



*Building Careers and Communities*

Nova Scotia Real Estate Commission



## TWO AGENCY MODELS

There are two different agency models practiced by brokerages in Nova Scotia: Common Law Agency and Designated Agency. The REALTOR® reviewing this brochure with you will indicate which model their brokerage uses.

### COMMON LAW AGENCY

Under this model, all REALTORS® working for the Brokerage have an agency relationship with the Seller, which means that they all legally represent the Seller under the common law. If you, as a Buyer, have entered into a relationship with a REALTOR® working with this Brokerage and are interested in negotiating on a property offered for sale by this Brokerage, you would normally enter into a Transaction Brokerage relationship, as described in this brochure. If you have not had a previous relationship with a REALTOR® of this Brokerage, you would be provided services as a Customer as described in this brochure.

### DESIGNATED AGENCY

This model allows for a Seller to be represented by a specific REALTOR® rather than the whole Brokerage. This means that all REALTORS® at the Brokerage do not represent every Seller listed with the Brokerage. This model also allows a Buyer to be represented by their own REALTOR® in any negotiations that they may do, regardless of whether the property they are interested in is listed with that Brokerage or another one. This is called Designated Agency because the Brokerage designates that the REALTORS® represent specific Buyers or Sellers. Should the same REALTOR® happen to represent both a Buyer and Seller that end up wanting to negotiate, then that REALTOR® would normally act as a Transaction Facilitator for the purposes of the real estate transaction.

In the situations described above where Transaction Brokerage is offered, a Buyer or Seller may decide they want facilitation, or they may insist on full representation, thus not consent to Transaction Brokerage. This would mean that either the Buyer or Seller would either be treated as a Customer or would get a REALTOR® from another Brokerage to represent them.

## DEFINITIONS

The **Brokerage (Agent)** is the real estate company under which the individual Salesperson or Associate Broker is licensed.

**REALTOR®** refers to a member of the Canadian Real Estate Association who is licensed under the Real Estate Trading Act to trade in real estate.

**Association/Board** is the Nova Scotia Association of REALTORS® (NSAR) or a Member Board of the NSAR.

The **Client/Principal** is someone who has engaged a Brokerage in an agency relationship to act for, and on their behalf, either to buy or sell real estate.

The **Customer** is a person who has not engaged a Brokerage to act for, and on their behalf, either to buy or sell real estate.

## PRIVACY

REALTORS® recognize and respect the privacy expectations of today's consumers and the requirements of applicable federal law. REALTORS® believe that making you aware of how your personal information will be used and to whom it is disclosed will form the basis of a relationship of trust between you and your REALTOR®. Your informed consent is required for the collection, use and retention of personal information.

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# Working with a REALTOR®

## An explanation of the relationship between you and your REALTOR®

Buying or selling a home is probably the most important and potentially rewarding financial transaction you'll make in your life. So it's a good idea to take a moment and consider the kind of relationship you might be entering into with your REALTOR®. The more you know, the more satisfied you'll be with the results.



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## A CLIENT RELATIONSHIP

REALTORS® work within a legal relationship called agency. The agency relationship exists between you, the Client/Principal, and your Agent, the Brokerage with whom the REALTOR® representing you, is licensed. The essence of the agency relationship is that the Brokerage has the authority to represent you in dealings with others.

Brokerages are legally obligated to protect and promote your interests as if they were their own. Your REALTOR® has the following duties:

- ✓ to protect and promote your negotiating position at all times, and disclose all known facts which may affect or influence your decision (undivided loyalty);
- ✓ to obey all your lawful instructions;
- ✓ to keep your confidences;
- ✓ to exercise reasonable care and skill in performing all assigned duties; and
- ✓ to account for all money and property placed in their possession while acting on your behalf.

Your REALTOR® will also:

- ✓ explain real estate terms and practices;
- ✓ provide and explain forms used;
- ✓ identify and estimate costs involved in a transaction;
- ✓ negotiate on your behalf;
- ✓ prepare offers or counter offers at your direction; and
- ✓ present all offers promptly.

## A CUSTOMER RELATIONSHIP

You may also choose to use the services of a REALTOR® without any kind of agency relationship. This might occur, for example, when the Seller's REALTOR® is showing you a property.

In this relationship, the REALTOR® has a legal and ethical duty to provide you with accurate and honest answers to questions and can provide you with all of the following services:

- ✓ explain real estate terms and practices;
- ✓ provide and explain forms used;
- ✓ identify and estimate costs involved in a transaction;
- ✓ prepare offers or counter offers at your direction; and
- ✓ present all offers promptly.

A REALTOR® who is not representing you cannot:

- ✗ recommend or suggest a price other than that given by the Seller;
- ✗ negotiate on your behalf;
- ✗ inform you of the Client's top/bottom line; and
- ✗ disclose any confidential information about the Client unless specifically authorized to do so.

You should not provide a REALTOR® who is not your Agent with any information that you would not provide directly to the other party.

## TRANSACTION BROKERAGE

Transaction Brokerage occurs when a real estate Brokerage or Designated Agent is representing both the Buyer and the Seller, as Clients, in the same transaction. Since the Brokerage has promised a duty of confidentiality, loyalty and full disclosure to both Clients simultaneously, it is necessary, if both Clients consent, to limit these duties in this situation.

The REALTOR® will, for both the Buyer and Seller:

- ✓ explain real estate terms and practices;
- ✓ provide and explain forms used;
- ✓ identify and estimate costs involved in a transaction;
- ✓ prepare offers or counter offers at your direction; and
- ✓ present all offers promptly.

Under this relationship, the REALTOR® cannot:

- ✗ recommend or suggest a price other than that given by the Seller;
- ✗ recommend to the Buyer what they should offer;
- ✗ negotiate on either parties behalf;
- ✗ inform either party of the other's top/bottom line; and
- ✗ disclose any confidential information about the other party unless specifically authorized to do so.

## ACKNOWLEDGEMENT

I acknowledge having received and read the brochure "Working with a REALTOR®" from the REALTOR® named below and have obtained satisfactory answers to any questions that it raised. I understand the various types of relationships that may occur between a REALTOR® and me. I further understand that I will be signing additional documentation acknowledging the type of agency that I receive.

This is not a service agreement and does not impose any contractual obligations.

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Name of REALTOR®

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Brokerage (Company)

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Signature (Please also print name)

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Signature (Please also print name)

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Date

### Note:

This panel is to be detached and retained in the Brokerage files.

## Responsibilities of Buyers or Sellers

As a Buyer or Seller you should carefully read all documents and understand what you are signing. If you need specialized advice, consult other professionals such as lawyers, accountants, home inspectors, contractors, engineers and surveyors.