



**Dual Agency Consent Addendum**  
**Hawaii Association of Realtors® Standard Form**  
**Revised For Release**

ANNOTATED - For use during  
 9/5/19 SFC Mtg



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**HAWAII ADMINISTRATIVE RULES TITLE 16 CHAPTER 99 REQUIRES THAT A WRITTEN DISCLOSURE OF DUAL AGENCY SHALL BE DISCUSSED WITH THE BUYER AND/OR SELLER AT LEAST ONCE MADE PRIOR TO ENTERING INTO ANY WRITTEN CONTRACT, AND THIS DUAL AGENCY CONSENT ADDENDUM SHALL BE SIGNED BY BUYER AND/OR SELLER BEFORE SIGNING A WRITTEN CONTRACT.**

Purchase Contract Reference Date: \_\_\_\_\_

Property Reference or Address: \_\_\_\_\_

Tax Map Key: Div. \_\_\_\_\_/Zone \_\_\_\_\_/Sec. \_\_\_\_\_/Plat \_\_\_\_\_/Parcel \_\_\_\_\_/CPR \_\_\_\_\_ (if applicable).

**A-1 DISCLOSURE BACKGROUND:**

—Hawaii Revised Statutes and administrative rules require that all agency disclosures be made in writing prior to the signing of a listing or purchase contract. It is very probable that the brokerage firm and its agents may represent multiple clients with competing interest due to the number of real estate licensees affiliated with the firm and the number of clients that they represent.

**A-2 DUAL AGENCY:**

This situation is referred to as a dual agency. A Dual Agency Relationship exist when a brokerage firm represents two or more principals with conflicting interest. These conflicts may or may not be known to individual agents of the brokerage firm. A Dual Agency Relationship may exist when one or more of the following occur:

- (a) ~~Brokerage Firm~~ 1. The brokerage firm is representing both ~~Buyer~~the buyer and ~~Seller~~seller in a transaction.
- 2. ~~(b) Brokerage Firm~~The brokerage firm represents two or more buyers who are searching for similar properties thereby creating a conflict of interest.
- 3. The brokerage firm represents two or more sellers with similar properties thereby creating a conflict of interest.
- 4. The brokerage firm has represented the ~~Buyer~~buyer or the ~~Seller~~seller as a previous client and ~~Brokerage Firm~~the brokerage firm and all its licensees owe a fiduciary duty of confidentiality.

Dual Standard Dual Agency practices require that dual agents must remain neutral in all negotiations and must not advance the interest of one party over the other.

**A-3 CREATION OF THE CLIENT/AGENT RELATIONSHIP:**

The client/agent relationship may be created in several ways. The preferred method is by express written agreement prior to the agent performing the duties associated with agency. However, it is also possible that an agency relationship, specifically a dual agency relationship could be created without the knowledge of all those concerned. Examples would be; two or more agents of the same firm represent multiple buyers seeking similar properties, thereby creating a conflict of interests, without the knowledge of the client, agent. Similarly, two sellers of similar properties are competing for the same buyer without the knowledge of the clients, agents.

Buyer/Seller's Initials	Date	Buyer/Seller's Initials	Date
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**A-4 DISCLOSURE:**

The brokerage firm and all its agents owe fiduciary duties to the clients. These duties include the duty of (1) loyalty, (2) obedience (to all lawful directives), (3) disclosure of material facts known to the agent that may influence the client's decision in the specific matter, (4) skill, care and diligence in the performance of services, (5) accounting and (6) confidentiality of any personal information that an agent may learn about their client.

**A-5 BROKERAGE FIRM AND LICENSEE'S OBLIGATIONS:**

\_\_\_\_\_  
 BUYER'S INITIALS & DATE

\_\_\_\_\_  
 SELLER'S INITIALS & DATE



~~Seller~~Buyers and ~~Buyer~~sellers understand that, in a dual agency relationship, where both ~~Buyer and Seller~~parties are represented by the same ~~Brokerage Firm~~brokerage firm, services which can be provided by the ~~Brokerage Firm~~brokerage firm and its ~~licensees~~agents, under Hawaii law, are limited. ~~Brokerage Firm~~The brokerage firm can only act to facilitate the transaction. ~~Seller's and Buyer's individual licensees~~The agents remain obligated by law to disclose any material facts concerning the ~~Property~~property known to them personally.

### **What the Brokerage Firm and its licensees CAN do for Sellers and Buyers:**

#### **A-6 SERVICES THAT THE BROKERAGE FIRM AND ITS LICENSEES CAN PROVIDE FOR THE PARTIES:**

- 1. Treat ~~the Seller and Buyer~~all clients honestly.
- 2. Provide information to ~~Buyer~~the clients about the ~~Property~~property and ~~the~~ community.
- 3. Respond to questions from ~~Buyer~~the clients about the ~~Property~~property.
- 4. Disclose to ~~Buyer~~the clients, pursuant to Hawaii law, all material facts about the ~~Property~~property known to ~~Brokerage Firm~~the brokerage firm.
- 5. Disclose to ~~Seller~~the seller the financial qualifications which have been provided with the permission of ~~Buyer~~the buyer.
- 6. Explain real estate forms, terms and procedures.
- 7. ~~Listing Agent~~The listing agent at ~~Seller's~~the seller's direction may continue to market the ~~Property~~property and solicit additional offers.
- 8. ~~Buyer's Agent~~The buyer's agent at ~~Buyer's~~the buyer's direction may continue to search for and prepare offers on other properties.
- 9. Assist in arranging property inspections.
- 10. Explain closing costs and procedures.
- 11. Assist ~~Buyer~~clients in comparing financial alternatives.
- 12. Provide information about comparable properties so that ~~Buyer and Seller~~clients can make an educated/informed decision as to what price to offer or accept.
  - ~~Prepare the Purchase Contract that will include the standard provisions and disclosures for Buyer and Seller.~~
- 13. Work diligently to facilitate the sale and advise ~~Seller and Buyer~~clients when experts (legal, survey, accounting, architectural, engineering, inspections etc.) should be retained.

14. ~~What~~Prepare contracts that will include the ~~Brokerage Firm~~standard provisions and ~~its agents CANNOT do~~disclosure for ~~Sellers~~buyer and ~~Buyers~~sellers

#### **A-7 SERVICES THAT THE BROKERAGE FIRM AND ITS LICENSEES CANNOT PROVIDE:**

- 1. Cannot disclose confidential information that ~~Brokerage Firm~~the brokerage firm or its agents may know about ~~Seller and/or Buyer~~the client (e.g., motivation to buy/sell/buy, price/terms, negotiating strategy, etc.) without express written permission of ~~Seller and/or Buyer~~the client.
- 2. Cannot disclose the price ~~Seller~~the client will accept, ~~other than the listing price~~, without ~~the~~ express written permission of ~~Seller~~the client.
  - ~~Cannot disclose the price Buyer is willing to pay without express written permission of Buyer.~~
- 3. Cannot recommend or suggest a price ~~Buyer~~the buyer should offer or pay for the ~~Property~~property.
- 4. Cannot recommend or suggest a price ~~Seller~~the seller should accept or counter for the ~~Property~~property.

#### **A-38 POTENTIAL CONFLICTS:**

- ~~(a)~~1. ~~Brokerage Firm~~The brokerage firm may have agreements to represent other ~~Buyers~~buyers, whether such representation arises prior to, during, or after the termination of this ~~Contract~~Buyer contract. ~~Buyer~~the buyer agrees, consents, and waives any objections to such representations.
- ~~(b)~~2. ~~Brokerage Firm~~The brokerage firm may have agreements with other ~~Sellers~~sellers to market and sell their property. ~~Seller~~The seller agrees, consents and waives any ~~objections~~objection should ~~Brokerage Firm~~the brokerage firm list and show similar properties as ~~Seller's~~the seller's property.

**NOTICE:-** It is strongly recommended that the parties seek legal counsel prior to signing this Standard Dual Agency Consent Addendum.

#### **ACKNOWLEDGEMENT:**

**By signing below, Seller all signatories are acknowledging that they have read and Buyer understand this document. The parties understand and acknowledge the Standard Dual Agency representation of all parties by the brokerage firm and consent to the brokerage firm engaging in such Dual Agency. All parties are giving written consent and agree to the type of representation described above. Seller and Buyer understand and acknowledge the dual agency representation provided above. (Note: All clients with potential conflicts may not be known at the time of Seller and Buyer by Brokerage Firm and consent to Brokerage Firm and associated licensees engaging in such dual agency representation signing due to the potentially large number of clients being served by the brokerage firm.)**

Buyer \_\_\_\_\_ Date \_\_\_\_\_

Seller \_\_\_\_\_ Date \_\_\_\_\_

Buyer \_\_\_\_\_ Date \_\_\_\_\_

Seller \_\_\_\_\_ Date \_\_\_\_\_

"BUYER"

"SELLER"

By \_\_\_\_\_  
Agent assisting Buyer \_\_\_\_\_ Date \_\_\_\_\_

By \_\_\_\_\_  
Agent assisting Seller \_\_\_\_\_ Date \_\_\_\_\_

By \_\_\_\_\_  
Principal Broker/Broker-In-Charge \_\_\_\_\_ Date \_\_\_\_\_

By \_\_\_\_\_  
Principal Broker/Broker-In-Charge \_\_\_\_\_ Date \_\_\_\_\_

**NOTE:** THERE IS NO WARRANTY ON PLAIN LANGUAGE. An effort has been made to put this agreement into plain language. But there is no promise that it is in plain language. In legal terms, THERE IS NO WARRANTY, EXPRESSED OR IMPLIED, THAT THIS AGREEMENT COMPLIES WITH CHAPTER 487A OF THE HAWAII REVISED STATUTES. This means that the Hawaii Association of REALTORS® is not liable to any Buyer, Seller, or other person who uses this form for any damages or penalty because of any violation of Chapter 487A. People are cautioned to see their own attorneys about Chapter 487A (and other laws that may apply).

