



EXCLUSIVE RIGHT TO BUY BUYER AGENCY AGREEMENT

1. **PARTIES:** This legally binding Agreement ("Contract:") is entered into by Buyer(s), _____
_____ ("Buyer") and

_____ ("Broker") as Buyer's exclusive Buyer's agent, subject to the terms and conditions stated in this Contract. By appointing Broker as Buyer's exclusive Buyer's agent, Buyer principal agrees to conduct all negotiations for the types of property described in Section 2 below through Broker, and refer to Broker all inquiries/communications/negotiations made to Buyer about such properties from other brokers, salespersons, sellers, builders, organizations and others during the term of this contract. "Negotiation" means property shown, negotiated, or information requested by Buyer. "Broker" is a licensed South Carolina broker-in-charge including any associated real estate licensees and subagents.

2. **PURPOSE OF AGENCY:** Buyer desires to purchase or lease real property (which may or may not include items of personal property) described as follows:

Type: Residential Commercial Industrial Vacant Land Other _____
General Description: _____
Approximate Price Range: \$ _____
General Location: _____
Preferred Terms: _____
Other: _____

3. **BROKER'S DUTIES:** (a) The Broker shall provide to Buyer a meaningful explanation of brokerage offered duties and shall use Broker's professional real estate knowledge and skills to represent the Buyer in a diligent and effective manner and to locate property which is available for purchase or lease and suitable to the Buyer; (b) if the Broker represents the seller, the Broker shall **not** disclose to the Buyer information obtained within the confidentiality and trust of the agency relationship with the seller, nor disclose to the seller information within the confidentiality of the brokerage's agency relationship with the Buyer, without the consent of the party adversely affected by the disclosure. Upon the termination or completion of this agreement, Broker shall keep confidential all information received during the course of this agreement that was made confidential by written request or instructions from the Buyer, except as provided for under South Carolina law or this Contract.

Broker represents that Broker is duly licensed under the laws of the State of South Carolina as a real estate broker. Broker will use his best efforts to locate property of the type described in Section 2 of this Contract and to present any offers by Buyer to purchase or lease such property. During the term of this Contract, Broker will give Buyer information describing and identifying properties that appear to Broker to substantially meet the conditions set forth in Section 2.

Broker who represents one party or no parties to a real estate transaction may provide assistance to other parties to the transaction by performing ministerial duties (e.g. writing and conveying offers, providing information and aid concerning other professional services not related to the real estate brokerage services being performed). Performing ministerial duties does not create an agency relationship. Broker may offer transaction brokerage to potential sellers. During the transaction, the Broker may represent Buyer in an agency relationship while acting as a seller's transaction brokerage giving customer service

4. BUYER'S DUTIES. BUYER AGREES TO:

(A) Work exclusively with Broker and its Affiliated licensees during the term of this agreement by: (1) viewing any property (e.g. previewing) only with Broker or Broker's designated representative and not with another real estate broker, salesperson or seller; and (2) exclusively allowing Broker or Salesperson to identify property, negotiate the transaction for the Buyer; and (3) referring to Broker all inquiries received in any form from any other real estate broker or affiliated licensees; and (4) holding Broker harmless from liability as a result of incomplete/inaccurate information provided to Broker by Buyer or Seller; (5) holding Broker harmless from liability as a result of Seller's failure to provide a complete Seller's Property Condition Disclosure statement; and (6) indemnifying Broker against all claims, damages, losses, expenses, or liability arising from the handling of earnest money by anyone other than Broker; and

(B) Assist Broker and its Affiliated Licensees in the process of identifying, negotiating and contracting to purchase, lease or otherwise acquire by: (1) providing Broker with reliable information (including financial information and written authorization to obtain verification of funds) that Broker deems necessary for the performance of this

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Agreement; and (2) making Buyer available to meet with Broker and to see properties, in order that the Broker will be able to perform the promises of the Brokerage Engagement; and

(C) Provide Broker and its Affiliated Licensees the following information: (1) general nature, location, and requirements of desired property; and (2) price range, and other terms and conditions relating to desired property.

(D) Authorize Buyer's attorneys and the settlement agent to furnish to Broker: copies of the final settlement statement and other closing documents for the transaction prior to the closing date.

5. COMPENSATION OF BROKER: Brokers fees will be deemed earned when Buyer is under contract to purchase any property presented by Broker or negotiated by Buyer. This fee will be due and payable at closing or upon Buyer's default. If Buyer defaults, the total compensation that would have been due Broker will be due and payable immediately in cash from the Buyer. In consideration of the services performed by Broker under the terms of this Contract, Buyer agrees to pay Broker the following fee(s): **(CHECK ALL APPLICABLE SECTIONS)**

- a. **Retainer Fee:** Buyer will pay Broker a nonrefundable retainer fee of \$ _____ due and payable upon the signing of this contract. This fee shall or shall not be credited against the Brokerage fee.
- b. **Service Fee:** Buyer shall pay Broker a Service Fee of \$ _____ to be paid on _____, whether or not Buyer purchases any property. **(Check applicable sub-section.)**
- This Service Fee shall be the only fee due Broker from Buyer under the terms of this Contract.
- This Service Fee shall be credited against the Brokerage Fee described in subsection (c) below and shall be kept by Broker whether or not a Brokerage Fee is earned.
- This Service Fee shall be credited against the Brokerage Fee described in subsection (c) below and shall be kept by Broker whether or not a Brokerage Fee is earned, unless Buyer enters in to a purchase and sale agreement. In the event that Buyer enters into a purchase and sale agreement, Buyer and Broker agree that the above Service Fee will be credited against the Brokerage Fee as defined below.
- c. **Brokerage Fee:** Buyer shall pay Broker a Brokerage Fee which is the greater of \$ _____ or _____ % of the purchase or total lease price (renewal, if applicable) of any property purchased or leased by Buyer, including "For Sale by Owner" properties. If within _____ days after the expiration of this Contract Buyer purchases or leases any property that Broker has negotiated during the term of this Contract, Buyer will pay Broker the Brokerage Fee stated above. Broker shall use his best efforts to obtain payment of the Brokerage Fee out of the transaction, but Buyer shall have the obligation to pay Broker the Brokerage Fee set forth in this Contract if Broker cannot obtain payment of such fee out of the transaction. Any fees paid by the seller or seller's agent to Broker shall be credited against the Brokerage fee.
- d. **Brokerage Fee:** Broker shall obtain payment of the Brokerage Fee out of the transaction. Broker shall be paid by the cooperating broker as stated in the Multiple Listing Service or as agreed to by the Broker and cooperating broker, or as agreed to by the Broker and Seller in a "For Sale By Owner" transaction. Buyer shall not be responsible for paying Broker the Brokerage fee unless Buyer is in breach of Contract(s).

Broker shall not accept any commission, rebate, or profit on expenditures made for Buyer without Buyer's knowledge and consent. Buyer agrees that Broker is entitled to receive additional compensation, bonuses, and incentives paid by listing broker or seller. Broker will inform Buyer of the compensation to be paid to Broker and if there is a written agreement, Broker will supply a copy to Buyer upon Buyer's written request.

6. TERM OF AGREEMENT: Broker's authority to act as Buyer's exclusive agent under the terms of this Contract shall begin on _____ 20__ and shall end at 11:59 p.m. (South Carolina local time) on _____ 20__.

7. OTHER POTENTIAL BUYERS: Buyer understands that other potential buyers may have entered into similar agency or transaction brokerage contracts or non-agency relationships with Broker that may involve the purchase or lease, through Broker of the same or similar property or properties as Buyer is attempting to purchase or lease. Buyer consents to Broker's representation and or facilitation of such other buyers.

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8. MEDIATION CLAUSE: Any dispute or claim arising out of or relating to this Agreement, the breach of this Agreement or the services provided in relation to this Agreement, shall be submitted to mediation in accordance with the Rules and Procedures of the Dispute Resolution System of the NATIONAL ASSOCIATION OF REALTORS®. Disputes shall include representations made by Buyer or Broker in connection with the services to which this Agreement pertains, including without limitation, allegations of concealment, misrepresentation, negligence and/or fraud. Any agreement signed by the parties pursuant to the mediation conference shall be binding. This mediation clause shall survive for a period of 120 days after the date of the closing. For more information on mediation, please contact SC Association of REALTORS®.

9. CONSENT TO DISCLOSED DUAL AGENCY/DESIGNATED AGENCY: (INITIAL APPLICABLE CHOICES)

_____ Buyer acknowledges receiving an explanation of the types of agency relationships that are offered by brokerage and a copy of the SC LLR Disclosure of Real Estate Brokerage Relationships form at the first practical opportunity at which substantive contact occurred between the Broker and Buyer.

Buyer acknowledges that after entering into this written agency contract, agent might request a modification in order to act as a **dual agent** or a **designated agent** in a specific transaction. If asked:

_____ Permission to act as a dual agent will not be considered.

_____ Permission to act as a dual agent may be considered at the time I am provided with information about the other party to a transaction. If Buyer agrees, Buyer will execute a separate written **Dual Agency Agreement**.

_____ Permission to act as a designated agent will not be considered.

_____ Permission to act as a designated agent may be considered at the time I am provided with information about the other party to a transaction. If Buyer agrees, Buyer will execute a separate written **Designated Agency Agreement**.

10. INDEMNIFICATION OF BROKER: Buyer agrees to disclose immediately to Broker whether Buyer has signed any agency agreement or transaction brokerage agreement with any other Broker, or has been given prior information about any property that is the subject of this Contract by any other Broker or salesperson, or has previously been shown any such property by any other broker or salesperson. If Buyer fails to tell Broker about such other broker's or salesperson's involvement, and Broker incurs any loss or damage as a result of any claim being brought against him on account of such involvement, due to no fault of Broker, then Buyer shall pay Broker all such losses and damages and attorney's fees incurred by Broker because of such claim. Buyer agrees to pay and reimburse and indemnify and defend all Broker costs, fees, damages, expenses, and attorney fees that Broker may incur/suffer while attempting to conduct this Contract and related transactions and in any direct or third party actions and to enforce this Contract including indemnification and should Buyer default on this Contract.

11. DISCLOSURE OF BUYER'S IDENTITY/CONFIDENTIALITY: The Broker does or does not have the Buyer's permission to disclose Buyer's identity to all property owners and other third parties. The Buyer is advised of the possibility that seller or seller's agent or seller's transaction brokerage may not treat the existence, terms, or conditions of offers as confidential unless confidentiality is required by law, regulation, or by confidentiality agreement of the parties.

12. BROKER LIABILITY LIMITATION: *Buyer agrees Broker provided Buyer with benefits, services, assistance, and value in bringing about this Contract. In consideration and recognition of the risks, rewards, compensation and benefits arising from this transaction to Broker, Buyer agrees that he shall pay Broker's attorney fees and that Broker, shall not be liable to Buyer, in an amount exceeding that Broker's Compensation by reason of any act or omission, including negligence, misrepresentation, errors and omission, or breach of undertaking, except for intentional or willful acts. This limitation shall apply regardless of the cause of action or legal theory asserted against Broker, unless the claim is for an intentional or willful act. This limitation of liability shall apply to all claims, losses, costs, damages or claimed expenses of any nature from any cause(s), except intentional or willful acts, so that the total liability of Broker shall not exceed the amount set forth herein. Buyer will indemnify and defend and hold harmless and pay attorneys fees for Broker from breach of contract, any negligent or intentional acts or omissions by any Parties, Inspectors, Professionals, Service Providers, Contractors, etc. including any introduced or recommended by Broker. Buyer agrees that there is valid and sufficient consideration for this limitation of liability and that Broker is the intended third-party beneficiary of this provision.*

13. NONDISCRIMINATION: Broker and Buyer agree that all actions carried out under this contract shall be in full compliance with local, state, and federal fair housing laws against discrimination including on the basis of race, color, religion, sex, national origin, familial status, marital status, age, disabilities/handicap, sexual orientation, or gender identity.

14. PROFESSIONAL COUNSEL: Buyer acknowledges that Broker is being retained solely as a real estate agent as defined by South Carolina law and not as an attorney, tax advisor, lender, appraiser, surveyor, structural engineer, home inspector or other professional service provider. Buyer agrees to seek professional advice concerning the condition of the property, legal, tax and other professional service matters.

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15. SEX OFFENDER REGISTRY INFORMATION: The Buyer and Broker agree that during the course of this agreement, the Broker and all agents shall not be responsible for obtaining or disclosing any information contained in the official South Carolina Sex Offender Registry. The Buyer understands that no course of action may be brought against the Broker or his affiliates for failing to obtain and disclose information contained in the official South Carolina Sex Offender Registry. The Buyer understands and agrees that the Buyer shall be responsible for obtaining any such information. The Buyer understands that Sex Offender Registry information may be obtained from the local Sheriff's Department or other appropriate law enforcement officials.

16. ENTIRE BINDING AGREEMENT: This written instrument, including the additional terms and conditions set forth on any addenda, expresses the entire agreement and all promises, covenants, and warranties between the Buyer and Broker. This agreement can be changed only by a subsequently written instrument signed by both parties.

17. CONTINGENCIES: _____

18. FACSIMILE AND OTHER ELECTRONIC MEANS: The parties agree that this Agreement may be communicated by use of a fax or other secure electronic means, including but not limited to electronic mail and the internet, and the signatures, initials and handwritten or typewritten modifications to any of the foregoing shall be deemed to be valid and binding upon the parties as if the original signatures, initials and handwritten or typewritten modifications were present on the documents in the handwriting of each party.

19. THIS IS A LEGALLY BINDING AGREEMENT. BUYER SHALL SEEK FURTHER ASSISTANCE IF THE CONTENTS ARE NOT UNDERSTOOD. BUYER AND BROKER ACKNOWLEDGES RECEIPT OF A COPY OF THIS AGREEMENT. BUYER AGREES TO RECEIVE COMMUNICATIONS FROM BROKER AT THE PHONE, ADDRESS, EMAIL ADDRESS, AND FAX NUMBER LISTED BELOW.

BUYERS ARE SOLELY RESPONSIBLE FOR OBTAINING LEGAL ADVICE PRIOR TO SIGNING THIS CONTRACT AND DURING THE TRANSACTION. REAL ESTATE LICENSEES RECOMMEND OBTAINING LEGAL COUNSEL.

Due to potential criminal activity, Buyers are solely responsible to verify all wiring instructions with law firm/bank and understand that audio/visual surveillance may occur. Buyers acknowledge receiving, reading, reviewing, and understanding: this Contract, the SC Disclosure of Real Estate Brokerage Relationships form, any agency agreements, and copies of these documents. Buyers acknowledge having time and opportunity to review all documents and receive legal counsel from their attorneys prior to signing this Contract.

BUYER: _____ **Date:** _____ **Time:** _____

BUYER PHONE/ADDRESS/EMAIL/FAX: _____

BUYER: _____ **Date:** _____ **Time:** _____

BUYER PHONE/ADDRESS/EMAIL/FAX: _____

BROKER: _____ **Date:** _____ **Time:** _____

BY (BROKER IN CHARGE OR ASSOCIATED LICENSEE): _____

BROKER PHONE/ADDRESS/EMAIL/FAX: _____

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