

THIS IS A LEGALLY BINDING AGREEMENT, IF NOT UNDERSTOOD, SEEK LEGAL ADVICE.

Compensation and agreement terms are not regulated by law or the REALTORS® Association of Lincoln.
Each brokerage firm individually determines the compensation it charges for services rendered.



EXCLUSIVE BUYER AGENCY AGREEMENT

for exclusive use by members of the
REALTORS® ASSOCIATION OF LINCOLN

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(Buyer)

contracts exclusively with _____ (REALTOR®), for the purposes and under the terms set forth below, with my specific limited Buyer's Agent to be _____. All responsibilities and duties of REALTOR® shall also be the responsibilities and duties of the Buyer's Agent.

1. **Purpose of Agreement.** The purpose of this sole and exclusive agency agreement (*Agreement*) is to engage the efforts of REALTOR® to locate real property for Buyer to purchase described in general terms as follows: _____.

By contracting exclusively with REALTOR®, Buyer agrees to conduct all negotiations for the purchase of property through Buyer's Agent.

2. **Term of Agreement.** This Agreement shall begin _____, and shall continue through _____.

3. **Compensation of REALTOR®.** In consideration of services to be performed by Buyer's Agent, Buyer agrees to pay REALTOR®, for services rendered compensation in the amount of \$_____ (Fixed Compensation) plus the amounts described in subparagraphs (a), (b), and (c), as the case may be, and subparagraph _____ below.

- (a) **Property Subject to Listing Agreement with REALTOR®.** If Buyer enters into an agreement to purchase a property which is subject to a Listing Agreement with REALTOR®, no additional compensation shall be paid by Buyer to REALTOR® with the exception of the Fixed Compensation.
- (b) **Property Subject to Listing Agreement with Another Company.** If Buyer enters into an agreement to buy a property subject to a Listing Agreement with any party other than REALTOR®, _____, less any amount paid to REALTOR® as a cooperating broker.
- (c) **For Sale by Owner.** If Buyer enters into an agreement to buy a property not subject to a Listing Agreement, compensation of \$_____.
- (d) **Retainer.** Compensation of \$_____ due upon signing of this Agreement which shall be deposited in REALTOR®'s trust account and held until the earlier of closing or the expiration of this Agreement. REALTOR® shall keep this compensation even if Buyer does not acquire property, however, this amount shall be applied as a credit to any other amounts due from Buyer.
- (e) **Hourly Rate.** Buyer will pay REALTOR® at the rate of \$_____ per hour for time spent by REALTOR® pursuant to this Agreement. This compensation shall be paid when billed and deposited in REALTOR®'s trust account to be held until the earlier of closing or the expiration of this Agreement. REALTOR® shall keep this compensation even if Buyer does not acquire property, however, this amount shall be applied as a credit to any other amounts due from Buyer.

All amounts shall be due and payable upon closing or termination of the transaction(s) even if Buyer does not use REALTOR®'s services.

4. **REALTOR® Compensation Disclosure.** Buyer agrees REALTOR® may accept compensation from the seller or seller's agent as a result of the Buyer's purchase of a property. Any compensation received from the seller or seller's agent shall be disclosed to Buyer and applied as a credit to the amount due from the Buyer as shown above, except the Fixed Compensation which shall remain the sole responsibility of Buyer. Buyer agrees any amounts paid by seller or seller's agent may exceed the amount due by this Agreement. REALTOR® may accept compensation or profits from any entity participating in or providing services for the sale.

5. **Cooperating with Other REALTORS®.** REALTOR® may not accept the assistance and cooperation of other brokers who will be acting as agent of the Buyer nor accept an offer of seller subagency.

6. **Duties and Obligations of Buyer's Agent.** Buyer's Agent shall have the following duties and obligations:

- (a) To perform the terms of any written agreement made with Buyer;
- (b) To exercise reasonable skill and care for Buyer;
- (c) To promote the interest of Buyer with the utmost good faith, loyalty and fidelity including:

- (1) Seeking the price and terms which are acceptable to Buyer except the Buyer's Agent shall not be obligated to seek other properties while Buyer is a party to a contract to purchase property;
- (2) Presenting all written offers to and from Buyer in a timely manner regardless of whether the property is subject to a contract for sale;
- (3) Disclosing in writing to Buyer all adverse material facts actually known by the Buyer's Agent; and
- (4) Advising Buyer to obtain expert advice as to material matters about which the Buyer's Agent knows but the specifics of which are beyond the expertise of the Buyer's Agent;
- (d) To account in a timely manner for all money and property received;
- (e) To comply with all requirements of Neb. Rev. Stat. §§ 76-2401 to 76-2430, the Nebraska Real Estate License Act, and any rules or regulations developed pursuant to such sections or act;
- (f) To comply with any applicable federal, state, and local laws, rules, regulations and ordinances, including fair housing and civil rights statutes and regulations; and
- (g) To not disclose any confidential information about Buyer without Buyer's written permission, unless disclosure is required by statute, rule or regulation or failure to disclose the information would constitute fraudulent misrepresentation.

7. **Adverse Material Facts.** Seller's agents are required to disclose adverse material facts known to seller's agent to any prospective buyer, and Buyer's Agents are required to disclose adverse material facts known to Buyer's Agent to any prospective seller. Adverse material facts are facts which significantly affect the desirability or the value of a property to a party and are not reasonably ascertainable or not known to a party. A seller's agent may disclose to Buyer any material facts actually known by the agent, which may include, but are not limited to (i) any environmental hazards affecting the property which are required by law to be disclosed; (ii) the physical condition of the property; (iii) any material defect in the property; (iv) any material defects in the title to the property; or (v) any material limitation on seller's ability to perform under the terms of the contract. In a buyer's case, adverse material facts may include, but are not limited to, any adverse material facts concerning the buyer's financial ability to perform under the terms of the contract.

8. **Dual Agency Consent.** Buyer understands that Buyer's Agent serves as agent for sellers and buyers of real property and that Buyer's Agent may be an agent for a seller of property that Buyer is interested in purchasing. If Buyer becomes interested in acquiring a property for which Buyer's Agent is serving as the agent of the seller, Buyer's Agent shall immediately notify Buyer that the agent is also the agent of the seller. Buyer consents to Buyer's Agent also serving as the agent of the seller and acknowledges that Buyer's Agent will then be serving as a limited agent of both Buyer and the seller (*Dual Agent*) and that both Buyer and seller will be clients of Buyer's Agent. Except for limitations on disclosure discussed in paragraph 10, a Dual Agent has the same duties and obligations of a limited agent to Buyer as are stated in paragraph 6 and to a seller as stated in paragraph 9. Buyer understands that a Dual Agent will disclose to both clients all adverse material facts actually known by the Agent.

9. **Duties and Obligations of Seller's Agent.** A Seller's Agent shall have the following duties and obligations:

- (a) To perform the terms of any written agreement made with seller;
- (b) To exercise reasonable skill and care for seller;
- (c) To promote the interest of seller with the utmost good faith, loyalty and fidelity including:
 - (1) Seeking the price and terms which are acceptable to seller except Seller's Agent shall not be obligated to seek additional offers to purchase the property while the property is subject to a contract for sale;
 - (2) Presenting all written offers to and from seller in a timely manner regardless of whether the property is subject to a contract for sale;
 - (3) Disclosing in writing to seller all adverse material facts actually known by Seller's Agent; and
 - (4) Advising seller to obtain expert advice as to material matters about which the Seller's Agent knows but the specifics of which are beyond the expertise of the Seller's Agent;
- (d) To account in a timely manner for all money and property received;
- (e) To comply with all requirements of Neb. Rev. Stat. §§ 76-2401 to 76-2430, the Nebraska Real Estate License Act, and any rules or regulations developed pursuant to such sections or act;
- (f) To comply with any applicable federal, state, and local laws, rules, regulations, and ordinances, including fair housing and civil rights statutes and regulations; and
- (g) To not disclose any confidential information about seller without seller's written permission, unless disclosure is required by statute, rule or regulation or failure to disclose the information would constitute fraudulent misrepresentation.

10. **Limitations of a Dual Agent.** A Dual Agent may disclose any information to one client that is gained from the other, if the information is relevant to the transaction or the client, except a Dual Agent shall not disclose any confidential information about a client without that client's written permission, unless disclosure is required by statute, rule or regulation or failure to disclose the information would constitute fraudulent misrepresentation. In addition the following cannot be disclosed by a Dual Agent without the informed written consent of the client to whom the information pertains:

- (a) that the seller is willing to accept less than the asking price;
- (b) that the Buyer is willing to pay more than the purchase price offered for the property;
- (c) the motivating factors for buyer or selling; and
- (d) that the seller or Buyer will agree to financing terms other than those offered.

11. **Disclosure of Motivating Factors.** Buyer agrees that all motivating factor(s) may be disclosed to Sellers, except _____
 _____ (Buyer's initials _____)

12. **Dual Agency Addendum.** If Buyer's Agent is a Dual Agent, Buyer agrees to sign, with the Purchase Agreement, a Dual Agency Addendum confirming the Dual Agency.
13. **Confidential Information.** A REALTOR®, acting as a Buyer's Agent or a Seller's Agent, shall not disclose any confidential information about the client without the client's written permission, unless disclosure is required by statute, rule or regulation, or failure to disclose the information would constitute fraudulent misrepresentation. No cause of action shall arise against a REALTOR® acting as a Buyer's Agent or a Seller's Agent for making any required or permitted disclosure.
14. **Failure to Close.** If a seller of any transaction made with Buyer fails to close the agreement through no fault on the part of the Buyer, the amounts shown in paragraph 3 above, shall be waived. If Buyer refuses to close the transaction for any reason other than as agreed with the seller in the original agreement, the amounts shown in paragraph 3 shall be due and payable immediately.
15. **Other Buyers.** Buyer acknowledges and consents that Buyer's Agent may represent other buyers who may have an interest in presenting Purchase Agreements on a property Buyer desires to purchase.
16. **Disclosure to Sellers.** At the earliest practicable opportunity during or following the first substantial contact with a seller, Buyer's Agent shall inform a prospective seller and their agents that Buyer's Agent is an agent of and is representing the Buyer. Buyer gives Buyer's Agent permission to disclose to seller and/or seller's agent, Buyer's identity and other information regarding Buyer that would affect the Buyer's ability to complete the transaction.
17. **Sales Information to MLS.** Buyer authorizes the dissemination of sales information, including selling price, to the participants of the Multiple Listing Service of the Lincoln Board of REALTORS®, Inc. after closing of the transaction.
18. **Nondiscrimination.** Buyer and REALTOR® agree not to discriminate against any prospective seller because of race, color, sex, religion, familial status, handicap, national origin or sexual orientation.
19. **Modification of Listing.** No modification of this Agreement shall be valid, unless made in writing and signed by all parties.
20. **Transmittal Authorization.** The undersigned agree that all documents bearing signatures, initials or other marks of acknowledgment by a Buyer, Seller and/or Broker/agent relating to the real estate transaction contemplated under this Agreement, including offers, counteroffers and acceptances: (1) may be transmitted electronically, and/or may use digital signature technology which is compliant with state UETA and/or federal E-SIGN requirements and (2) that digital signatures as well as electronic copies of manual signatures, whether scanned, digital photograph, facsimile or other means of image reproduction shall be treated in all respects as originals, and (3) that the undersigned will submit all original signatures to their agents. This Agreement and any addendums or modifications may be signed in counterparts and such counterparts shall be considered as one document.
21. **Mediation and Arbitration**
- (a) **Disputes.** The term "Dispute" shall include, without limitation, any controversy, complaint, dispute, claim or disagreement relating to or arising out of the construction, interpretation, enforcement, or breach of the terms of this Exclusive Buyer Agency Agreement.
 - (b) **Mediation.** In the event of any Dispute, any party to the Dispute may seek non-binding mediation in an attempt to resolve the Dispute by giving 15 days written notice of a request for such mediation to all other parties to the Dispute. The request for mediation must be made within 360 days after the party making the request knew, or exercising reasonable diligence and care, should have known, of the Dispute. In no case shall such request be made after the statute of limitations on a civil suit based on the Dispute would have run. Such mediation shall be held in Lincoln, Nebraska. Such mediation shall be administered by the American Arbitration Association and shall be conducted according to the American Arbitration Association's Commercial Rules - Real Estate Industry Arbitration Rules (Including a Mediation Alternative).
 - (c) **Arbitration.** Any Dispute that is not resolved by informal settlement or mediation shall be resolved exclusively by binding arbitration. Such arbitration shall be held in Lincoln, Nebraska. Such arbitration shall be administered by the American Arbitration Association and shall be conducted according to the American Arbitration Association's Commercial Rules - Real Estate Industry Arbitration Rules (Including a Mediation Alternative). The arbiter(s) shall apply Nebraska substantive and procedural law to the arbitration proceeding. Arbitration shall be commenced by written demand made by any one or more of the parties to the Dispute given to all other parties to the Dispute. The demand for arbitration must be in writing and must be given by personal delivery or certified mail, return receipt requested, within 360 days after the party making the demand knew, or exercising reasonable diligence and care, should have known, of the Dispute. Notwithstanding the previous sentence, in the case that the parties unsuccessfully attempt mediation to resolve a Dispute, the demand for arbitration shall be made within 60 days of the final mediation session. However, in no case shall such demand be made after the statute of limitations on a civil suit based on the Dispute would have run. The prevailing party shall be entitled to costs and fees of the arbitration and, in the discretion of the arbitrator who shall take into account the relative merits of the opponent's case, the arbiter may award attorneys fees to the prevailing party.
 - (d) **Provisional Remedies.** The filing of a judicial action to enable the reporting of a notice of pending action, for order of attachment, receivership, injunction, or other like provisional remedies, shall not constitute a waiver of mediation or arbitration under this provision, nor shall it constitute a breach of the duty to arbitrate.
 - (e) **Exclusions.** The terms of this paragraph 21 shall not apply to:
 - (1) Any complaint of violation of the Code of Ethics of the National Association of REALTORS®;
 - (2) Foreclosure or other action or proceeding to enforce a deed of trust, mortgage or land contract; or
 - (3) The filing or enforcement of a construction or similar lien.

- (f) **Waiver.** BY SIGNING THIS EXCLUSIVE BUYER AGENCY AGREEMENT, THE PARTIES AGREE THAT EVERY DISPUTE DESCRIBED ABOVE THAT IS NOT RESOLVED BY INFORMAL SETTLEMENT OR MEDIATION WILL BE DECIDED EXCLUSIVELY BY ARBITRATION AND THAT ANY ARBITRATION DECISION WILL BE FINAL AND BINDING. THE PARTIES AGREE THAT THEY WILL RECEIVE ALL THE RIGHTS AND BENEFITS OF ARBITRATION, BUT ARE GIVING UP RIGHTS THEY MIGHT HAVE TO LITIGATE THOSE CLAIMS AND DISPUTES IN A COURT OR JURY TRIAL, OR TO PARTICIPATE AS A REPRESENTATIVE OR MEMBER OF ANY CLASS OF CLAIMANTS IN CONNECTION WITH ANY SUCH DISPUTES. NO PARTY TO THIS AGREEMENT, WHETHER REALTOR®, BUYER'S AGENT OR BUYER, SHALL BE ENTITLED TO JOIN OR CONSOLIDATE DISPUTES BY OR AGAINST OTHERS IN ANY ARBITRATION, OR TO INCLUDE IN ANY ARBITRATION ANY DISPUTE AS A REPRESENTATIVE OR MEMBER OF A CLASS, OR TO ACT IN ANY ARBITRATION IN THE INTEREST OF THE GENERAL PUBLIC OR IN ANY PRIVATE ATTORNEY GENERAL CAPACITY.

22. **Entire Agreement.** This Exclusive Buyer Agency Agreement constitutes the entire agreement between REALTOR® and Buyer and any prior negotiations or agreements, whether oral or written, are not valid unless set forth in this Agreement.

23. **Copies of Agreement.** Receipt of a copy of this Agreement is acknowledged.

THIS CONTRACT CONTAINS AN ARBITRATION PROVISION WHICH MAY BE ENFORCED BY THE PARTIES

REALTOR® Firm Name	Printed Name of Buyer(s)
Office Address	Buyer Signature Date
City State Zip	Buyer Signature Date
Printed Name of Agent	Buyer Address
Agent Signature Date	City State Zip
(Business) Agent Telephone (Residence/Cellular)	(Residence) Buyer Phone (Business)
Agent Email Address	Buyer Email Address