

Red Hot Realty
26560 Agoura Rd. Ste 103A
Calabasas, CA 91302

Broker – Sales Associate Agreement

Last modified: September 24, 2008

Prepared by:

Red Hot Realty

1. E-Mail						
2. Name						
3. Mailing Address						
4. Residence Address						
5. Home Phone						
6. Business Phone						
7. Cell Phone						
8. Real Estate License #						
9. Expiration Date						
10. Type of Real Estate License	Broker			Salesperson		
11. Former Firm Name						
12. Number of years in business						
13. Social Security #						
14. Driver License # and the State						
15. Birth Date						
16. Other Occupation						
17. In Case of emergency contact						
18. How did you hear about us:	Letter	E-mail	Boards ad	Postcard	Referred	other
19. If referred, by who?						

Broker – Sales Associate Agreement
(Independent Contractor)

THIS AGREEMENT (“Agreement”) is made, entered into and effective as of this _____ day of _____, 200____ by and between Pacific Expert Witness & Construction, INC. dba Red Hot Realty, (Herein “Broker”), and _____ (“Sales Associate”), and is based upon the following facts:

RECITALS

- Broker is a licensed real estate broker, duly licensed by the State of California.
- Broker maintains an office, properly equipped with furnishings and other equipment, necessary and incidental to the proper operation of business, and staffed suitable to serving the public, as a real estate broker’s office.
- Sales Associate is a real estate licensee, duly licensed by the State of California.

NOW THEREFORE, for good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, and the mutual covenants herein contained, it is understood and agreed as follows:

AGREEMENT

- 1) The Recitals set forth above are incorporated herein by reference.
- 2) Sales Associate agrees to act as a real estate salesperson/broker for Broker, which has its main office located in the city of Calabasas, County of Los Angeles, state of California. Subject to the terms and conditions of this Agreement, Broker will from time to time appoint salespersons to do the following: sell, offer to sell, solicit prospective sellers or purchasers, solicit or obtain listings, or negotiate the purchase, sale or exchange of real property. Broker reserves the right, in its sole and absolute discretion, from time to time, to appoint other salespersons to

perform similar services upon such terms and conditions as may be agreed upon by Broker and such other salespersons.

- 3) Scope of Agency: Sales Associate does not and shall not have, or represent that he or she has, any authority to enter into, or obligate or commit Broker to, any agreement to sell, list, or represent at purchaser of real property, and Sales Associate shall have no authority to bind Broker by any promise or representation without Broker's prior written approval.
- 4) Broker shall have no right, EXCEPT TO THE EXTENT REQUIRED BY LAW, to direct, control, or limit Sales Associate's activities as to hours, leads, floor time, production, prospects, reports, sales, meetings, schedule, services, inventory, time off, training, vacation or other similar activities. However, broker reserves the right, at broker's sole discretion, to reject any listings or transactions presented by sales associate for review or approval by Broker, without recourse.
- 5) Until termination hereof, Sales Associate agrees to work, as an independent contractor, and to use his or her best efforts to solicit buyers and sellers, customers, and assist prospective clients in obtaining or selling real property and otherwise promote the business of Broker in serving the public. Sales Associate assumes and agrees to perform no other activities in association with Broker, except as set out in paragraph 2 of this Agreement for the parties' mutual benefit, and to do so in accordance with law and with the ethical and professional standards as required in paragraph 6 below. Nothing contained in this Agreement shall be deemed or construed as creating a partnership, joint venture or fiduciary relationship between Broker and Sales Associate or between either Broker or Sales Associate and any third party, or cause either Broker or Sales Associate to be responsible in any manner for the debts or obligations of the other, or any third party. It is the parties' intention that so far as shall be in conformity with law, the Sales Associate shall be an independent contractor and not Broker's employee, and in conformity therewith, that Sales Associate retain sole and absolute discretion and judgment in the manner and means of carrying out Sales Associate's soliciting, negotiating, selling and listing activities. Sales Associate

acknowledges that as an independent contractor he or she is not entitled to workers compensation insurance from Broker.

- 6) Sales Associate agrees to commit no act of a type for which the Real Estate Commissioner of the State of California is authorized by section 10176 or any other sections of the California Business and Professions code to suspend or to revoke a real estate license. Sales Associate agrees to become a member of the Board of Realtors Inc. in the primary area in which Broker and Sales Associate is located and abide by the rules, bylaws and regulations of every board in which Broker is a member for the term of this agreement. Should disciplinary action be taken by the board against Broker or Sales Associate due to Sales Associates activities or omissions, Sales Associate shall be responsible and liable (and shall hold broker harmless) as to all fines and payment thereof within the allotted payment periods for such fines.
- 7) Commissions payable to Sales Associates shall be based upon: (a) Sales Associate being the procuring cause of the transaction and that the sales were initiated, generated and substantially serviced by Sales Associate and have actually resulted in a "completed sale" (As used herein a "completed Sale" shall be deemed to be a sale of real property, the escrow of which has closed and the title thereto has passed to the purchaser) and (b) the total amount of net commissions/fees actually collected by Broker, less any and all fees, costs and expenses incurred by Broker in connection with such transaction (not previously collected by Broker), including, without limitation, messenger fees, appraisal fees, credit history report costs, property report expenses, Broker fee on each "completed sale" and any and all other costs, expenses or fees ("Net Fees"). Commissions payable to Sales Associate shall be ONE HUNDRED PERCENT (100%) of NET FEES actually collected in accordance with the Commission Schedule attached hereto as Exhibit "A" and incorporated herein by reference. Commissions shall be paid to Sales Associate by Broker when Broker has in fact received his commissions/fees for such transaction and the commission/fee check has cleared the Broker's bank account.

- 1) In compliance with Section 10138 of the California Business and Professions Code, all commissions will be received by Broker. Sales Associate's share of such commissions, however, shall be payable to Sales Associate as soon as reasonably practical after collection or as mutually agreeable, in accordance with the terms hereof.

- 8) Sales Associate acknowledges that because of the nature of real estate sales transactions, it is important that sales associate completes all his or her transactions before terminating this contract. In the event that Sales Associate ceases his or her services before the transaction becomes a "completed sale", Sales Associate shall only receive a partial commission as follows:
 - 1) Seventy percent (70% of the commission set forth in Exhibit "A" if the transaction is not a "completed sale" within 30 days of the date on which Sales Associate ceases his or her services on an individual transaction.
 - 2) Fifty percent (50%) of the commission set forth in Exhibit "A" if the transaction is not a "completed sale" within 60 days of the date on which Sales Associate ceases his or her services on an individual transaction.
 - 3) Associate is not entitled to any commission if the transaction is completed any time after 60 days.

- 9) Sales Associate agrees to pay Broker the sign up fee and brokerage and management fees as set forth in Exhibit "A", attached hereto and incorporated herein.

- 10) Sales Associate shall give Broker prior written notice of his or her intention to participate as a principal in any real estate transaction. The notice shall include any and all information that Broker deems pertinent to such transaction. Sales Associate shall not participate as a principal in any real estate transaction in which any present customer of Broker or person reasonably expected to become a customer of Broker also is a principal; in which Broker or any agent or employee of Broker is a real estate agent or broker; unless Broker expressly allows such participation in writing.

- 11) Sales Associate shall not use any form of agreement or document except those furnished to him or her by Broker or forms printed and approved by the California Association of Realtors. In accordance with law, Sales Associate agrees that any and all documents, including but not limited to listing agreements and deposit receipts, and all engagement in connection with the real estate brokerage business, shall be taken in the name of Broker. Sales Associate shall use only such advertising materials, documents, forms and promotional materials and techniques in connection with his or her responsibilities hereunder, as approved by Broker.
- 12) In the event of any refund by Broker to purchasers or sellers, any sums paid to Sales Associate as a commission in connection therewith shall be promptly repaid to Broker by Sales Associate. Any such sums, advanced by Broker for benefit of Sales Associate, and not repaid by Sales Associate shall become a claim against other commissions due Sales Associate, and Broker reserves the right to withhold or deduct from future commissions of Sales Associate any sums necessary to satisfy said claim. Broker has the right to withhold commission due sales associate if claim against commission is made by others and or when potential for possible litigation against the activities of sales associate is realized.
- 13) Broker shall not be liable for Sales Associate's share of commissions not collected, nor shall Sales Associate be entitled to any advance payment from Broker upon any commissions.
- 14) Broker shall not be liable to Sales Associate for any expenses (including, but not limited to: parking, auto expenses, and insurance) incurred by Sales Associate or for any of his acts except as specifically required by law. Sales Associate shall have no authority to advertise under Broker's name without Broker's prior written approval. Expenses which must by reason of some necessity be paid from the commissions, or are incurred in the collection of, or in the attempt to collect the commission, shall be paid by Sales Associate. Sales Associate agrees to provide and pay for all necessary professional licenses, fees and dues, and Broker shall not be liable for the reimbursement thereof. In the event Broker elects to advance sums with which to pay for the account of Sales Associate's professional fees or other items, Sales Associate shall repay the same to Broker on demand and

Broker shall deduct such advance from commissions otherwise payable to Sales Associate.

15) This agreement may be terminated by either party at any time for whatever reason upon one (1) day prior written notice, provided, however, that Sales Associate shall complete any work in progress prior to the effective date of any termination by him (or her). The rights of the parties to any commission which accrued prior to said notice shall not be affected by the termination of the Agreement, except as noted herein. Upon the occurrence of any of the following causes, among others, Broker may terminate this Agreement immediately:

- Election of Broker to sell his entire business, or to cease doing business;
- Any breach of this Agreement by Sales Associate;
- Cessation of Sales Associate to be licensed;
- Failure of Sales Associate to comply with all applicable laws and regulations, including, without limitation, those promulgated by the California Real Estate Commissioner, the California Department of Real Estate, real estate boards and associations to which Broker is a member and federal laws and the laws of the State of California;
- The filing by or against Sales Associate of any petition under any law for the relief of debtors;
- Conviction of Sales Associate of any crime, other than minor traffic offenses;
- Use or abuse of drugs, alcohol or any other controlled substances which may adversely affect Sales Associate's performance hereunder;
- Failure of Sales Associate to adhere to Broker's operational procedures, as they currently exist, and as they may be amended from time to time;
- Sales Associate engaging in any activity competitive or intentionally injurious to Broker;
- The commission of any fraud by Sales Associate either against Broker or any other person;
- Failure of Sales Associate to pay to Broker the monthly brokerage and management fee on the date due.

16) Sales Associate agrees to indemnify and defend Broker, Broker's officers, directors, employees and shareholders, as applicable at the time of the alleged transgression, and hold them collectively and individually harmless from all claims, demands and liabilities, lawsuits, costs and expenses, including compensation for Broker's time spent in discovery, appearance, preparation, communication, investigation, consultation at the rate of one hundred dollars per hour and without limitation, all costs and attorney fees to which Broker is subjected, on account of (i) any representation, act, omission or agreement contrary to the terms hereof, (ii) any violation by Sales Associate of any real estate board rules or regulations, federal, state or local law, rule, regulation or ordinance to which Sales Associate, in the performance of his or her duties hereunder, is subject; (iii) any failure by Sales Associate to comply with and/or abide with any provision of this Agreement; and (iv) any representation, act, omission or agreement by Sales Associate which subjects Broker to liability to third parties. Sales Associate agrees to deposit fifteen thousand dollars (\$15,000) with Broker in the Broker business account immediately after a lawsuit is filed by anyone against the broker for the activities of the Sales Associate. This amount will be used for all costs and attorney fees mentioned in this paragraph, any remaining balance will be refunded to Sale Associate after all claims are satisfied. This Indemnity Provision shall survive the termination of this Agreement and the relationship of the parties created hereunder.

17) All notices hereunder shall be in writing. Notices may be delivered personally, by reputable overnight air courier, or by certified or registered mail, postage prepaid, return-receipt requested, to the respective addresses noted below. Either party may designate a new address for purposes of this Agreement by notice to the other party in accordance with the provisions of this paragraph. Notices mailed shall be received as of 5:00 P.M. of the second business day following the date of mailing.

- 18) All prior agreements between Broker and Sales Associate are superseded by this Agreement which constitutes the parties' entire Agreement concerning the subject matter hereof. The Broker and Sales Associate intend that this Agreement constitutes the complete and exclusive statement of its terms and that no extrinsic evidence whatsoever may be introduced in any judicial or arbitration proceeding, if any, involving this Agreement. This Agreement shall be binding upon and inure to the benefit of the heirs, permitted assigns and successors of the parties hereto. As used herein, all singular terms shall include the plural and all masculine terms shall include the feminine where required by the context, and vice versa.
- 19) The term of this Agreement shall be for one year from the date written above; the Agreement shall be extended automatically for additional one-year periods unless either party gives written notice of termination to the other party, as provided elsewhere in the Agreement.
- 20) This Agreement may not be amended, modified, altered or changed in any respect whatsoever except by a further agreement in writing duly executed by the parties hereto, except Broker may unilaterally change the amount of fees and costs specified in Exhibits "A" upon five (5) days notification to Sales Associate. Said change is effective immediately.
- 21) By signing below, Sales Associate hereby warrants that he (or she) has thoroughly read and understands the information contained herein and further warrants that he/she agrees to and acknowledges said information.
- 22) Neither this Agreement, nor any duties, benefits nor obligations under this Agreement may be assigned or delegated by Sales Associate without the prior written consent of Broker, which may be granted or withheld, in Broker's sole and absolute discretion.
- 23) In any action, arbitration or mediation arising out of (i) this Agreement, (ii) the independent contractor status of Sales Associate, or (iii) the entitlement to any fees or payments, the prevailing party shall be entitled to recover, in addition to other damages and relief, its reasonable attorneys' fees and costs of suit.
- 24) The venue for the resolution of any dispute arising hereunder shall be in Los Angeles County, California, and no other County.

25) Sales Associate acknowledges that in conducting business with Broker as contemplated herein, Sales Associate shall be made aware of certain confidential information and/or trade secrets with respect to Broker's business, including, without limitation, customer lists, specially prepared forms and other information (collectively, "Broker's Trade Secrets"). Sales Associate agrees that he or she will maintain the confidentiality of such Broker's Trade Secrets at all times, and at no time utilize such Broker's Trade Secrets in direct or indirect competition with Broker, either as an employee, owner, officer, shareholder, partner, agent or independent contractor, at any time during or after the termination of this Agreement. All documents, forms, publication, memoranda, correspondence, files, contracts, client lists, financial tables, blueprints, plans, records, procedures, sales aids, techniques, processes and all other material and information directly or indirectly given to or received by Sales Associate during the term of this Agreement that relate in any manner to any business or operation that Broker is engaged in, or intends at any time to become engaged in, is and shall remain the property of Broker and shall not be given to, divulged to, nor discussed with third parties outside the scope of this Agreement without the express prior written consent of Broker. All gains and profits obtained at any time by Sales Associate through the use of any such material or information, other than for the benefits of Broker, shall belong to Broker upon demand. Upon the termination of this Agreement for any reason, Sales Associate shall immediately deliver to Broker all such documents, material and information.

26) Upon termination of this Agreement, Sales Associate may, with client's written consent and approval, transfer all listings procured and listed by Sales Associate with Broker to Sales Associate's new employing real estate broker. However, all documentation of a transaction remains the property of Broker and shall remain in Broker's possession. Sales Associate shall immediately after termination inform all parties to any transactions not transferred to a new employing real estate broker of the termination.

- 27) Sales Associate shall maintain in effect, at his or her own expense, automobile liability insurance of at least \$300,000 for bodily injury and \$50,000 for property damage, or in such amounts as reasonably necessary or otherwise as Sales Associate from time to time may be directed to have by Broker. Broker shall be named as “an additional insured” on all such liability insurance.
- 28) Except as otherwise provided in the Agreement, Sales Associate shall, during the term of this Agreement, be responsible for and shall pay in full all costs, taxes and expenses directly or indirectly incurred in performing his or her duties hereunder, including but not limited to all state and federal income taxes, federal social security taxes and City business tax. Sales Associate shall have no right to reimbursement of any such costs, taxes or expenses unless Broker otherwise agrees in writing.
- 29) Broker may at his sole and absolute discretion, eliminate, terminate, reduce or adjust the amount of any Sales Associate Commission payable upon a specific “completed sale” if the transaction is completed by reason of any statement, representation, conduct, act or omission of the Sales Associate, including, without limitation any of the following: a) Sales Associate misquotes any fees, terms, or other information. b) Sales Associate fails to perform to reasonable degree the Sales Associate’s duties in connection with the real estate transaction, including but not limited to providing Broker with all transaction documents.
- 30) Referral or finder fees to unlicensed persons are illegal and thus not permitted or authorized by Broker.
- 31) Sales Associate is not permitted to conduct any Property Management, Business Opportunities Sale, Commercial Properties Sale, Mortgage Loan activities or Prepaid Rental Listing Services unless Broker agrees in writing to allow Sales Associate to conduct such activities.
- 32) If any term, provision, covenant or condition of this Agreement including modification, addenda, etc., is held by a court of jurisdiction to be invalid, void, or unenforceable, the rest of this Agreement, addenda, and modifications shall remain in full force and effect and shall in no way be affected, impaired or invalid.

- 33) Sales Associate agree to turn in all documents pertaining to any real estate transaction, in which associate is involved, to the Broker office as soon as possible but no later than 48 hours after they are executed. All deposit checks received by associate must be made in the name of an escrow company and associate must log it in the Brokers log book before giving it to the escrow company. Any client check made out to Red Hot Realty will not be accepted.
- 34) Sales Associate herewith states and warrants, he or she has no action against him or her for an administrative, criminal or material civil action (or a significant number of civil actions) alleging a violation of any sales, listing, mortgage loan laws, fraud, embezzlement, fraudulent conversion, restraint of trade, unfair or deceptive practices, misappropriation of property or comparable allegations. Sales Associate herein states he or she has not, during the ten year period immediately preceding the date of this agreement, been convicted of a felony or pleaded nolo contendere to a felony or been held liable in a civil action by final judgment, or been the subject of a material complaint or other legal proceeding, if such felony, civil action, complaint or other legal proceeding involves violation of any sales, listing mortgage loan laws, fraud, embezzlement, fraudulent conversion, restraint of trade, unfair or deceptive practices, misappropriation of property or comparable allegations.

35) Sales Associate agrees to pay the deductibles of the Error and Omissions Insurance policy immediately when a lawsuit against Broker is filed due to the sales associates' activities. Associate understands and accepts that "Errors & Omissions Insurance" policies generally has a "Claim Made Clause" which means claims made after the expiration of the policy will not be covered. Broker cannot guarantee obtaining renewal of the insurance coverage.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of this _____ day of _____, 200_____.

Sales Associate

Signed By: _____

Broker: Red Hot Realty

26560 Agoura Rd. Ste 103A, Calabasas, CA 91302

Pacific Expert Witness & Construction, Inc., dba Red Hot Realty

By: _____ Broker

EXHIBIT "A" COMMISSION SCHEDULE

- Sales Associate's compensation as provided in the Agreement will be ONE HUNDRED PERCENT (100%) of Net Commission collected by Broker, less Broker charges, on all residential transactions. Non residential transactions are not part of this agreement; a separate arrangement must be made with Broker in advance for compensation.
- Fees payable to the Broker are ONE THOUSAND DOLLARS (\$1000.00) for properties under a million dollars and ONE THOUSAND FIVE HUNDRED DOLLARS (\$1,500.00) for properties over a million dollars, per "completed residential real estate transaction" including transactions in which Associate acts as a principal. The fee will be deducted from Sales Associate's Net Commission. A dual agency is considered two transactions and two fees will be charged.
- Broker shall deduct \$10 per \$1,000.00 of commission, for local licenses and board's membership fees.
- Sales Associate agrees to permit Broker to deduct from the Sales Associate's portion of Net Fees on each transaction for Error & Omissions insurance, the following amounts:
 1. A residential transaction less than a million dollars, will be charged TWO HUNDRED DOLLARS (\$200) and over a million FOUR HUNDRED DOLLARS (\$400)
 2. A nonresidential transaction, under a million dollars will be charged THREE HUNDRED DOLLARS (\$300) and for properties over a million dollars SIX HUNDRED DOLLARS (\$600). A dual agency is considered two transactions.
 3. In case of a lawsuit, Associate is responsible for the payment of Error & Omissions insurance deductible. The deductible must be paid to the Broker immediately when a lawsuit against Broker is filed due to the Sales Associate activities.

The following items/services are offered with no charge to Associates:

- Sign up fee: (A saving of \$400 to \$500) **FREE**
- Brokerage Management Fee: (A saving of \$40-50/month) **FREE**
- Annual Administrative Fee: (A saving of \$200/year) **FREE**
- File Review by Broker: (A Saving of \$100/transaction) **FREE**
- New Licensees Training & Coordination Fee: (A saving of \$1000/first three transactions) **FREE**
- Franchise fee (A saving of 8 to 10% of your commission) **FREE**

- The fees set above are subject to review and change by Broker. Sales Associate understands and agrees that fees are not refundable.
- To process and pay commission to associate a completed file including all necessary documents with closing statement must be ready for final review by Broker or authorized staffs no later than 12:00 Noon of business day in the Broker's main office.

RED HOT REALTY:

By: _____ Broker

Dated: _____

Sales Associate:

By: _____

Dated: _____

Associate Initials (_____)