

XI. REFERRAL AGREEMENT (MSC-4015)

The MAR form Referral Agreement (“**Agreement**”) is designed to allow for referral of a REALTOR®’s existing client or prospect to another licensed real estate broker, and to establish the amount of any compensation to be paid to the referring REALTOR® upon closing of a subject transaction involving the referred client. The entire Agreement is to be generated and completed by the referring REALTOR®, and then sent to the Destination Broker, who is to sign the same and return it to the referring REALTOR® to indicate its agreement to the terms thereof.

The Agreement is designed to be used only by and between licensed real estate brokers. §339.150.2 RSMo. technically also allows for payment of part of a fee, commission or other compensation received to “*a person regularly engaged in the real estate brokerage business outside of the State of Missouri,*” but it is (at best) unclear whether this language is truly intended to apply to unlicensed persons. Therefore, in any event, the form Agreement should not be used for such situation). Subject thereto, it may be used in connection with any type of transaction (*e.g.*, residential, farm, land, condos, commercial, *etc.*). The particulars of the Agreement are described below.

A	Check the applicable blank to indicate whether the client being referred is a prospective seller or buyer. If the referred client is interested in a lease transaction or some other specific interest in real estate, provide sufficient explanation at the “ <i>Special Needs and Instructions</i> ” section (“C”).
B-D	<p>In the first section of the Agreement (“Client Information”) insert the name, address and relevant contact information for the client to be referred at “B”. Provide appropriate explanation of any specific or special needs and instructions which have been identified by the client or are known to the referring REALTOR® at “C”. Additional pages may be attached and referenced if needed. If available and agreed to by the client, insert the client’s email address at “D”.</p> <p>Note: Before providing any personal or confidential information about a client to another person, a REALTOR® is cautioned and encouraged to always obtain that client’s prior informed written consent.</p>
E-G	<p>At the beginning of the second section of the Agreement (“Destination Broker”) identify at “E” the name of the actual brokerage company to whom the referral is being made, followed by its address, phone and fax number, the printed name of the designated broker authorized to enter into the Agreement on its behalf, and his or her email address. This is designed to accurately identify the Destination Broker and its current contact information. If the client and Referring Broker identify and agree upon a specific agent at the office of the Destination Broker who is to handle the referral, set forth his or her name, phone number and email address at “F”. Otherwise, this section may be left blank at the time the Referring Broker initially prepares the Agreement. If the Destination Broker appoints a specific agent to handle the referral, it should complete this information before returning the signed Agreement to the Referring Broker.</p> <p>The paragraph at the end of the second section provides that a referral payment is to be paid only upon closing of a transaction involving the referred client. Establish the amount of any referral payment to be made (at “G”) by specifying a percentage of the gross amount of the applicable commission (<i>i.e.</i>, the “listing” or</p>

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Client Information (check one): Seller Buyer

Name: _____

Address: _____

Home Phone: _____

Work/Cell Phone: _____

Fax: _____

Client Special Needs & Instructions: _____

Client E-Mail: _____

Destination Broker

Firm Name: _____

Address: _____

Phone: _____

Fax: _____

Designated Broker: _____

E-Mail: _____

Assigned Agent: _____

Agent's Phone: _____

Agent E-Mail: _____

The undersigned Destination Broker accepts this referral and upon closing, if any, of a transaction involving the above client, agrees to pay _____ % of the gross amount of the (check one) Listing Selling side of the commission to the following Broker referring client.

Referring Broker

Firm Name: _____

Address: _____

Phone: _____

Fax: _____

Designated Broker: _____

E-Mail: _____

Referring Agent: _____

Agent's Phone: _____

Agent E-Mail: _____

Special Terms and Agreements: _____

Destination Broker further agrees that this referral shall remain valid for a period of _____ from the date signed below (unless a different effective date is specified).

Destination Broker

Authorized Signature: _____

Print Name: _____

Date Signed: _____

Referring Broker

Authorized Signature: _____

Print Name: _____

Date Signed: _____

Destination Broker, please sign and return to the Referring Broker/Agent identified above.

	<p>“selling” side) by checking the applicable box.</p> <p>Note: The Agreement is not designed to allow for the payment of a specific dollar amount (either at a closing or “up-front”) as a basic non-refundable payment in exchange for the fact of simply making a referral. As always, a REALTOR® should make and include appropriate revision and explanation, as may be necessary under the circumstances, such that the Agreement accurately reflects the intentions and understanding of the parties thereto.</p>
H-I	<p>In the third section of the Agreement (“Referring Broker”) identify (at “H”) the name of the actual brokerage company making the referral, followed by its address, phone and fax number, the printed name of the designated broker authorized to provide the referral on its behalf, and his or her email address. This is designed to provide the Destination Broker with current contact information so that it may keep the Referring Broker abreast of the status of any possible transactions, and to follow up if any questions or further advice or consultation is needed or desired. If the referral was generated or procured by a specific agent in the Referring Broker’s office (<i>e.g.</i>, a licensee who may have an expectation of payment of all or some portion of a referral payment, or a long-standing relationship and awareness or understanding of any special needs, requirements or preferences of the client), then that agent should be identified at “I”. This should assist recordkeeping activities and any further necessary dialogue between the brokerage companies regarding the client and its activities.</p>
J	<p>Use this section to include any “Special Terms and Agreements” reached between the parties. Note in this regard, for instance, that the form Agreement does not specify whether or not payment of a specified referral fee is to be made on a “one-time basis” only, or if multiple payments (<i>e.g.</i>, in the event of multiple transactions) are contemplated. As always, a REALTOR® should address, as specifically and with as much detail as reasonably possible, the exact terms of the relationship contemplated by the parties to the Agreement.</p>
K	<p>The Agreement does not specify a default time period for which it is to remain in effect. That issue is essentially “case specific” and depends on the facts and circumstances involved in any given situation. It would be appropriate to insert (at “K”) any specific or limited time period agreed upon for which the Agreement is to remain in effect.</p> <p>Note: As a pure legal matter, any agreement that is not specific as to duration or time for performance (<i>i.e.</i>, that might last “forever”) is not favored in the eyes of the law and may be susceptible to challenge of invalidity based on an argument of “void for vagueness” or violation of the “Rule Against Perpetuities.” The basic premise of the latter is that in order for there to be an enforceable covenant and obligation pursuant to an agreement between parties, the triggering event must happen, if at all, within the lifetime of a living person plus an additional 21 years. Accordingly, an Agreement that is stated to last “forever” (or without any expiration date) may be subject to challenge, but an Agreement that is limited in duration as set forth above should withstand legal scrutiny in that regard.</p>

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Client Information (check one): Seller Buyer

Name: _____

Address: _____

Home Phone: _____

Work/Cell Phone: _____

Fax: _____

Client Special Needs & Instructions: _____

Client E-Mail: _____

Destination Broker

Firm Name: _____

Address: _____

Phone: _____

Fax: _____

Designated Broker: _____

E-Mail: _____

Assigned Agent: _____

Agent's Phone: _____

Agent E-Mail: _____

The undersigned Destination Broker accepts this referral and upon closing, if any, of a transaction involving the above client, agrees to pay _____ % of the gross amount of the (check one) Listing Selling side of the commission to the following Broker referring client.

Referring Broker

Firm Name: _____

Address: _____

Phone: _____

Fax: _____

Designated Broker: _____

E-Mail: _____

Referring Agent: _____

Agent's Phone: _____

Agent E-Mail: _____

Special Terms and Agreements: _____

Destination Broker further agrees that this referral shall remain valid for a period of _____ from the date signed below (unless a different effective date is specified).

Destination Broker

Authorized Signature: _____

Print Name: _____

Date Signed: _____

Referring Broker

Authorized Signature: _____

Print Name: _____

Date Signed: _____

Destination Broker, please sign and return to the Referring Broker/Agent identified above.

	<p>Further note that the Agreement does not purport to create any sort of “Protection Period” rights (like the MAR form exclusive listing and brokerage service relationship agreements).</p>
<p>L-M</p>	<p>The Agreement is to be signed and dated (at “M”) by the Referring Broker before it is sent. It will typically be sent along with an explanatory cover letter or similar communication from the Referring Broker. Such a letter should not be used as a substitute to set forth terms and conditions of the referral that are not included in the Agreement itself (at least unless it is specifically referenced and incorporated therein as a part thereof). Nevertheless, a copy of any such communication should be retained in the REALTOR®’s files, along with the Agreement itself, to help protect and defend against any possible claims.</p> <p>Upon receipt from a Referring Broker, the Destination Broker (assuming it agrees with the terms set forth therein), should cause its designated broker to sign and print his or her name and the date thereof (at “L”). Unless specified otherwise in the Agreement (which may be necessary or appropriate in certain circumstances) the date of the Destination Broker’s signature is designed to constitute the “<i>effective date</i>” of the Agreement.</p> <p>It should be expected that after making a referral, a Destination Broker will likely enter into a separate new listing (or buyer or other) agency or transaction brokerage agreement with the referred client. In such case, it is considered to be “<i>best practice</i>” to make appropriate reference in that new agreement to the cooperative relationship between the Destination Broker and the Referring Broker (so the client’s informed consent thereto can be acknowledged and established). REALTOR®s are also reminded of their obligations to make sure that an accurate and complete closing statement setting forth (among other things) “<i>all monies received by broker in the transaction, (and) the amount, and payee(s) of all disbursements made by the broker...</i>” is prepared and signed by the parties. 20 CSR 2250-8.150(2). While at least arguably these requirements do not apply to payment of a referral fee, nevertheless, it is still considered “<i>best practice</i>” (and the most conservative approach) to disclose the same.</p>

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 Address: _____

 Home Phone: _____
 Work/Cell Phone: _____
 Fax: _____

Client Special Needs & Instructions: _____

 Client E-Mail: _____

Destination Broker

Firm Name: _____
 Address: _____

 Phone: _____
 Fax: _____

Designated Broker: _____
 E-Mail: _____
 Assigned Agent: _____
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Referring Broker

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Destination Broker further agrees that this referral shall remain valid for a period of _____ from the date signed below (unless a different effective date is specified).

Destination Broker

Authorized Signature: _____
 Print Name: _____
 Date Signed: _____

Referring Broker

Authorized Signature: _____
 Print Name: _____
 Date Signed: _____

Destination Broker, please sign and return to the Referring Broker/Agent identified above.