple buyers interested in the same or similar properties in which Buyer is interested and showing properties in which Buyer is interested to other prospective buyers.  
☐ Does NOT consent to Broker/Salesperson submitting offers which may compete with Buyer's offer on the SAME property.  
☐ Consents to Broker/Salesperson potentially acting as a dual agent

☐ Seller ☐ Buyer / \_\_\_\_\_  
Date

\_\_\_\_\_/\_\_\_\_\_  
Broker/Salesperson Date

☐ Seller ☐ Buyer / \_\_\_\_\_  
Date

