

NON-EXCLUSIVE BUYER AGENCY AGREEMENT

This NON-EXCLUSIVE BUYER AGENCY AGREEMENT ("Agreement") is entered into (Date) _____, between _____ as Buyer(s) ("Buyer"), and _____ ("Firm").

The individual agent who signs this Agreement shall, on behalf of the Firm, be primarily responsible for ensuring that the Firm's duties hereunder are fulfilled; however, it is understood and agreed that other agents of the Firm may be assigned to fulfill such duties if deemed appropriate by the Firm. For purposes of this Agreement, the term "Firm," as the context may require, shall be deemed to include the individual agent who signs this Agreement and any other agents of the Firm.

The purpose of this form is to properly establish a written buyer agency relationship. The various forms of agency relationships are discussed in the "Working with Real Estate Agents" disclosure, a copy of which Buyer has received and reviewed with the agent. Buyer's execution of this form confirms that Buyer has read and understands the contents of that brochure, and is making a decision to request buyer agency for the period of time set forth below. Buyer represents that, as of the commencement date of this Agreement, Buyer is not a party to an exclusive buyer representation agreement with any other real estate firm.

1. **PROPERTY.** Firm agrees to act as a non-exclusive buyer's agent representing Buyer in the acquisition of real property by **[Check all that apply]:** locating suitable real estate showing the following specific property _____

2. **DURATION OF AGENCY.** Firm's authority as Buyer's non-exclusive agent shall begin _____, and shall expire at 11:59 p.m., _____.

3. COMPENSATION OF FIRM.

(a) **Fee.** This agreement does not obligate Buyer to pay a brokerage fee or assure the payment of a brokerage fee to Firm. Buyer acknowledges and understands that Firm will seek a fee for Firm's services under an offer of compensation from a cooperating seller/listing firm in the amount of _____ (the

Fee) (Insert dollar amount, percentage of purchase price, or other method of determining Firm's compensation for each type of property the Buyer may purchase, *such as resale, new construction, land/lot and/or unrepresented seller*. Do not insert N/A or a zero (\$0)).

(b) **Modification of Fee.** Provided, however, Firm may inform Buyer that the compensation offered is less than expected and, if Buyer is so informed prior to making an offer to purchase, Firm may seek a reasonable modification of the compensation terms herein and, if unable to reach such a modification, Firm may unilaterally terminate this Agreement.

(c) **Additional Compensation.** If additional compensation, incentive, bonus, rebate and/or other valuable consideration over and above the Fee ("*Additional Compensation*") is offered to Firm, Firm shall timely disclose the promise or expectation of receiving any such Additional Compensation and obtain Buyer's consent before Buyer makes or accepts an offer to buy. (Note: NCAR Form #770 may be used to confirm the disclosure and obtain consent of any such Additional Compensation)

(d) **When Compensation Earned.** The compensation shall be deemed earned if, during the term of this Agreement, Buyer, any assignee of Buyer or any person/legal entity acting on behalf of Buyer directly or indirectly enters into an agreement to purchase, option, and/or exchange property introduced to Buyer by Firm. The compensation will be due and payable at the distribution of proceeds from the purchase of any such property by the closing attorney.

NOTE: Buyer understands and acknowledges that there is the potential for a conflict of interest generated by a percentage of price based fee for representing Buyer. The amount, format, or rate of real estate compensation is not fixed by law, but is set by each broker individually, and is fully negotiable between Buyer and Firm.

4. ACKNOWLEDGMENTS OF RECEIPT.

- Buyer acknowledges receipt of a sample copy of an Offer to Purchase and Contract for review purposes.
- Buyer acknowledges receipt of a copy of the brochure *Questions and Answers on: Home Inspections*.
- Buyer acknowledges receipt of a sample copy of a Professional Services Disclosure and Election form (form #760) for review purposes.

5. **CONFIDENTIALITY OF OFFERS.** Real estate brokers are prohibited by N.C. Real Estate Commission rule from disclosing the price or other material terms contained in a party's offer to purchase, sell, lease, rent or option real property to a competing party without the express authority of the party making the offer. However, sellers may elect not to treat the existence, terms, or conditions of any offers Buyer may make as confidential. Additionally, sellers may elect not to disclose or authorize seller's agent to disclose the existence of any other offer(s).

6. **DISCLOSURE OF BUYER'S NAME/MAILING ADDRESS.**

(a) **Name.** Unless otherwise stated herein, Firm has Buyer's permission to disclose Buyer's name.

(b) **Mailing Address.** In accordance with NC General Statutes Section 93A-12, if a dispute regarding the return or forfeiture of any earnest money deposit arises between Buyer and the seller of any real property Buyer may agree to purchase, the escrow agent holding the deposit may deposit the disputed monies with the appropriate Clerk of Court following written notice to the parties. In the event of any such dispute, Buyer directs Firm to disclose Buyer's last known mailing address to the escrow agent upon request to enable the escrow agent to comply with the notice requirement of such law.

7. **DUAL AGENCY.** Buyer understands that the potential for dual agency will arise if Buyer becomes interested in viewing property listed with Firm. Firm may represent more than one party in the same transaction only with the knowledge and informed consent of all parties for whom Firm acts.

(a) **Disclosure of Information.** In the event Firm serves as a dual agent, Buyer agrees that without permission from the party about whom the information pertains, Firm shall not disclose to the other party the following information:

(1) that a party may agree to a price, terms, or any conditions of sale other than those offered;

(2) the motivation of a party for engaging in the transaction, unless disclosure is otherwise required by statute or rule; and

(3) any information about a party which that party has identified as confidential unless disclosure is otherwise required by statute or rule.

(b) **Firm's Role as Dual Agent.** If Firm serves as agent for both Buyer and a seller in a transaction, Firm shall make every reasonable effort to represent Buyer and seller in a balanced and fair manner. Firm shall also make every reasonable effort to encourage and effect communication and negotiation between Buyer and seller. Buyer understands and acknowledges that:

(1) Prior to the time dual agency occurs, Firm will act as Buyer's exclusive agent;

(2) In its separate representation of Buyer and seller, Firm may obtain information which, if disclosed, could harm the bargaining position of the party providing such information to Firm;

(3) Firm is required by law to disclose to Buyer and seller any known or reasonably ascertainable material facts.

Buyer agrees Firm shall not be liable to Buyer for (i) disclosing material facts required by law to be disclosed, and (ii) refusing or failing to disclose other information the law does not require to be disclosed which could harm or compromise one party's bargaining position but could benefit the other party.

(c) **Buyer's Role.** Should Firm become a dual agent, Buyer understands and acknowledges that:

(1) Buyer has the responsibility of making Buyer's own decisions as to what terms are to be included in any purchase and sale agreement with a seller client of Firm;

(2) Buyer is fully aware of and understands the implications and consequences of Firm's dual agency role as expressed herein to provide balanced and fair representation of Buyer and seller and to encourage and effect communication between them rather than as an advocate or exclusive agent or representative;

(3) Buyer has determined that the benefits of dual agency outweigh any disadvantages or adverse consequences;

(4) Buyer may seek independent legal counsel to assist Buyer with the negotiation and preparation of a purchase and sale agreement or with any matter relating to the transaction which is the subject matter of a purchase and sale agreement.

Should Firm become a dual agent, Buyer waives all claims, damages, losses, expenses or liabilities, other than for violations of the North Carolina Real Estate License Law and intentional wrongful acts, arising from Firm's role as a dual agent. Buyer shall have a duty to protect Buyer's own interests and should read any purchase and sale agreement carefully to ensure that it accurately sets forth the terms which Buyer wants included in said agreement.

(d) **Designated Dual Agency.** When a real estate firm represents both the buyer and seller in the same real estate transaction, the firm may, in its discretion, offer designated dual agency. If offered, designated dual agency permits the firm, with the prior express approval of both the buyer and seller, to designate one or more agents to represent only the interests of the seller and a different agent(s) to represent only the interests of the buyer, unless prohibited by law.

NOTE: An individual agent may not be designated to represent a party in a transaction if that agent has received confidential information concerning the other party in connection with the transaction.

(e) **Authorization/Direction** (*initial either Dual Agency or Exclusive Representation*).

_____ Dual Agency. Buyer authorizes the Firm to act as a dual agent, representing both the Buyer and the seller, subject to the terms and conditions set forth in Paragraph 7.

Buyer DOES DOES NOT authorize the same individual agent to represent both the Buyer and the seller in a transaction.

_____ (*also initial if Firm offers designated dual agency and Buyer authorizes designated dual agency*)
Designated Dual Agency. In addition to authorizing Firm to act as a dual agent, Buyer authorizes and directs Firm to designate an individual agent(s) to represent the Buyer and a different individual agent(s) to represent the seller. Firm will practice designated dual agency unless: (i) designated agency would not be permitted by law due to circumstances existing at the time of the transaction, or (ii) Buyer authorizes Firm in writing to remain in dual agency only.

OR

_____ Exclusive Representation. Buyer desires exclusive representation at all times during this agreement and does NOT authorize dual agency.

(f) **Dual Agency Compensation.** If the Firm acts as a dual agent (including designated agency), the total fee the Firm expects to receive for its services in representing Buyer and the seller shall be _____.

(Insert dollar amount, percentage of purchase price, or other method of determining Firm's compensation for each type of property such as resale, new construction and/or land/lot the Buyer may purchase.) THIS WILL IN NO WAY AFFECT OR MODIFY THE AMOUNT OF THE FEE SET FORTH IN PARAGRAPH 3 ABOVE THAT FIRM EXPECTS TO RECEIVE FOR ITS SERVICES IN REPRESENTING BUYER UNDER THIS AGREEMENT. In the event Buyer is interested in purchasing a property where the Firm's total fee is different from that described in this subparagraph (f), the Firm shall timely disclose the fee to Buyer and confirm it in writing before Buyer makes or accepts an offer to buy or sell any such property.

8. THE AGENT (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.

WARNING: Buyer Letters to Seller. Personal letters to sellers expressing why a buyer wishes to purchase a seller's property is a tactic sometimes used to attempt to make a buyer's offer stand out to the seller. Such letters often contain personal information and reveal characteristics of the buyer which could be used, knowingly or through unconscious bias, as a basis for the seller's decision to accept or reject an offer that may violate State and Federal Fair Housing laws. In order to avoid potential liability for unlawful discrimination as well as the appearance of impropriety, Buyer should discuss with Firm how any such letters will be handled.

9. **EXECUTION.** This Agreement may be signed in multiple originals or counterparts, all of which together constitute one and the same instrument.

10. **SURVEILLANCE; USE OF PHOTOGRAPHS AND VIDEO:** Federal and State laws prohibit the interception of an oral communication through the use of any electronic, mechanical, or other device, whether or not recorded, without the consent of a party to that communication. However, video surveillance without consent is not illegal. Buyer is advised to be mindful of the fact that there could be surveillance/audio device(s) located on any property examined by Buyer and that Buyer or Buyer's representatives may be under surveillance during any such examination.

Unless a property owner has notified the public that photography and video recording is prohibited, it is permissible to photograph or video the interior of private property since the owner's permission to enter the property implies permission to do so. However, under no circumstances may Buyer take photographs or videos that intrude on a property owner's reasonable expectations of privacy. Buyer should only photograph or video things that are in "plain view". For example, taking a photo or video of the contents of a medicine

cabinet or of financial records in a desk drawer would be impermissible. In addition, any permitted photography or video should be used only in a manner related directly to Buyer's examination and purchase of a property. TAKING IMPERMISSIBLE PHOTOGRAPHS OR VIDEOS OR USING THEM FOR AN IMPERMISSIBLE PURPOSE COULD SUBJECT BUYER TO CIVIL LIABILITY.

Buyer acknowledges and understands that neither Firm nor its agents have control over information about any property Buyer may purchase that has been placed on the Internet in connection with the marketing of any such property for sale, whether by or through a listing service or otherwise, including but not limited to photographs, and that any such information will not be removed following Buyer's purchase of any such property.

11. WIRE FRAUD WARNING:

BEFORE SENDING ANY WIRE, BUYER SHOULD CALL THE CLOSING ATTORNEY'S OFFICE TO VERIFY THE INSTRUCTIONS. IF BUYER RECEIVES WIRING INSTRUCTIONS FOR A DIFFERENT BANK, BRANCH LOCATION, ACCOUNT NAME OR ACCOUNT NUMBER, THEY SHOULD BE PRESUMED FRAUDULENT. DO NOT SEND ANY FUNDS AND CONTACT THE CLOSING ATTORNEY'S OFFICE IMMEDIATELY.

BUYER SHOULD CALL THE CLOSING ATTORNEY'S OFFICE AT A NUMBER THAT IS INDEPENDENTLY OBTAINED. TO ENSURE THAT THE CONTACT IS LEGITIMATE, BUYER SHOULD NOT RELY ON A PHONE NUMBER IN AN EMAIL FROM THE CLOSING ATTORNEY'S OFFICE, BUYER'S REAL ESTATE AGENT OR ANYONE ELSE.

Buyer acknowledges and understands that there are risks associated with wire transfers that are not within the reasonable control of Firm, and Buyer hereby agrees to release and discharge Firm and Firm's agents from any and all claims, demands, rights and causes of action of whatsoever kind and nature not caused by gross negligence of Firm or Firm's agents arising directly or indirectly out of any wire transfer Buyer sends or receives/was to receive in connection with any real estate transaction in which Firm represents buyer.

[THIS SPACE INTENTIONALLY LEFT BLANK]

Buyer initials _____ Individual agent initials _____

