

Buyer Representation Agreement

_____ ("Buyer") appoints _____ ("Broker") as Buyer's exclusive agent and grants to the Broker the exclusive right to represent the Buyer in locating and purchasing suitable real property (i.e.; residential, commercial, other _____ ("Property")) in the following Market Areas: _____.

Section 1. Beginning and Duration of Agency. Broker's authority as the Buyer's exclusive agent shall begin on ____/____/____ (date) and shall continue until ____/____/____ (date) or the purchase of the property by the Buyer.

Section 2. Professional Service Fee. The Broker agrees to first seek compensation out of the commission, if any, which the Seller(s) of the Property has agreed to pay upon the sale of the Property. **Any fee received by the Broker from the seller of the Property shall be credited against the Professional Service Fee payable to the Broker under this subsection.** The Buyer agrees to pay the Broker a Professional Service Fee according to the following:

- A. If at the time the Buyer contracts to buy the Property, it IS NOT subject to an exclusive right to sell listing contract held by any person other than the Broker, the Buyer shall pay a fee equal to \$_____ or _____% of the purchase price; or
- B. If at the time the Buyer contracts to buy the Property, it IS NOT subject to an exclusive right to sell the listing contract (i.e.; for sale by the Seller or by the builder), the Buyer shall pay a fee equal to \$_____ or _____% of the purchase price.
- C. See attached Professional Fee Addendum.

If the fee to be received by the Broker, paid by the Seller of the Property is (a) less than the Professional Service Fee payable to the Broker by the Buyer, the Buyer shall pay the Broker the difference at closing; or (b) greater than the Professional Service Fee payable to the Broker by the Buyer, the Broker shall notify the Buyer and the Buyer shall have the option of (1) allowing the Broker to retain the excess payment; or (2) requiring the Broker to negotiate a reduction in purchase price of the Property by the amount of the excess commission to be paid to the Broker.

Section 3. Conflicts of interest and Multiple Representation. During the term of this Agreement, the Broker is the Buyer's agent and shall represent the interest of the Buyer in any negotiations for the purchase or acquisition of real property in the Market Area, unless the Buyer authorizes the Broker as set forth below, to represent both the Buyer and a prospective Seller of real property in the Market Area, in which event certain restrictions and limitations apply to the Broker's representation of the Buyer's interest.

- *The Buyer authorizes the Broker to act as Intermediary. The Buyer authorizes the Broker to show to the Buyer properties which the Broker has listed for sale (Listed Property). If the Buyer wishes to purchase the Listed Property, the Buyer authorizes the Broker to serve as an intermediary between the Buyer and the Seller(s) of the Listed Property. The Broker's Compensation shall be paid in accordance with the terms to this Agreement. The Broker may, after providing written notice to the Buyer, appoint licensees associated with the Broker to communicate with and carry out the Buyer's instructions and licensees to communicate with and carry out instructions of the Seller(s) of the Property. **The State of Texas requires that a broker may not serve as an intermediary in a transaction unless both parties consent in writing.***

If the Broker serves as an intermediary between the Buyer and the Seller(s) of the Listed Property in the purchase or acquisition of real property within the Market Area, the Broker (and any licensees associated with the Broker):

- (1) May not disclose to the Buyer that the Seller(s) will accept a price less than the asking price unless otherwise instructed in a separate writing by the Seller(s).
- (2) May not disclose to the Seller(s) that the Buyer will pay a price greater than the price submitted in a written offer to the Seller(s) unless otherwise instructed in a separate writing from the Buyer.
- (3) May not disclose any confidential information or any information the Seller(s) or the Buyer specifically instructs the Broker in writing not to disclose unless otherwise instructed in a separate writing by the respective party or required to disclose such information by the Texas Real Estate License Act or a court order, or if the information materially relates to the condition of the Property;
- (4) Shall treat all parties to the transaction honestly and shall comply with the Texas Real Estate License Act.

- The Buyer **does not** authorize the Broker to act as intermediary.

PAGE TWO OF THIS CONTRACT CONTAINS ADDITIONAL TERMS OF THE CONTRACT WHICH ARE INCORPORATED INTO THIS CONTRACT. THE BROKER CANNOT GIVE LEGAL ADVICE. THIS IS INTENDED TO BE A LEGALLY BINDING CONTRACT.

The Effective Date of this agreement is ____/____/____ (date). All parties acknowledge reading and understand the Agreement.

_____	Buyer	_____	Broker
_____	Buyer	By	_____

Additional Buyer Representation Agreement Terms

Duties and Obligations of Parties. Subject to the limitations stated in this Agreement, the Broker agrees to use the Broker's best efforts as the Buyer's Agent to (a) identify and submit property to the Buyer which, in the Broker's opinion, appears to substantially meet the criteria established by the Buyer for the Property, and (b) assist the Buyer in negotiating acceptance of the Buyer's offer to purchase the Property. The Broker's duty to the Buyer includes loyalty, obedience, disclosure, confidentiality, due diligence and reasonable care, and accounting subject to terms, restrictions, or limitations contained in this Agreement. The Buyer represents that the Buyer is not now a party to a Buyer's Representation Agreement with another broker for the purchase of the Property in the Market Area through the Broker and shall provide to the Broker all information related to the Property received from any source during the term of this Agreement.

Additional Professional Service Fee Terms. (A) If the Buyer is unable to close the purchase of the Property due to default by the Seller(s) of the Property and with no fault by the Buyer, the Professional Service Fee, if any, required by this Agreement shall be waived. (B) If a transaction fails to close due to default by the Buyer, the Professional Service Fee will not be waived and will be due and payable immediately. The Broker is not obligated to advance funds for the Buyer in order to complete a closing. (C) The Buyer's obligation to pay the Professional Service Fee is conditioned only upon the successful completion of the purpose(s) of this Agency or the acceptance by the Buyer of a transaction not in exact compliance with the terms specified in this Agreement, but within the purview of this Agency Agreement. (D) The Professional Service Fee shall be deemed fully earned when the Buyer acquires the Property directly or through the Broker, or through any other broker, person or entity, without any discount or allowance for any efforts made by the Buyer or by any other Agent of the Buyer. (E) The Professional Service Fee shall apply to the contract made (i) during the term of this Agency Agreement, (ii) to contracts made within ninety (90) days after this Agency Agreement expires or is terminated, if the property acquired by the Buyer was submitted in writing to the Buyer by the Broker during the original term or any extension of the term of this Agency Agreement.

Confidential Information. The Broker shall not knowingly, during the term of this Agreement or after its termination, disclose information obtained in confidence from the Buyer except as authorized by the Buyer or as required by law. The Broker shall not disclose to the Buyer any information obtained in confidence regarding any other person the Broker represents.

Multiple Properties, Buyers or Offers. The Buyer acknowledges that other Buyers may seek to acquire through the Broker the same or similar properties as the Buyer is seeking to acquire, the Buyer consents to the Broker's representation of the other buyer during and after the expiration of this Agency Agreement. The Broker will not disclose the price offered, or financial details of the Buyer's offer, to the other potential buyers, nor will the Broker disclose to the Buyer the details of any other offer presented by another buyer represented by the Broker. The Broker shall remain neutral in presenting multiple offers from buyers represented by the Broker or if the Broker is an intermediary.

Notice to the Buyer. If the Buyer agrees to purchase the Property, the Buyer should have an abstract covering the property examined by an attorney of the Buyer's choice or obtain a policy of title insurance.

Default. Failure by either party to comply with this Agreement shall be a default, and the non-defaulting party may seek any relief as provided by law. In the event of the Buyer's default, the Buyer shall be liable for any compensation the Broker is entitled to receive under this Agreement or the fair value of the Broker's services rendered to at the time of the default.

Miscellaneous Provisions.

- a) For the purposes of this Agreement, (i) "Buyer" means buyer or tenant; (ii) "buy" means to buy, purchase, or rent; (iii) "purchasing" and "purchased" means to purchase, or rent, or to have purchased or rented, (iv) "seller" means a seller or landlord, (v) Market Area shall mean the area located wholly or partially within the perimeter boundaries of the area or counties listed under Market Area of this contract, and (vi) "Broker" means the principal Broker and not the associated broker. However, the fiduciary duties of the Broker extend to the associated licensees.
- b) The parties agree not to discriminate against any prospective seller because of race, creed, color, sex, sexual preference, marital status, national origin or familial, occupational, or handicapped status of such person.
- c) The Buyer is advised to seek legal, tax, and other professional advice relating to any proposed transaction and the Broker makes no representation or warranty with respect to the advisability of, or the legal effect of, any transaction contemplated by the Buyer.
- d) If any part of this Agreement is invalid or unenforceable, the remainder of the Agreement shall not be affected and all other provisions of this Agreement shall remain valid and enforceable to the fullest extent of the law.
- e) The parties agree to make a good faith attempt to mediate any disputes which arise prior to resorting to litigation. However, if there is litigation concerning the rights of the Buyer and/or the Broker under this Agency Agreement, the parties agree that the Court shall award reasonable attorney's fees to the prevailing party.

Initial for Identification _____, _____, Buyer and _____, Broker