

EXCLUSIVE RIGHT TO REPRESENT BUYER AGREEMENT

This form approved by the North Dakota Association of REALTORS®, which disclaims any liability out of use or misuse of this form. Only REALTORS® licensed in North Dakota are authorized to use this form in compliance with NDAR's Statewide Forms Policy.

1 **DATE:** _____

2 This Exclusive Right to Represent Buyer Agreement ("Agreement") is between:

3 **BUYER(s):** _____ and

4 **BROKER:** _____.

5 This Agreement gives the Broker the exclusive right to locate, and/or negotiate for the purchase, exchange, lease, or option
6 to purchase ("Purchase") property at a price and with terms acceptable to Buyer(s). This Agreement starts on
7 _____ and ends at 11:59 P.M. on _____. If closing of an executed
8 PURCHASE AGREEMENT is set to occur after the expiration date of this Agreement, the parties agree that the terms of
9 this Agreement shall be extended until the closing has been completed.

10 **NOTICE:** A signed written agreement is required prior to showing property.

11 **GENERAL NATURE OF PROPERTY:** This Agreement shall apply to the Purchase of real property (which may include
12 items of personal property) described in the general terms as follows:

13 General type of property including new construction: (Check all that apply)

- 14 ☐ Residential/Personal ☐ Residential/Investment ☐ Commercial/Industrial
15 ☐ Recreation ☐ Farm Land ☐ Vacant Land
16 ☐ Address: _____

17 **BROKER'S OBLIGATION:** Broker will:

- 18 a) Make reasonable effort to locate and/or show property acceptable to Buyer(s) through the use of the Multiple
19 Listing Service (MLS) or brought forth by Buyer(s);
20 b) Use professional knowledge and skills to assist in negotiations for Purchase of the property;
21 c) Assist Buyer(s) throughout transaction and comply with all applicable fair housing and non-discrimination
22 regulations; and
23 d) Act exclusively in Buyer's best interest.

24 **BUYER'S OBLIGATION:** Buyer(s) will:

- 25 a) Work exclusively with Broker for Purchase of property;
26 b) Provide Broker with accurate and relevant personal financial information to determine Buyer's ability to
27 Purchase property;
28 c) Agree to conduct all negotiations for the property through Broker;
29 d) Cooperate with Broker in finding a property to Purchase. After a Purchase Agreement has been accepted by
30 Seller(s), Buyer(s) is legally obligated to Purchase the property. If Buyer(s) refuses to close the Purchase for any
31 reason other than the failure of Seller(s) to perform or contingencies not being removed or met, Buyer(s) will pay
32 Broker all compensation due under this Agreement.

33 **BROKER COMPENSATION:**

34 **BROKER COMMISSIONS ARE NOT SET BY LAW AND ARE FULLY NEGOTIABLE.**

35 **BROKER MAY NOT RECEIVE COMPENSATION FROM ANY SOURCE THAT EXCEEDS THE AMOUNT OR**
36 **RATE AGREED TO BY BUYER(S).**

37 In consideration of the services to be performed by Broker, Buyer(s) agrees to pay Broker as follows (Check all that apply):

- 38 1) ☐ Buyer(s) agrees to pay Broker a retainer fee of \$_____ at the commencement of this Agreement,
39 and such fee shall be kept by Broker whether or not Buyer(s) purchases property. The retainer fee
40 ☐ **SHALL** ☐ **SHALL NOT** apply toward satisfaction of any obligation to compensate Broker.
41 2) ☐ Buyer(s) agrees to pay Broker a transaction fee of \$_____ when Buyer(s) closes the Purchase.
42 3) ☐ Buyer(s) shall pay Broker, as Broker's compensation, _____ percent (%) of the purchase price or
43 \$_____ when Buyer(s) closes the Purchase, if:
44 a. Buyer(s) Purchases or agrees to Purchase a property before the expiration of this Agreement even if
45 Buyer(s) does not use Broker's services; or
46 b. Within _____ calendar days after the end of this Agreement:

Buyer(s) Initials _____

1. Buyer(s) Purchases property which either Broker or Broker's Agent(s) has physically shown the Buyer(s); or
2. Buyer(s) has made an affirmative showing of interest to Broker or Broker's Agent(s) before the end of the Agreement.

Buyer(s) will not be obligated to pay a fee to Broker if, upon expiration or termination of this Agreement, Buyer(s) has entered into another valid agreement to represent Buyer(s) pursuant to which Buyer(s) is obligated to pay a fee or commission to that broker for Purchase of real property.

Broker is authorized to negotiate and receive compensation paid by Seller(s), or Broker representing or assisting Seller(s). Any compensation accepted by Broker from Seller(s) or Broker representing or assisting Seller(s) shall reduce any obligation of the Buyer(s) before paying the compensation by the amount received by Seller(s) or Broker.

Before Buyer(s) signs a Purchase Agreement, Broker will disclose to Buyer(s), in writing, the amount of commission to be paid.

Caution: Buyer's actions in locating a property may affect payment of compensation by Seller(s) and may therefore obligate Buyer(s) to pay all or part of the compensation in cash at closing (i.e. the signing of a Purchase Agreement through another broker or with the Owner, as in "For Sale By Owner," may require Buyer(s) to pay the full amount of compensation due to the Broker.)

CLOSING SERVICES: After a Purchase Agreement for property is fully executed, arrangements must be made to close the transaction. Buyer(s) understands that no one can require Buyer(s) to use a particular person to conduct the closing and Buyer(s) may arrange for another qualified person, including Buyer's attorney. The real estate Broker, real estate Agent(s), or real estate closing agent, has not, and under applicable state law, may not, express opinions regarding the legal effect of the closing documents or of the closing itself.

Buyer(s) instructs Broker as follows (Check one):

- ☐ Buyer(s) requests Broker arrange for closing services. Broker will give Buyer(s) written disclosure of any controlled business arrangement Broker has with closing services selected.
- ☐ Buyer(s) will arrange for a qualified closing agent or Buyer's attorney to conduct the closing.

FINCEN REPORTING NOTICE: If Buyer(s) is an entity or plans to be an entity to purchase residential property, and Buyer(s) is paying with cash or obtaining financing through a lender that does not independently satisfy federal anti-money laundering reporting obligations, Buyer(s) understands that Buyer(s) and Seller(s) shall have to disclose entity and personal identification information to the closing company prior to closing. This reporting requirement may affect whether Seller(s) is willing to accept the terms of an offer to purchase. This reporting requirement is as per the Financial Crimes Enforcement Network (FinCEN) of the U.S. Department of the Treasury.

APPOINTED AGENCY REPRESENTATION: Broker will appoint to Buyer(s), in writing, a licensed Agent(s) who will be acting as Buyer's Appointed Agent(s) to the exclusion of all other affiliated licensed Agent(s) of Broker. By agreeing to Appointed Agency, Buyer(s), Broker, Agent(s) of Broker and Appointed Agent(s) named below are considered to possess only actual knowledge and information. By an act of North Dakota Law, the definitions regarding Appointed Agency make it clear that there is no imputed knowledge or information between Buyer(s), Broker, Broker's Agent(s), or named Appointed Agent(s).

____ ("Appointed Agent(s)"), an affiliated licensed Agent(s) of Broker, is appointed to act solely as an Agent(s) for Buyer(s) unless they personally represent Seller(s), in which event, the Appointed Agent(s) is considered a Dual Agent in this transaction only. Buyer's designated Appointed Agent(s) is obligated not to reveal any confidential information obtained from Buyer(s) to other licensed Agent(s), except to the Broker in charge of the oversight of Buyer's transaction.

It is understood that Broker may appoint another Agent(s) for Buyer(s) during the term of this Agreement if:

1. Appointed Agent(s) is not able to fulfill the terms of this Agreement, and/or
2. Buyer(s) and Broker mutually agree to the appointment of another Agent(s). An appointment of another Agent(s) as a new or additional Agent(s) does not relieve the first Appointed Agent(s) of any of the duties owed to Buyer(s) as previously described in this Agreement.

Having read and understood this information about Appointed Agency, Buyer(s) now instructs Broker as follows:
Buyer(s) ☐ **accepts** ☐ **does not accept** a possible Appointed Agent Representation.

Buyer Signature Date

Agent Signature Date

Buyer Signature Date

Buyer(s) Initials _____

100 **DUAL AGENCY REPRESENTATION:** Dual Agency means Broker represents both Buyer(s) and Seller(s) and owes the
101 same duties to both parties. This agency relationship will prohibit Broker from advocating exclusively for either party.
102 Dual Agency will limit the level of representation Broker can provide. Confidential information communicated by Buyer(s)
103 or Seller(s) to Broker in regard to price, terms, or motivation will remain confidential unless Buyer(s) or Seller(s) instructs
104 Broker in writing of specific information to disclose. All other information may be shared. Broker cannot act as a Dual
105 Agent unless both Seller(s) and Buyer(s) agree.

106 By agreeing to a **possible** Dual Agency, Buyer(s) may be giving up the right to exclusive representation in a transaction
107 where Agent(s) representing Seller(s) and Buyer(s) work for the same Brokerage or when one Agent(s) is representing both
108 Seller(s) and Buyer(s).

109 By **not** agreeing to a **possible** Dual Agency, Buyer(s) will be giving up the opportunity to view and Purchase property
110 listed by Buyer(s) Agent's Brokerage, unless Appointed Agency applies.

111 Buyer(s) ☐ **accepts** ☐ **does not accept** a possible Dual Agency Representation.

| | | | | |
|-----|-----------------|------|-----------------|------|
| 112 | _____ | | _____ | |
| 113 | Buyer Signature | Date | Agent Signature | Date |
| 114 | _____ | | _____ | |
| 115 | Buyer Signature | Date | | |

116 **OTHER POTENTIAL BUYER(S):** Broker may represent or work with other potential Buyer(s) for the same property
117 before, during, and after the expiration of this Agreement. Other potential Buyer(s) may consider, make offers or Purchase
118 through Broker the same or similar properties as Buyer(s) is seeking to acquire.

119 **EXCLUSIVE REPRESENTATION:** Buyer(s) represents to Broker that Buyer(s) has employed no other broker to assist
120 in acquiring an interest in property that is within the scope of this Agreement and agrees to protect, defend, indemnify
121 and hold Broker harmless from the claims, liabilities and expenses, including reasonable attorney's fees, arising by reason
122 of a claim of any other Broker for compensation as a result of a transaction that is within the scope of this Agreement.

123 **PRIVATE INSPECTION/WARRANTY:** Broker recommends that Buyer(s) obtain a private home inspection to satisfy
124 Buyer(s) with the physical condition of the property. Furthermore, there are warranty programs available for some
125 properties which Buyer(s) may wish to investigate prior to Purchase of any specific property.

126 **NONDISCRIMINATION:** All parties agree not to discriminate against or refuse to sell to, or discriminate in the terms,
127 conditions, or privileges of sale against, or indicate or publicize that sale is unwelcome, objectionable, not acceptable, or
128 not solicited from, any person due to that person's race, color, religion, sex, national origin, age, physical or mental
129 disability, family status, status with respect to marriage, or status with respect to public assistance. All parties understand
130 further applicable laws, rules, or ordinances may include other protected classes of persons.

131 **OTHER PROFESSIONAL SERVICES:** Buyer(s) acknowledges that Broker is retained solely as a real estate agent and
132 **not** as an attorney, tax advisor, lender, appraiser, surveyor, structural engineer, home inspector or other professional
133 service advisor. Buyer(s) has been advised to seek professional advice concerning the condition of the property, legal, and
134 tax matters.

135 **CONFIDENTIAL OFFERS:** Buyer(s) is aware that Purchase Agreements generally are not confidential; and, in some
136 cases, Seller(s), in dealing with multiple offers, could make other buyers aware of the existence and contents of Buyer's
137 Purchase Agreement. Buyer(s) is aware that Buyer(s) could make an offer on a property contingent upon confidentiality
138 prior to commencing negotiations with a Seller(s).

139 **ENFORCEMENT:** If either Buyer(s) or Broker brings an action for enforcement of this Agreement, the prevailing party
140 in such an action shall be entitled to recover all costs and expenses including reasonable attorney's fees and court costs.

141 **PREVIOUS AGENCY RELATIONSHIPS:** Broker and Agent(s) may have had a previous agency relationship with a
142 Seller(s) of a property Buyer(s) is interested in purchasing. Buyer(s) acknowledges that Buyer's Broker or Agent(s) is
143 legally required to keep information confidential regarding the ultimate price, terms the Seller(s) would accept, and
144 motivation for selling.

145 **FOREIGN INVESTMENT IN REAL PROPERTY TAX ACT ("FIRPTA"):** 26 U.S. Code § 1445 (hereinafter "FIRPTA")
146 requires a Buyer(s) of a United States real property interest to withhold a tax from the proceeds of any disposition of the
147 real property interest if the Seller(s) is a foreign person (any person other than a United States person), unless an exception
148 to the FIRPTA withholding requirements applies. Exemptions from the general rule are set forth in the FIRPTA. Due to
149 the complexity of the FIRPTA, both Buyer(s) and Seller(s) are advised to seek appropriate legal and tax advice regarding

Buyer(s) Initials _____

150 FIRPTA compliance since failure to adhere to the FIRPTA withholding rules could result in legal liability to both Buyer(s)
151 and Seller(s) and their Broker(s)/Agent(s) or qualified substitutes.

152 **SURVEILLANCE:** Properties may be under video/audio surveillance. It is advised that surveillance be disclosed,
153 however, it may not be.

154 **CANCELLATION:** This Exclusive Right to Represent Buyer Agreement can be cancelled only with mutual written
155 consent of the parties.

156 **ADDITIONAL PROVISIONS:**

157 _____
158 _____
159 _____

160 **ELECTRONIC SIGNATURES:** The parties agree the electronic signature of any party on any document related to this
161 transaction constitutes valid, binding signatures.

162 **CONVENIENCE FEE:** Buyer(s) may be charged a convenience fee(s) if electronically depositing earnest money and/or
163 wiring funds.

164 **CONSENT FOR COMMUNICATION:** Buyer(s) authorizes Broker and its representatives to contact Buyer(s) by mail,
165 phone, fax, text messaging (SMS), email, or other means of communication during the term of this Agreement and any
166 time thereafter.

167 **ENTIRE AGREEMENT:** This Exclusive Right to Represent Buyer Agreement constitutes the entire Agreement between
168 the parties relating to the subject hereof, and any prior agreements, whether oral or written, are merged, and integrated
169 into this Agreement. Any modification to this Agreement shall be reduced to writing and signed by all parties.

170 I/We hereby certify that I/we have received a copy of this Agreement and agree to its terms.

171 **ACCEPTANCE:**

172 To be binding, this Agreement must be fully executed by all parties:

| | | | | |
|-----|-----------------|-------|-----------------|-------|
| 173 | _____ | _____ | _____ | _____ |
| 174 | Buyer Signature | Date | Buyer Signature | Date |
| 175 | _____ | _____ | _____ | _____ |
| 176 | Buyer Phone | | Buyer Phone | |
| 177 | _____ | _____ | _____ | _____ |
| 178 | Buyer Email | | Buyer Email | |
| 179 | _____ | _____ | _____ | _____ |
| 180 | Buyer Address | | Buyer Address | |

181 _____
182 Brokerage Name Agent Printed Name

183 _____
184 Brokerage Phone Agent Signature Date