

EXCLUSIVE BUYER AGENCY AGREEMENT

(Listing service rules mandate a written agreement with Buyer before touring a home in-person or virtually.)

This Agreement is between _____ (“Buyer”) and _____ (“Firm”).

1. **Services Provided:** Firm will assist Buyer in locating and buying the following real property (*describe type and location*):

(the “Services”). While providing the Services, Firm will represent Buyer as Buyer’s exclusive agent and will act in the best interest of Buyer. Buyer agrees to cooperate with Firm and also agrees that all offers, contracts, negotiations, leads, inspections, appointments, and any other activities in connection with buying property will be facilitated by and through Firm only. Buyer also agrees to comply with closing attorney instructions and any purchase contract. Firm may assign other agents in the Firm to provide the Services at any time. Even though Firm will act in the best interest of Buyer, Buyer understands that Firm may represent other buyers, who may be shown the same property as Buyer.

2. **Buyer Disclosures:** Buyer makes the following disclosures and agrees to update them immediately if any changes occur.

- a. Buyer ☐ has ☐ has not signed a buyer agency agreement or other document with another real estate agent or firm. If Buyer has signed any document with another buyer agent – for example, a document allowing Buyer to tour a property – Buyer agrees to give Firm the document(s) or the agent’s contact information so Firm can confirm its ability to provide the Services to Buyer.
- b. Buyer ☐ is ☐ is not working with a relocation company.
- c. Buyer ☐ has ☐ has not received sample copies of the purchase contract and professional services disclosure form.

3. **Term of Agreement:** This Agreement will be effective when signed by Buyer and Firm and will expire either when Buyer purchases property as described in section 1 or at 11:59 p.m. on _____, whichever occurs first.

4. **Fee for Services:** Unless otherwise indicated below, Buyer agrees to pay Firm (Check all that apply):

- ☐ A non-refundable retainer of \$ _____ which will be credited toward Firm’s total compensation
- ☐ A fee of _____% of the property’s gross sales price
- ☐ A fee of _____% for new construction property based on the purchase price of the vacant land and the final cost of the completed dwelling
- ☐ A bonus of _____% of the Property’s gross sales price or \$ _____ if offered and paid by a seller or builder.
- ☐ A flat fee of \$ _____
- ☐ Other Specific Amount: _____

- a. **Fee Earned; Due and Payable:** Except for any non-refundable retainer, the fee in this section will be earned by Firm when Buyer enters into a written contract (“Contract”) during the term of this Agreement to buy real property or a new construction as described in section 1. The fee will be due and payable to Firm when Buyer, any authorized assignee of Buyer, or any party authorized by Buyer in the Contract, closes or defaults on the Contract.
- b. **Seller Assistance:** Buyer may seek compensation from the seller to pay some or all of the fee due in this Agreement. However, Buyer understands that a seller has a no duty to pay Firm’s fee.
- c. **Protection Period:** If Buyer enters into a Contract within _____ days after this Agreement expires for a property introduced to Buyer by Firm, then the fee in this section 4 will be deemed earned unless Buyer has entered into another agency agreement with another real estate agent or firm. Any fee earned during this Protection Period will be due and payable as provided in section 4(a) of this Agreement.

5. **Negotiable Fee; Additional Compensation:** BUYER UNDERSTANDS THAT THE AMOUNT, FORMAT, OR RATE OF REAL ESTATE COMPENSATION IS NOT FIXED BY LAW BUT IS SET BY EACH BROKER OR FIRM INDIVIDUALLY AND IS FULLY NEGOTIABLE. Firm may not receive compensation for the Services from any source that exceeds the amount or rate agreed to herein with Buyer.

6. **Dual Agency:** Dual agency occurs when a real estate firm represents both the buyer and the seller in a transaction. Designated dual agency is a specific type of dual agency where a firm will appoint one agent to represent only the interests of the seller and a different agent to represent only the interests of the buyer. Designated dual agency permits a firm to fully advise and advocate for



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Buyer Initials _____ Agent Initials _____



both a buyer and a seller as if the appointed agents were not both affiliated with the same firm. Not every real estate firm offers dual agency or designated dual agency. Authorizations available below may vary.

- a. **Terms of Dual Agency:** If dual agency is permitted, Buyer understands and agrees to the following:
- Firm will act as Buyer's exclusive agent up until dual agency occurs. However, in its separate representation of Buyer and a seller, Firm may obtain information which, if disclosed, could harm Buyer's bargaining position.
 - Buyer will have to make their own decisions as to what terms will be included in an offer to purchase unless designated dual agency is directed by Buyer below.
 - Unless required by law, Firm will not disclose to a seller: that Buyer may agree to a price or contract terms different than what Buyer has offered; Buyer's motivation for wanting to buy a property; and any other information that Buyer has told Firm is confidential. Firm will similarly not reveal to Buyer the same kind of information as it relates to a seller.
 - Firm will represent Buyer and the seller in a balanced and fair manner, and Firm will assist both parties in their communications regarding the transaction. However, Firm will be limited in its ability to advocate for Buyer, like an exclusive agent would, unless designated dual agency is directed below.
 - If designated dual agency is directed, an agent in Firm will not be designated to represent Buyer or the seller if that agent has received confidential information concerning the other party.
 - Buyer has determined that the advantages of dual agency outweigh the disadvantages.

- b. **Authorizations:** Initial only as applicable below.

_____ Firm may NOT act as a dual agent in a transaction involving Buyer.

_____ Firm may act as a dual agent in a transaction involving Buyer.

If Firm may act as a dual agent, then initial only one line below:

_____ Buyer does authorize the same agent to represent both Buyer and a seller in dual agency.

_____ Buyer does NOT authorize the same agent to represent both Buyer and a seller in dual agency.

_____ Buyer does NOT authorize the same agent to represent both Buyer and a seller in dual agency and directs Firm to practice designated dual agency. If Buyer directs Firm to practice designated dual agency, then Firm will practice designated dual agency unless: (i) it is not allowed under North Carolina law; or (ii) Buyer authorizes Firm in writing to practice dual agency only.

- c. **Material Facts:** Regardless of whether dual agency is authorized, Firm must disclose any material facts to all parties in a transaction. This duty applies whether Firm is Buyer's exclusive agent or a dual agent, including designated dual agency.
- d. **Waiver:** Should Firm become a dual agent, Buyer waives all claims, damages, losses, expenses, and liabilities, other than for violations of the NC Real Estate License Law and intentional wrongful acts arising from Firm's role as a dual agent.
7. **Surveillance; Photographs; and Video:** Buyer understands that some properties may have video, audio, or surveillance devices. Federal and state laws prohibit the recording of oral communications without consent. However, video surveillance without consent may be permitted. Buyer may take photos or record video as long as Buyer does not intrude on the owner's reasonable expectation of privacy and owner has not prohibited photography and video. Buyer should only record spaces in plain view. If Buyer were to intrude on an owner's privacy – for example, if Buyer were to take pictures of a medicine cabinet or inside a desk drawer – then Buyer may be subject to liability. Firm may not have control of pictures or videos of a property that Buyer may purchase, and accordingly, such information will not be removed from public display after Buyer's purchase.
8. **Other Professional Advice:** Buyer is advised to seek other professional advice regarding law, taxes, financing, insurance, surveying, wood destroying insects, structural soundness, engineering, building construction, and other matters related to purchasing real estate. Buyer also should consider seeking legal advice regarding this Agreement. Firm may provide recommendations for these other services, but Firm cannot guarantee the quality or level of expertise. Buyer agrees to hold Firm harmless regarding Buyer's use of other professional services. Buyer also agrees to fully indemnify Firm if a claim is brought against Firm stemming from Buyer's use of other professionals or Buyer's election not to use other professionals.
9. **Inspection Costs:** Unless otherwise agreed, Buyer must pay for all inspection costs and other professional services related to purchasing a property including all items in section 8. This duty to pay will apply regardless of whether Buyer closes on a property.
10. **Confidentiality:** Firm will not disclose the price or other terms of an offer by Buyer to a competing party without the express consent of Buyer. However, sellers may elect not to treat Buyer's offer as confidential. Sellers may also elect not to disclose other offers and instruct their agent to keep that information confidential.
11. **WIRE FRAUD WARNING:** Before sending any wire, Buyer should verify the recipient's phone number independently, and call the recipient to verify the wiring instructions. If Buyer receives wiring instructions for a different bank, branch location, or account name or number, they should be presumed fraudulent. If fraud is at all suspected, do not send any funds, contact the recipient

immediately, and presume that any phone number received in an email from the closing attorney, Firm, another real estate agent, or anyone else is fraudulent. Buyer understands that there are risks associated with wire transfers that are not within the reasonable control of Firm. Buyer agrees to release and discharge Firm and Firm's agents from all claims not caused by gross negligence relating to a wire transfer associated with the Services.

12. **FinCEN Disclosure:** FinCEN, the Financial Crimes Enforcement Network, is a bureau of the Department of the Treasury. It investigates and prosecutes financial crimes, and it collects and analyzes transaction data for this purpose, among others. FinCEN's Residential Real Estate Rule requires certain professionals involved in residential real estate closings, including closing attorneys, to submit reports to FinCEN regarding certain transfers to legal entities or trusts. The rule aims to increase transparency and combat money laundering and terrorism financing, however, it may also increase closing costs.

13. **Additional Terms:** _____

_____. If there is a conflict between the terms in this section and any other part of this Agreement, the terms in this section will control. Firm and Buyer may also insert "see attached" and add additional terms with a separate addendum.

14. **Merger; Termination; Modification; Assignment; Enforcement; Attorney's Fees; and Governing Law:** This Agreement represents the entire agreement of the parties hereto. All prior understandings and agreements are merged into this document. This agreement may only be terminated or modified by a written document signed by all parties, and it may not be assigned except by written consent of all parties. In the event of termination, Firm may require reimbursement of fees, costs, and expenses, in addition to other remedies. Subject to statutory limitations, if legal proceedings are instituted to enforce any provision of this agreement, the prevailing party in the proceeding shall be entitled to recover from the non-prevailing party reasonable attorney's fees and court costs incurred in connection with the proceeding. This agreement is governed by North Carolina law.

15. **NONDISCRIMINATION:** FIRM SHALL CONDUCT ALL BROKERAGE ACTIVITIES IN REGARD TO THIS AGREEMENT WITHOUT RESPECT TO THE RACE, COLOR, RELIGION, SEX, NATIONAL ORIGIN, HANDICAP, OR FAMILIAL STATUS OF ANY PARTY OR PROSPECTIVE PARTY. FURTHER, REALTORS® HAVE AN ETHICAL DUTY TO CONDUCT SUCH ACTIVITIES WITHOUT RESPECT TO THE SEXUAL ORIENTATION OR GENDER IDENTITY OF ANY PARTY OR PROSPECTIVE PARTY.

NC REALTORS® MAKES NO REPRESENTATION AS TO THE LEGAL VALIDITY OR ADEQUACY OF ANY PROVISION OF THIS FORM IN ANY TRANSACTION.

Buyer: (Name) _____ (Signature) _____ (Date) _____

Contact: (Phone and Email) _____

Mailing Address: _____

Buyer: (Name) _____ (Signature) _____ (Date) _____

Contact: (Phone and Email) _____

Mailing Address: _____

Entity Buyer: (Name of LLC, Corp., Trust, etc.) _____

By: (Name & Title) _____ (Signature) _____ (Date) _____

Contact: (Phone and Email) _____

Mailing Address: _____

Firm: (Name) _____ (License Num.) _____ (Phone) _____

By: (Agent Signature) _____ (License Num.) _____ (Date) _____

Office Address: _____

Agent Contact: (Phone, Fax, and Email) _____