



VIRGINIA ASSOCIATION OF REALTORS®
EXCLUSIVE RIGHT TO REPRESENT BUYER AGREEMENT



(This is a legally binding contract; if not understood, seek competent advice before signing.)

SAMPLE

This Agreement (the "Agreement") is made as of _____ between _____ ("Buyer") and _____ ("Broker"). (Firm Name)

1. In consideration of services and facilities, Broker is hereby granted the right to represent Buyer in the acquisition of real property. (As used in this Agreement, "acquisition of real property" shall include any purchase, option, exchange or lease of property or an agreement to do so.) Buyer is retaining Broker to acquire the following type of property: _____

2. TERM.

The term of the Agreement shall commence on the date hereof and shall terminate at midnight, _____, _____.

3. BROKER'S DUTIES.

- (a) Broker shall use professional real estate knowledge and skills to represent Buyer in a diligent and effective manner and to locate property which is available for purchase and suitable to Buyer. Broker shall promote the interests of Buyer by (a) seeking property at a price and on terms acceptable to Buyer, (b) presenting in a timely manner all written offers or counteroffers to and from Buyer, (c) disclosing to Buyer all material facts related to the property or concerning the transaction of which Broker has actual knowledge, (d) accounting in a timely manner for all money and property received in which Buyer has or may have an interest. Unless otherwise provided by law or Buyer consents in writing to the release of the information, Broker shall maintain the confidentiality of personal information, financial information and other matters identified as confidential by Buyer if that information is received from Buyer in the course of the brokerage relationship. (b) If Broker is not the listing firm of the seller, (the "Listing Firm"), Broker shall represent solely the interest of Buyer in all negotiations and transactions regarding the acquisition of real property, and shall repudiate any agency or subagency relationship with the seller or sellers. (c) Broker may represent other buyers who may be interested in the same property as Buyer.

4. BUYER'S DUTIES. Buyer shall:

- (a) Work exclusively with Broker during the term of this Agreement. (b) Comply with the reasonable requests of Broker to supply any pertinent financial or personal data needed to fulfill the terms of this Agreement. (c) Pay Broker the compensation set forth below. (d) Be available during Broker's regular working hours to view properties. (e) Consult with Broker before visiting any resale or new homes or contacting any other licensees or property owners to avoid the possibility of confusion over the brokerage relationships and misunderstandings about liability for compensation. (f) Inform all licensees whom Buyer contacts of Buyer's relationship with Broker.

5. SERVICE FEE.

A service fee, if any, shall be _____ payable upon _____, _____ Such service fee is or is not credited to the fee set forth in Paragraph 6 at settlement. Such service fee is non-refundable and is earned when paid.

6. COMPENSATION.

- (a) Buyer agrees to pay Broker a fee of _____ in cash during the term of this Agreement Buyer enters into a contract to acquire the type of property described above through services of Broker or otherwise. (b) Buyer will pay the fee if Buyer enters into a contract for the acquisition of real property during the term of this Agreement and the material conditions of such contract are subsequently met, or the real property is shown or described to Buyer during the term of this Agreement and Buyer obtains title thereto within _____ days after the expiration of this Agreement (the "Protection Period") unless Buyer has entered into a subsequent Exclusive Right to Represent Buyer Agreement with another real estate brokerage firm.

- (c) Buyer will pay the fee on the earlier of transfer of title or any action by Buyer or default by Buyer which results in Buyer's not obtaining title to Property after the material conditions of a contract for the acquisition of the real property are met.
- (d) Buyer's obligation to pay the fee described herein shall survive the termination of this Agreement.
- (e) Broker is authorized to receive compensation either as a portion of commission offered by the Listing Firm to a buyer's broker or paid by the seller. The amount of such compensation shall be credited against the obligations of Buyer to Broker. Any amount under this Agreement received from Listing Firm or seller in excess of Buyer's obligations hereunder shall be credited to seller. Any such payment shall in no way affect the obligation of Broker to act as the representative of Buyer in the transaction. Buyer authorizes Broker to retain any selling bonus offered, and Broker shall give Buyer notice of such bonus promptly, but in all events not later than contract ratification.
- (f) Buyer understands that Broker's principal source of information about available properties will be local multiple listing services; however, Broker may from time to time become aware of properties for sale by owner without the involvement of a listing broker (A "FSBO property") that may be suitable to Buyer. Buyer's obligation to pay the fee set out in this paragraph 6 shall apply to Buyer's purchase of a FSBO property, and Broker agrees to apply any fee received from the seller thereof to the amount owed by Buyer under this Agreement. Broker shall have no obligation to search out FSBO properties beyond those that come to the attention of Broker in the ordinary course of its business.
- (g) Buyer should consult with Broker before visiting any resale or new homes or contacting any other agents representing sellers, to avoid the possibility of confusion over the agency relationship and misunderstanding about liability for compensation.

7. **DUAL/DESIGNATED REPRESENTATION.**

Buyer acknowledges that Broker, in the course of its business, may represent sellers of property as listing representative, and certain of the property listed by Broker may be of interest to Buyer. Buyer authorizes Broker to bring Buyer's attention any properties listed by Broker which may suit Buyer's needs and hereby instructs Broker to inform Buyer at the time of its representation of the seller. If Buyer elects to see or consider property listed by Broker and to make an offer on such property, then dual representation by the Broker will exist, and either:

- (i) Broker may request the consent of Buyer and Broker's seller client to assign different licensees of Broker as designated representatives to represent, respectively, Buyer and the seller to the exclusion of all other licensees of Broker. Such designated representatives shall not be considered dual representatives under Virginia law and shall not be limited in their ability to represent the client to whom they are designated in the transaction. The principal or supervising broker who is supervising the transaction shall be considered a dual representative of both Buyer and the seller, and such broker's ability to represent both clients will be limited. Broker shall not disclose to either client or such client's designated representative any information that has been given to the dual representative by the other client within the confidence and trust of the brokerage relationship, unless the disclosure is required by law or consented to in writing by the affected party. Broker will obtain the written consent of Buyer to the designation of representatives, and from the seller prior to the time such offer is presented to the seller; or
- (ii) In the event Broker does not so designate representatives to represent Buyer and the seller, Broker will be acting as the representative for Buyer and seller in the same transaction. Broker may act as such a dual representative only with the knowledge and informed written consent of all parties to the transaction. In any such transaction, there is a limitation on Broker's ability to represent either buyer or seller fully and exclusively. Paragraph 8 of this Agreement contains a disclosure explaining more fully the roles and responsibilities of a buyer, seller, and the representative in a dual representation. Broker agrees to request Buyer's consent to act as a disclosed dual representative if Buyer wishes to make an offer on a property listed by Broker and Buyer agrees that prior to making an offer on any property listed by Broker, Buyer will enter into a written acknowledgement of and consent to a dual representation on the part of Broker and will confirm the disclosure of the dual representation described in this Agreement.

8. **DISCLOSURE REGARDING DUAL REPRESENTATION.**

A. If Buyer is shown a property listed by Broker and makes an offer on such property, and Broker has not designated representatives to represent Buyer and the seller. Broker and all of Broker's salespersons will be acting as the representative for both the seller and Buyer in the transaction. In such a transaction, Broker will make every reasonable effort to remain impartial to the seller and Buyer. Buyer agrees that Broker shall not be liable to either party for refusing or failing to disclose information which, in the sole discretion of the Broker, would harm one party's bargaining position and would benefit the other party.

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However, Broker shall not be prevented from disclosing to Buyer any known material defects in the property or any other matter that must be disclosed by law and/or regulation. Broker will not disclose (a) to Buyer information about what price the seller will accept other than the Listing Price, or (b) to the seller information about what price Buyer will pay other than any written offered price. In the event that the seller and Buyer do not enter into an agreement for the purchase of the seller's property (the "Purchase Agreement"), or in the event that the Purchase Agreement does not close by the closing date set forth in the Purchase Agreement, Broker may terminate its dual representation by giving notice thereof to the seller and Buyer.

- B. Because of the Broker's dual representation in such a transaction, Buyer understands that Buyer and the seller have the responsibility of making their own decisions as to what terms are to be included in any Purchase Agreement. Buyer should be aware of the implications of Broker's dual representation, including the limitation on Broker's ability to represent the seller or Buyer fully and exclusively. Buyer understands that Buyer may seek independent legal counsel in order to assist with any matter relating to a Purchase Agreement or to the transaction which is the subject matter of a Purchase Agreement. Broker shall not be liable for any claims, damages, losses, expenses or liabilities arising from Broker's role as dual representative. Buyer shall have a duty to protect its own interests and should read any Purchase Agreement carefully to insure that it accurately sets forth terms which Buyer wants included in the agreement.
- C. When acting as a dual representative, Broker: will treat the seller and Buyer honestly; will disclose material facts about the property that are known to Broker as required by law and/or regulation; may help Buyer to arrange for property inspections; may explain closing costs and procedures; may help Buyer compare financing alternatives; may provide information about comparable properties so the seller and Buyer may make an educated decision on what price to accept or to offer; will assist in the preparation of the Purchase Agreement; will work diligently to facilitate the sale and will work with the seller's and Buyer's lawyers, tax accountants, inspectors and other advisors in order to expedite the closing.
- D. When acting as a dual representative, Broker may not: disclose confidential information that Broker may know about the seller and/or Buyer (including but not necessarily limited to motivation to sell or buy, price, terms and/or conditions of sale which are acceptable, and negotiating strategy) without written permission of the seller and/or Buyer; disclose the price the seller will accept other than the listing price without written permission of the seller; disclose the price Buyer is willing to pay other than contained in any offer without written permission of Buyer; recommend a price which Buyer should offer or pay for the property; recommend terms and/or conditions of sale which Buyer should offer for the property; recommend a price which the seller should accept or which should form the basis of a counteroffer; or recommend terms and/or conditions of sale which the seller should accept or which should form the basis of a counter offer.

9. **BROKER'S ROLE.**

Buyer acknowledges that Broker is being retained solely as a real estate representative and is not an attorney, tax advisor, lender, appraiser, surveyor, structural engineer, certified home inspector or other professional service provider. Buyer has been advised to seek professional advice for any such matters. Buyer(s) should exercise whatever due diligence buyer(s) deem necessary with respect to information on any sexual offenders registered under Chapter 23 (sec. 19.2-987 et seq.) of Title 19. Such information may be obtained by contacting your local police department or the Department of State Police, Central Records Exchange at (804) 674-2000 or www.state.va.us/vsp/vsp.html.

10. **REALTOR® CODE OF ETHICS.**

Buyer understands that Broker at all times must be honest in dealings with a seller and a Listing Firm and must adhere to the Code of Ethics promulgated by the NATIONAL ASSOCIATION OF REALTORS®. Broker must disclose material facts known to Broker regarding the condition of the property. Properties shall be shown and made available to Buyer without regard to race, color, religion, sex, handicap, familial status or national origin as well as all classes protected by the laws of the United States, the Commonwealth of Virginia and applicable localities.

11. **ENTIRE AGREEMENT.**

This Agreement, any exhibits and addenda hereto signed by the parties constitute the entire agreement between the parties and supersede any other written or oral agreement between the parties. This Agreement can only be modified in writing signed by both parties.

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12. OTHER PROVISIONS. _____

SAMPLE

Witness the following duly authorized signatures and seals:

_____/_____(SEAL) _____/_____(SEAL)
 Date Broker Date Buyer

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_____/_____(SEAL)
 Date Buyer

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