



# Greater Metropolitan Association of REALTORS®

## BUYER AGENCY AGREEMENT with CONSENSUAL DISCLOSED DUAL AGENCY (Traditional Agency)



BROKER \_\_\_\_\_

CONTRACT DATE \_\_\_\_\_

1. **PURPOSE.** Client hereby appoints Broker as Client's exclusive agent to assist Client to locate, negotiate and secure property as described in paragraph 3. Broker accepts the appointment and Broker's services shall be limited to consulting with Client regarding the desirability of particular properties, the availability of financing, formulating acquisition strategies, negotiating "Buy & Sell Agreements", leases, options, exchanges and facilitating the details of the transaction.

2. **TERM.** This agreement shall terminate at midnight on \_\_\_\_\_ ("Termination Date").

3. **PROPERTY.** Client desires to purchase, lease, option, exchange or otherwise acquire real property (which may include items of personal property) meeting the following general criteria:

Type:     Residential     Residential Income     Commercial     Farm     Industrial     Vacant Land     Other

General Description:

General Location:

Other Considerations:

4. **PREFERRED PRICE AND TERMS.**

Client's preference is to find property with the following:

A. Price Range

\$ \_\_\_\_\_ to \$ \_\_\_\_\_

B. Preferred Terms

5. **EXCLUSIVE AGENT.** Client agrees that during the term of this agreement any and all inquiries and/or negotiations on behalf of the Client relating to the acquisition of any Desired Property shall be through Broker. Client agrees to refer any inquiries to Broker from any other broker, salesperson or any other source.

6. **ENTITLEMENT TO A COMPENSATION.** The Broker shall be entitled to compensation in the event any of the following occurs:

A. During the term of this agreement, the Client purchases, leases, or exchanges any property of the general type described in paragraph 3 above.

B. Within \_\_\_\_\_ months after the expiration of this agreement, the Client purchases, leases or exchanges any property with respect to which the Broker (1) had negotiations relating to the property, (2) exhibited the property to the Client or (3) had any oral or written contact with the owner of the property or the owner's agent on the Client's behalf, unless the Client has entered into a subsequent "Buyer Agency Agreement" with another broker.

7. **COMPENSATION OF BROKER. BROKER'S FEE FOR SERVICES RENDERED IS FULLY NEGOTIABLE AND IS NOT FIXED, CONTROLLED OR SET BY LAW, THE MLS OR ANY OTHER PERSON NOT A PARTY TO THIS AGREEMENT.** In consideration for the services to be performed under this agreement, compensation due broker shall be:

<input type="checkbox"/> \$ _____ dollars	<input type="checkbox"/> _____% of the purchase/lease price	<input type="checkbox"/> Other _____
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Some or all of Broker's compensation may be paid by seller, listing broker or others. Broker may not receive compensation for brokerage services from any source that exceeds the amount or rate agreed to in this Agreement. The terms of any agreement to pay any part of Broker's compensation by a person other than the Client will be included in the Buy & Sell Agreement, or in another written agreement signed by the Client prior to closing. Client will receive a credit against any compensation owed for any commission paid to Broker by seller, listing broker, or any other party. Any portion of compensation not paid for by others will be paid by the Client.

8. **RETAINER FEE.** The Client will pay Broker a non-refundable Retainer Fee of \$ \_\_\_\_\_, due and payable upon execution of this agreement. The Retainer Fee shall be applied against the total commission due and is intended as compensation to the Broker for the Broker's effort in locating property for the Client. The Retainer Fee cannot and will not be used as part of Client's earnest deposit when an acceptable property is located and a "Buy & Sell Agreement" or offer to lease is constructed.

9. **OTHER PURCHASERS AND LESSEES.** Client understands that other potential purchasers/lessees, either clients or customers, may consider, make offers on or purchase/lease through Broker the same or similar properties as the Desired Property. Client consents to Broker working with, as a customer or representing as a client, other such potential purchasers/lessees before, during and after the expiration of this agreement.

The Client further realizes and acknowledges consent to the fact that the Broker shall not disclose to Client, confidential information about any Seller/Landlord obtained as a result of any past or present agency relationship.

- 10. DUAL AGENCY ACKNOWLEDGMENT AND ACCEPTANCE.** In the event Client expresses interest in real property listed with or owned by the Broker, then Broker shall act in the capacity of a disclosed dual agent with the full knowledge and consent of purchaser/lessee (Client).

Client understands that the Broker normally has a duty to disclose any knowledge or information about the other party in the transaction which would be advantageous for the Client to know. This duty to disclose is in direct conflict with the Broker's duty to maintain confidentiality in a consensual disclosed dual agency situation. The Client understands and agrees that the duty of confidentiality shall remain paramount and the Broker shall not disclose to either party knowledge or information the Broker may have about either party.

Client understands that the Broker's duty of undivided loyalty in a disclosed dual agency situation is impossible. The Client agrees that in such situations the Broker shall remain impartial between the two clients and shall not act as an advocate for either party.

- 11. NON DISCRIMINATION.** Broker and Client agree not to discriminate because of race, creed, color, religion, sex, disability, physical or mental impairment, marital status, familial status, sexual orientation, or gender identity or expression by said parties, national origin, age, height, weight or any other matter now or at any time during the term hereof prohibited by federal, state or local law.
- 12. FAILURE TO CLOSE TRANSACTION.** If a Seller/Landlord in an agreement made on behalf of the Client fails to close such agreement, with no fault on the part of the Client, then the compensation due Broker provided in paragraph 7 shall be waived. If such transaction fails to close because of any fault on the part of the Client, the total amount owing as compensation shall be immediately due and payable to the Broker by the Client.
- 13. DISCLOSURE OF BROKER'S ROLE.** At the time of any initial contact, Broker shall inform all prospective Seller/Landlords and their agents that the Broker is acting on behalf of the Client.
- 14. COST OF SERVICES OR PRODUCTS OBTAINED FROM OUTSIDE SOURCES.** Broker will not obtain or order products or services from outside sources on Client's behalf unless Client agrees in writing to pay for them immediately when payment is due (examples: surveys, environmental studies, inspections, soil tests, title reports, engineering studies). In the event Broker provides to Client names or sources for such advice or assistance, Client acknowledges and agrees that Broker does not warrant or guarantee the services and/or products.
- 15. INDEMNIFICATION OF BROKER.** Client agrees to indemnify Broker and to hold harmless on account of any and all costs or damage arising out of this contract, provided Broker is not at fault, including, but not limited to, attorneys' fees reasonably incurred by Broker.
- 16. CONDITION OF PROPERTY.** Client is not relying on the Broker to determine the suitability (i.e., zoning, plat restriction, etc.) of any Desired Property for the Client's purposes or regarding the environmental, structural or other conditions of the Desired Property. Broker makes or offers no warranties as to physical, environmental, percolation, well, septic conditions of any property and advises Client to employ professional inspection services to satisfy Client as all aforementioned, plus any and all other property conditions.
- 17. BROKER'S DUTIES TO CLIENT.** The duties of the Broker include, but are not limited to the following:

**(A) Confidentiality:** Any information the Broker may receive from the Client, which if disclosed to the other party in a transaction, would be detrimental to the Client's negotiating position shall not be disclosed unless the Client gives the Broker specific instructions to the contrary.

**(B) Obedience:** The Broker shall follow the specific directions of the Client in representing the Client's position in any negotiations.

**(C) Reasonable Care and Diligence:** The Broker shall in all dealings with the Client exercise reasonable care and shall act with diligence in all matters in the best interest of the Client.

**(D) Accountability of Funds:** The Broker shall account for all funds which may come into his or her hands which are or might become the property of the Client.

**(E) Loyalty:** Except in the case of disclosed dual agency, the Broker shall hold his or her loyalty to the Client paramount and shall work in the best interest of the Client.

**(F) Disclosure:** Except in the case of disclosed dual agency, the Broker shall disclose to the Client any information he or she may hold in regard to the other party in the transaction which would benefit the Client in negotiating with the other party.

**Client understands that in the case of dual agency these duties are limited with confidentiality prevailing over disclosure and loyalty being divided between the parties.**

- 18. CLIENT RESPONSIBILITY.** The duties of the Broker contained herein do not relieve Client from the responsibility to protect the Client's own interest. Client should read carefully all agreements to assure that they adequately express the Client's understanding of the transaction. Client has been advised to seek legal, tax and other professional assistance relating to any proposed transaction. Client further acknowledges that broker has informed client that the title to the property could be subject to restrictions, easements, liens and other encumbrances and that the services of an attorney are necessary in order to evaluate their effect on title.
- 19. CONSENT TO DISCLOSURE.** Unless Broker receives written instructions to the contrary, Client authorizes Broker to disclose Client's identity and any pertinent facts Broker has regarding the Client's financial ability to purchase the desired property.

**20. BROKER'S ROLE.** Client acknowledges that broker is not acting as an attorney, tax advisor, surveyor, civil engineer, structural engineer, environmental expert or appraiser and that client should engage professionals on these matters. The Client acknowledges that this Agreement was entered into prior to Broker touring any properties with the Client.

**21. ENTIRE AGREEMENT.** This Agreement constitutes the entire agreement between the parties, and any other prior agreements, whether oral or written, have been merged and integrated into this Agreement. In the event any portion of this Agreement is found to be unenforceable, said clause shall be severed from the Agreement and the remainder of the Agreement shall remain in full force and effect.

**22. Class Action Waiver.** The Parties hereby mutually agree to waive any right to participate in a class action lawsuit regarding any dispute arising out of or relating to this Agreement. This waiver applies to any claim brought on a class basis, whether in court, in arbitration, or otherwise. Any claim arising out of or relating to this Agreement may only be brought on an individual basis and not consolidated with claims of any other party. Class arbitrations and class actions are prohibited. The Parties agree that any claim will be adjudicated on an individual basis only. This class action waiver is material and essential to the arbitration of any disputes between the Parties and is non-severable from this Agreement. If the waiver is found to be unenforceable, then the entirety of this class action waiver shall be null and void. The Parties acknowledge and agree that under no circumstances will a class action be arbitrated or litigated pursuant to this Agreement. The Parties stipulate that the disputes involving the Parties do not lend themselves to class treatment.

**23. Arbitration.** Any dispute arising out of or relating to this Agreement shall be resolved through binding arbitration administered in accordance with the rules of the American Arbitration Association. The arbitration shall take place in Southfield, Michigan before a single arbitrator and shall be confidential. Judgment on any arbitration award may be entered in any court having jurisdiction. The arbitrator shall have no authority to award punitive or other damages not measured by the prevailing party's actual damages. Each party shall be responsible for their own arbitration costs and attorney fees.

**24. Other Terms.**

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**RECEIPT.** Client hereby acknowledges that client has read this Agreement and has received a completed copy of this agreement.

Broker:

By: (Salesperson Signature)

Client Signature:		Client Signature:	
Print Name:		Print Name:	
Bus. Phone	Home Phone	Bus. Phone:	Home Phone:

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**DISCLAIMER:** This form is provided as a service of the Greater Metropolitan Association of Realtors to its members. Users of this form are expected to review the form in the context of the particular transaction to ensure that the use of this form is appropriate. When using this form, users should consult independent legal counsel. The Greater Metropolitan Association of Realtors is not providing and will not provide legal advice and is not responsible for the use or misuse of this form, for misrepresentation, or warranties made in connection with this form.