

# Exclusive Buyer Agency Contract (Designated Agency)



Contract Date: \_\_\_\_\_ through Expiration on \_\_\_\_\_ at 11:59 PM

Brokerage Firm: \_\_\_\_\_ (“Brokerage Firm”)

Address of Firm: \_\_\_\_\_

Designated Agent(s): \_\_\_\_\_ (“Designated Agent”)

Designated Agent’s Email Address: \_\_\_\_\_

Designated Agent’s Phone # \_\_\_\_\_ Designated Agent’s Facsimile # \_\_\_\_\_

Supervisory Broker(s): \_\_\_\_\_ (“Supervisory Broker”)

Buyer(s): \_\_\_\_\_ (“Buyer”)

Buyer’s Home Address: \_\_\_\_\_

Buyer’s Email Address: \_\_\_\_\_

Buyer’s Phone # \_\_\_\_\_ Buyer’s Facsimile # \_\_\_\_\_

- PURPOSE:** Brokerage Firm shall assist Buyer in purchasing real estate, as more particularly described in paragraph 3. Brokerage Firm’s services shall include, but not be limited to, consulting with Buyer regarding the desirability of particular properties and the availability of financing; formulating acquisition strategies; and negotiating purchase agreements.
- DESIGNATED AGENCY: Brokerage Firm and Buyer hereby designate the agent(s) named above as the Buyer’s Designated Agent. Buyer shall have an agency relationship with ONLY Brokerage Firm and the Designated Agent and Supervisory Broker named above.** Buyer acknowledges that neither Designated Agent nor Supervisory Broker named herein are acting as attorneys, tax advisors, surveyors, appraisers, environmental experts or structural or mechanical engineers, and that Buyer should contact professionals on these matters.

Neither Designated Agent nor Supervisory Broker is in a position to advise Buyer as to the location of any property within a floodplain or as to floodplain insurance requirements. Buyer is encouraged to visit the website <http://www.floodsmart.gov/floodsmart> and/or consult with appropriate professionals.

- PROPERTY:** Buyer desires to purchase real property meeting the following criteria (type, price range, geographical location, etc.): \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_ (“Desired Property”).

- EXCLUSIVE AGENT:** Buyer agrees that during the term of this agreement any and all inquiries and/or negotiations on behalf of Buyer relating to the acquisition of any Desired Property shall be through Designated Agent.
- COMPENSATION OF BROKERAGE FIRM:** In consideration for the services to be performed under the agreement, Buyer agrees to pay Brokerage Firm as follows (check as applicable):
  - Retainer Fee.** Buyer will pay Brokerage Firm a non-refundable Retainer Fee of \$ \_\_\_\_\_, due and payable upon execution of this agreement. The Retainer Fee shall be applied against any commission owed to Brokerage Firm.
  - Hourly Fee.** Buyer will pay Brokerage Firm an Hourly Fee of \$ \_\_\_\_\_ for services performed under this agreement due and payable upon receipt of invoice(s) from Brokerage Firm. The Hourly Fee shall be applied against any commission owed to Brokerage Firm.
  - Flat Fee.** In the event Buyer contracts to purchase the Desired Property, Buyer will pay Brokerage Firm a Flat Fee equal to \$ \_\_\_\_\_. The Flat Fee is due and payable upon closing; provided, however, that if the transaction does not close because of any default on the part of the Buyer, the Flat Fee shall become immediately due and payable. The Flat Fee obligation shall apply to any purchase agreements executed during the term of this agreement, or during any extension of this agreement. The Flat Fee obligation will also apply to purchase agreements executed within \_\_\_\_\_ months after the expiration or other termination of this agreement, if the property acquired was presented to Buyer during the term of this agreement.

- Commission.** In the event Buyer contracts to purchase the Desired Property, Buyer will pay Brokerage Firm a Commission equal to \_\_\_\_\_% of the purchase price. The Commission is due and payable upon closing; provided however, that if the transaction does not close because of any default on the part of the Buyer, the Commission shall become immediately due and payable. The Commission obligation shall apply to any purchase agreements executed during the term of this agreement, or during any extension of this agreement. The Commission obligation will also apply to purchase agreements executed within \_\_\_\_\_ months after the expiration or other termination of this agreement, if the property acquired was presented to Buyer during the term of this agreement.
6. **CREDIT:** Buyer will receive a credit against any amount owed pursuant to paragraph 5 above for any commission paid to Brokerage Firm by the seller or the seller's listing broker.
7. **DISCLOSURE OF BROKER'S ROLE:** At the time of any initial contact, Designated Agent shall inform all prospective sellers and their agents that Designated Agent is acting on behalf of Buyer. **Designated Agent and Supervisory Broker will preserve any confidential information obtained during another agency relationship or in a prior or pending transaction or business relationship. Buyer acknowledges and agrees that the preservation of this confidential information shall not constitute a breach of any fiduciary duty owed to Buyer.**
8. **CONFLICT OF INTEREST (BUYERS):** Buyer acknowledges that Designated Agent may represent other buyers desirous of purchasing property similar to the Desired Property. Buyer acknowledges and agrees that Designated Agent may show more than one buyer the same property, and may prepare offers on the same property for more than one buyer. Designated Agent shall preserve any confidential information disclosed by any buyer-client and shall not disclose the existence of, or the terms of, any offer prepared on behalf of one buyer to another buyer. In the event Designated Agent works for two competing buyer-clients in connection with any specific property, Designated Agent will be working equally for both buyer-clients and without the full range of fiduciary duties owed by a buyer's agent to a buyer. In this situation, the competing buyer-clients are giving up their rights to undivided loyalty and will be owed only limited duties of disclosure, obedience and confidentiality.
9. **CONFLICT OF INTEREST (SELLERS):** If a particular seller is represented by another designated agent within Brokerage Firm other than Designated Agent, Brokerage Firm and Supervisory Broker shall automatically be deemed disclosed consensual dual agents. **If a particular seller is represented by Designated Agent (check as applicable):**
- This agreement shall automatically terminate only with regard to that seller's property (but shall continue as to all other real property) and Designated Agent shall continue the agency relationship with the seller where the agency relationship was terminated pursuant to his paragraph. Any fees previously paid to Brokerage Firm by Buyer pursuant to this agreement shall be returned to Buyer at closing.
- Designated Agent shall act as disclosed dual agent of both Buyer and the seller. In such event, Brokerage Firm shall be entitled to any fees owed by Buyer pursuant to this agreement.
- Designated Agent shall act as a transaction coordinator to facilitate the transaction, and not as an agent for either Buyer or the seller. In such event, Brokerage Firm shall be entitled to any fees owed by Buyer pursuant to this agreement.
10. **BUYER DISCLOSURE:** Buyer agrees to disclose to Designated Agent relevant personal and financial information to assure Designated Agent that Buyer has the ability to complete any transaction which is the subject of this agreement. Buyer hereby grants to Designated Agent the authority to disclose such information as Designated Agent deems necessary or appropriate in order to influence the decision of a seller to accept an offer from Buyer.
11. **LEASING or OPTIONING:** This agreement shall also apply to situations where Buyer wishes to lease or option property. In those situations, the terms used in this agreement shall be automatically changed as appropriate, so that the term "purchase" shall mean "lease," "rent" or "option" and the term "Seller" shall mean "Lessor," "Landlord" or "Optionor" and the term "Buyer" shall mean "Lessee," "Tenant" or "Optionee."
12. **COST OF SERVICES OR PRODUCTS OBTAINED FROM OUTSIDE SOURCES:** Brokerage Firm will not obtain or order products or services from outside sources (e.g. surveys, soil tests, title reports, inspections) without the prior consent of Buyer. Buyer agrees to pay for all costs for products or services so obtained.
13. **INDEMNIFICATION:** Buyer agrees to indemnify and hold harmless Brokerage Firm, Designated Agent and Supervisory Broker on account of any and all costs or damages arising out of this agreement, provided no one at Brokerage Firm is at fault, such obligation to include, but not be limited to, reasonable attorneys' fees and costs.
14. **NON-DISCRIMINATION:** It is agreed by Brokerage Firm and Buyer, parties to this agreement, that as required by law, discrimination because of religion, race, color, national origin, age, sex, disability, familial status or marital status by said parties with respect to the purchase of the Desired Property is PROHIBITED. Local ordinances may offer protection against additional discrimination.

- 15. **COUNTERPARTS:** This agreement may be signed in any number of counterparts with the same effect as if the signature of each counterpart were upon the same instrument.
- 16. **ELECTRONIC COMMUNICATIONS:** The parties agree that this agreement, any amendment or modification of this agreement and/or any written notice or communication in connection with this agreement may be delivered by electronic mail or by fax via the contact information set forth above. Any such communication shall be deemed delivered at the time it is sent or transmitted. The parties agree that the electronic signatures and initials shall be deemed to be valid and binding upon the parties as if the original signatures or initials were present in the documents in the handwriting of each party.
- 17. **CONDITION OF PROPERTY:** Buyer is not relying on Designated Agent to determine the suitability of any Desired Property for the Buyer’s purposes or regarding the environmental or other condition of the Desired Property.
- 18. **LIMITATION:** Buyer and Brokerage Firm agree that any and all claims or lawsuits between the parties to this agreement must be filed no more than six (6) months after the date of termination of this agreement. The parties waive any statute of limitations to the contrary.
- 19. **MERGER:** This agreement constitutes the entire agreement between the parties, and any prior agreements, whether oral or written, have been merged and integrated into this agreement.
- 20. **CANCELLATION:** This agreement may be CANCELLED or REVOKED only by the mutual consent of the parties in writing.
- 21. **OTHER:** \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_
- 22. **RECEIPT:** Buyer has read this agreement and acknowledges receipt of a completed copy of this agreement.

\_\_\_\_\_  
(Brokerage Firm)

\_\_\_\_\_  
(Buyer)

\_\_\_\_\_  
(Designated Agent)

\_\_\_\_\_  
(Buyer)

Date: \_\_\_\_\_

Date: \_\_\_\_\_

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