

EXCLUSIVE RIGHT TO REPRESENT BUYER AGREEMENT

This Exclusive Right to Represent Buyer Agreement (“Agreement”) is made on _____ (Date) by and between _____

_____ (“Buyer”) and (Insert Firm Name) _____ (“Broker”).

- 1. **APPOINTMENT OF BROKER.** In consideration of services and facilities, Broker is hereby granted the right to represent Buyer in the acquisition of real property.
- 2. **BUYER’S REPRESENTATIONS.** Buyer represents that as of the commencement date of Agreement, Buyer is not a party to a buyer representation agreement with any other brokerage firm for real property in Virginia. Buyer further represents that Buyer has disclosed to Broker information about any properties that Buyer has previously visited at any new homes communities or resale open houses, or that Buyer has been shown by any other real estate sales associate(s) in any area where Buyer seeks to acquire property under Agreement.
- 3. **PURPOSE.** Buyer is retaining Broker to acquire the following type of property in Virginia: _____

4. **NOTICES.** All notifications and amendments under Agreement will be in writing and will be delivered using the contact information below.

Buyer

Mailing Address: _____

City, State, and ZIP Code: _____

Phone: (H) _____ (W) _____ (Cell) _____

Email: _____

Broker (Firm)

Mailing Address: _____

City, State, and ZIP Code: _____

Phone: (W) _____ (Cell) _____

Email: _____

5. **TERM AND TERMINATION.** Agreement commences when signed and, subject to the COMPENSATION paragraph, expires at 11:59 p.m. on _____ (“Expiration Date”) (if left blank, Agreement automatically terminates 90 days after Agreement Date). If a sales contract for Property is ratified during the term of Agreement which provides for a settlement date beyond the term of Agreement, Agreement will be extended automatically until final disposition of the sales contract. In the event Buyer wishes to terminate Agreement prior to the Expiration Date, Buyer will deliver written notice to terminate the Agency Relationship between the Parties. The Parties will then execute a Release of Brokerage Representation Agreement to terminate the Brokerage Relationship between the Parties. Should termination be without good cause, Buyer will pay Broker \$ _____ as an early termination fee prior to executing the Release of Brokerage Representation Agreement, in addition to any compensation otherwise due pursuant to Agreement.

6. **BROKER’S DUTIES.** Broker will promote the interests of Buyer by: (a) performing the terms of the brokerage agreement; (b) seeking a property at a price and terms acceptable to Buyer; (c) presenting in a timely manner all written offers or counteroffers to and from Buyer; (d) disclosing to Buyer all material facts related to the property or concerning the transaction of which they have

actual knowledge; (e) accounting for in a timely manner 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 will maintain the confidentiality of all personal and financial information and other matters identified as confidential by Buyer, if that information is received from Buyer during the brokerage relationship. In satisfying these duties, Broker will exercise ordinary care, comply with all applicable laws and regulations, treat all prospective sellers honestly and not knowingly give them false information. In addition, Broker may: show the same property to other buyers; represent other buyers on the same or different properties; represent sellers relative to other properties; or provide assistance to a seller or prospective seller by performing ministerial acts that are not inconsistent with Broker's duties under Agreement. Buyer acknowledges that seller or seller's representative may not treat the existence, terms, or conditions of offers as confidential unless confidentiality is required by a written confidentiality agreement between the parties.

7. **BUYER'S DUTIES.** Buyer will: (a) work exclusively with Broker during the term of Agreement; (b) pay Broker, directly or indirectly, the compensation set forth below; (c) timely comply with the reasonable requests of Broker to supply any pertinent financial or personal data needed to fulfill the terms of Agreement; (d) cooperate with Broker and facilitate Broker's duties, including, but not limited to, being available during Broker's regular working hours to view properties; and (e) comply with local, state, and federal law(s) pertaining to this transaction.

Buyer is advised against and assumes responsibility for taking, posting, publishing or displaying any photo or video recording of any property without first obtaining seller's prior written consent. Buyer hereby releases and holds harmless Broker, Broker's designated agents, sales associates and employees from any liability which may result therefrom. Buyer also acknowledges that seller may have a video and/or audio recording system in the property, even if prior disclosure is not made.

8. **COMPENSATION.**

BROKER COMPENSATION IS FULLY NEGOTIABLE AND IS NOT FIXED, CONTROLLED, RECOMMENDED, OR SUGGESTED BY LAW OR ANY MULTIPLE LISTING SERVICE OR ASSOCIATION OF REALTORS®.

A. Buyer's Broker Compensation. Buyer will pay Broker an amount of _____% of gross sales price, \$ _____, and/or (other) _____ (“Broker Compensation”)

if Buyer enters into a contract to acquire any real property during the term of Agreement and goes to settlement on that contract any time thereafter. Buyer is responsible for payment of Broker Compensation at settlement. **If Broker receives any compensation from seller or seller's representative for services covered by Agreement, that amount will be credited toward Buyer's obligation to pay Broker Compensation.**

Broker Compensation will also be earned, due and payable by Buyer under either of the following circumstances:

1. If, within _____ days after expiration or Buyer's early termination of Agreement, Buyer enters into a contract to acquire any real property of the type discussed in the PURPOSE paragraph, unless Buyer has entered into a subsequent Buyer Broker Agreement with another real estate broker; **OR**
2. If, having entered into an enforceable contract to acquire real property during the term of Agreement, Buyer defaults under the terms of that contract.

Any obligation incurred under Agreement on the part of Buyer to pay Broker Compensation will survive the term of Agreement.

B. Retainer Fee. Broker acknowledges receipt of a retainer fee in the amount of \$ _____ which will OR will not be subtracted from any compensation due Broker under Agreement. The retainer fee is non-refundable and is earned when paid.

C. Broker Service Fee. Buyer will pay Broker an additional flat fee of \$ _____ as Broker Service Fee.

D. Property Types. Buyer agrees to the terms of this paragraph when entering into any contract for any type of real property, including but not limited to new home construction, off-market listings, properties for sale by owners, and the like.

E. Retention of Excess Compensation. Broker may not receive any compensation, including fees, which exceeds the amounts set forth in Agreement.

9. RELOCATION PROGRAM Buyer is participating in relocation program Yes OR No.

If "Yes": (a) the program is named: _____, Contact Name: _____ Contact Information: _____ and (b) terms of the program are: _____

If "No" or Buyer has failed to list a specific relocation program, then Broker will have no obligation to cooperate with or compensate any undisclosed program.

10. TYPES OF REAL ESTATE REPRESENTATION - DISCLOSURE & INFORMED CONSENT

Seller representation occurs when sellers contract to use the services of their own broker (known as a listing agent) to act on their behalf.

Buyer representation occurs by virtue of Agreement. (Note: Broker may assist a seller or prospective seller by performing ministerial acts that are not inconsistent with Broker's duties as Buyer's agent under Agreement.)

Designated representation occurs when a buyer and seller in one transaction are represented by different sales associate(s) affiliated with the same broker. Each of these sales associates, known as a designated representative, represents fully the interests of a different client in the same transaction. Designated representatives are not dual representatives if each represents only the buyer or only the seller in a specific real estate transaction. In the event of designated representatives, each representative will be bound by client confidentiality requirements, set forth in the BROKER'S DUTIES paragraph. The broker remains a dual representative.

Buyer **does not consent** to designated representation thus Buyer does not allow Broker to show properties owned by a seller represented by this Broker through another designated representative associated with the firm. **OR**

Buyer **consents** to designated representation and the Buyer allows Broker to show properties owned by a seller represented by this Broker through another designated representative associated with the firm.

Dual representation occurs when the same Broker and the same sales associate represent both the buyer and seller in one transaction. In the event of dual representation, Broker will be bound by confidentiality requirements for each client, set forth in the BROKER'S DUTIES paragraph.

- Buyer **does not consent** to dual representation thus Buyer does not allow Broker to show properties owned by a seller represented by this Broker through the same representative **OR**
 Buyer **consents** to dual representation and thus Buyer allows Broker to show properties owned by a seller represented by this Broker through the same representative.

An additional disclosure is required before designated or dual representation is to occur for a specific transaction.

11. COMPLIANCE WITH FAIR HOUSING LAWS. Property will be shown and made available 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 local jurisdictions, or by the REALTOR® Code of Ethics.

12. BUYER DEFAULT.

A. Buyer Default. In the event of Buyer breach as set forth herein, such shall constitute Buyer default and will serve as good cause for Broker to terminate Agreement. Upon such breach, Broker may, at Broker's option, provide Buyer a Notice to Terminate Brokerage Representation Agreement. Upon Delivery of Notice, the Agency Relationship between the Parties will cease. Both parties will subsequently and immediately execute a Release of Brokerage Representation to terminate the Brokerage Relationship between the Parties and all respective rights and obligations of the Parties arising under Agreement will terminate, exclusive of Broker's duties in this Paragraph. If the Buyer refuses to execute the Release when requested to do so in writing and a court finds that Buyer should have executed the Release, Buyer will pay the expenses, including, without limitation, reasonable attorney's fees and costs, incurred by Broker in any litigation regarding this matter.

B. Broker Duties Upon Termination. In the event Broker terminates Agreement prior to the expiration of Agreement, Broker will promptly deliver to Buyer copies of all contracts and other instruments entered into on behalf of Buyer. Broker may retain copies of such contracts and instruments for Broker's records.

13. ATTORNEYS' FEES. If any Party breaches Agreement and a non-breaching Party retains legal counsel to enforce its rights hereunder, the non-breaching Party will be entitled to recover against the breaching Party, in addition to any other damages recoverable against any breaching Party, all of its reasonable Legal Expenses incurred in enforcing its right under Agreement, whether or not suit is filed, and in obtaining, enforcing and/or defending any judgment related thereto. Should any tribunal of competent jurisdiction determine that more than one Party to the dispute has breached Agreement, then all such breaching Parties will bear their own costs, unless the tribunal determines that one or more of the Parties is a "Substantially Prevailing Party", in which case any such Substantially Prevailing Party will be entitled to recover from any of the breaching Parties, in addition to any other damages recoverable against any breaching Party, all of its reasonable Legal Expenses incurred in enforcing its rights under Agreement, whether or not suit is filed, and in obtaining, enforcing and/or defending any judgment related thereto. "Party" as used in this paragraph includes any third party beneficiary identified herein. "Legal Expenses" as used in this paragraph includes attorney fees, court costs, and litigation expenses, if any, including, but not limited to, expert witness fees and court reporter fees.

14. The Buyer **does** **OR** **does not** hold an active or inactive real estate license.

15. DEFINITIONS.

- A. "Agency Relationship" means the relationship in which a real estate licensee acts for or represents a person as an agent by such person's express authority in a real estate transaction.
- B. "Brokerage Relationship" means the contractual relationship between a client and a real estate licensee based on the terms, provisions, conditions, duties, and responsibilities of this Agreement.

16. DISCLAIMERS.

A. Professional Services Buyer acknowledges that Broker is being retained solely as a real estate agent and not as an attorney, tax advisor, lender, appraiser, surveyor, structural engineer, mold or air quality expert, home inspector, solar panel expert, or other professional service provider. Broker can counsel on real estate matters, but if Buyer desires legal advice, Buyer is advised to seek legal counsel. Buyer is advised to seek appropriate professional advice concerning the Property condition, financing, tax, title insurance, property insurance and legal matters.

B. Megan's Law Buyer should exercise whatever due diligence Buyer deems necessary with respect to information on any sexual offenders registered under Chapter 9 of Title 9.1 of the Code of Virginia. Such information may be obtained by contacting the local police department or the Department of State Police, Central Criminal Records Exchange, at (804)674-2000 or <https://www.vpsor.com/>.

C. Wire Fraud Buyer should never transmit nonpublic personal information, such as credit or debit card, bank account or routing numbers, by email or other unsecured electronic communication. There are numerous e-mail phishing scams that involve fraudulent requests to wire funds in conjunction with a real estate transaction. If Buyer receives any electronic communication directing the transfer of funds or to provide nonpublic personal information, even if that electronic communication appears to be from a representative of Broker, do not respond. Such requests, even if they may otherwise appear to be from Broker, could be part of a scheme to defraud Buyer by misdirecting the transfer of funds or using Buyer's identity to commit a crime. If Buyer should receive wiring instructions via electronic means that appear to be from a legitimate source involved in Buyer's real estate transaction, Buyer should verify - using contact information other than that provided in the communication - that the instructions were sent by an actual representative of the requesting company. Conversely, if Buyer has provided wiring instructions to a third party, it is important to confirm with the representative of said company that the wire instructions are not to be substituted without Buyer's verified written consent. When wiring funds, never rely exclusively on an e-mail, fax or text communication.

D. Service Provider Referrals. Broker or one of Broker's sales associates may refer a service provider to assist Buyer in this transaction. This referral is not an endorsement, guarantee or warranty as to the quality, cost and/or timeliness of the services to be provided. Buyer is advised to independently investigate all options for service providers and consider whether any service provider will work effectively with Buyer. Buyer is free to reject any referred service provider for any or no reason.

17. MISCELLANEOUS. Agreement, any exhibits and any addenda signed by the parties constitute the entire agreement between the parties and supersede any other written or oral agreements between the parties. Agreement can only be modified in writing when signed by both parties. The laws of Virginia will govern the validity, interpretation and enforcement of the Agreement, without regard to the application of conflict of laws.

18. SEVERABILITY. In the event any provision in Agreement is determined to be unenforceable, the remaining terms and provisions of Agreement shall not in any way be affected, impaired, or invalidated thereby.

19. OTHER PROVISIONS _____

(NOTE: Buyer should consult with Buyer Agent before visiting any resale or new homes or contacting any other Real Estate Agents representing sellers, to avoid the possibility of confusion over the brokerage relationship and misunderstandings about liability for compensation.)

_____/_____
Date Buyer

_____/_____
Date Broker/Sales Manager

_____/_____
Date Buyer

_____/_____
Date Buyer

_____/_____
Date Buyer

Buyer Agent Contact Information

Buyer's Agent: _____

Team Name (if applicable): _____

Phone: (W) _____ (Cell) _____

Email: _____

Supervising Broker Contact Information

Broker Name: _____

Phone: (W) _____ (Cell) _____

Email: _____

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