

AGENCY GLOSSARY

BUYER'S AGENT – A licensee who has been engaged by a buyer and owes the buyer undivided loyalty, reasonable care, disclosure, obedience to lawful instruction, confidentiality and accountability in addition to disclosing known material defects in the real estate.

DESIGNATED AGENCY – When a licensee in a brokerage is designated by the appointing or designated agent within a brokerage to represent the seller and another licensee is designated by the appointing or designated agent within the same brokerage to represent the buyer without either licensee being considered a dual agent.

DESIGNATED AGENT – A licensee who has been appointed by the appointing or designating agent within a brokerage to represent only the seller or buyer as their client to a real estate transaction provided the client expressly agrees to such designation. The designated agent owes their client full fiduciary duties (loyalty, full disclosure, reasonable care, obedience to lawful instructions and accounting of funds), even if the other party to the same transaction is represented by another individual licensee within the same brokerage.

DESIGNATED BUYER'S AGENT – A licensee who is designated by the appointing or designating agent within a brokerage to represent the buyer, provided the buyer expressly agrees to such designation. Once designated the licensee is then the agent for the buyer. The designated buyer's agent owes the buyer undivided loyalty, reasonable care, disclosure, obedience to lawful instruction, confidentiality and accountability, in addition to the duty disclose known material defects in the real estate. The designated buyer's agent must put their client's interests first and negotiate for the best price and terms for their client.

DESIGNATED SELLER'S AGENT – A licensee who is designated by the appointing or designating agent within a brokerage to represent the seller, provided the seller expressly agrees to such designation. Once designated the licensee is then the agent for the seller. The designated seller's agent owes the seller undivided loyalty, reasonable care, disclosure, obedience to lawful instruction, confidentiality and accountability, provided, however, that the designated seller's agent must disclose known material defects in the real estate. The licensee must put their client's interests first and negotiate for the best price and terms for their client.

DUAL AGENT – A licensee who with the express and informed written consent of both the seller and buyer may represent both the seller and buyer in a transaction. A dual agent shall be neutral with regard to any conflicting interest of the seller and buyer. A dual agent owes a duty of confidentiality or material information and accounting for funds to both the seller and buyer. A dual agent shall not advocate on behalf of either seller or buyer, suggest specific terms including price nor engage in conduct contrary to instructions of either party.

FACILITATOR – A licensee who in a non-agency capacity assists the seller and buyer in reaching an agreement but does not represent either the seller or buyer in the transaction. The facilitator owes the seller and buyer a duty to present each property honestly and accurately by disclosing known material defects about the property and owes a duty to account for funds.

SELLER’S AGENT – A licensee who has been engaged by a seller and owes the seller undivided loyalty, reasonable care, disclosure, obedience to lawful instruction, confidentiality and accountability provided, however, the licensee must disclose known material defects in the real estate.

SUBAGENCY – When one real estate licensee within one real estate firm “hires” another real estate licensee within another real estate firm to help perform his or her duties. Effective July 1, 2005 in Massachusetts written permission must be obtained from the client before offering subagency.

“VICARIOUS LIABILITY” - Vicarious liability is the potential for a seller or buyer to be held liable for a misrepresentation or an act or omission of the sub-agent when the seller or buyer authorizes the licensee to offer sub-agency in the signing of a written notice.