

# EXCLUSIVE BUYER AGENCY AGREEMENT

This Agreement made and entered into by and between \_\_\_\_\_

as principal/purchaser (hereinafter referred to as "BUYER") and \_\_\_\_\_

as BUYER'S Broker (hereinafter referred to as "Broker"):

WHEREAS, BUYER is desirous of purchasing or leasing or otherwise acquiring certain real property located in the State of Kansas, provided, however, that this Agreement shall not cover the following specifically described type(s) of property (if any): \_\_\_\_\_

and WHEREAS, BUYER is desirous of engaging the Broker to act on BUYER'S behalf in the purchasing, leasing or otherwise acquiring real property; and WHEREAS, Broker is willing to help identify properties, negotiate on behalf of BUYER, (except where Transaction Brokerage occurs), represent and act on behalf of BUYER in the purchase, lease, or other acquisition of real property. NOW THEREFORE, for and in consideration of the mutual promises and in consideration of the remuneration herein set forth, the parties agree as follows:

1. **TERM OF AGENCY:** BUYER hereby engages the Broker and grants to Broker the exclusive right and authority to negotiate for the purchase, lease, or other acquisition of real property identified during the term of this Agreement, which shall begin on \_\_\_\_\_, 20\_\_ and shall continue until midnight on \_\_\_\_\_, 20\_\_.

2. **BUYER'S RIGHT TO PROFESSIONAL COUNSEL:** BUYER acknowledges and agrees that the purchase of real property encompasses many professional disciplines, and while Broker possesses considerable general knowledge, Broker is not expert in matters of law, tax, financing, surveying, structural conditions, hazardous material, engineering, etc. BUYER acknowledges that BUYER has been advised by Broker to seek professional expert assistance and advice in those and other areas of professional expertise. In the event that Broker provides to BUYER names or sources for such advice and assistance, BUYER acknowledges and agrees that Broker does not warrant or guarantee such services and/or products.

BUYER herein understands that outside legal and tax counsel is recommended. Comprehensive mechanical, structural and other inspections are recommended. If, at BUYER'S option and choice, BUYER decides not to conduct inspections or obtain tax and legal counsel on the Property before closing, then BUYER accepts the property in its present condition and will make no claim against this Broker, or agents, based upon the lack of tax or legal counsel or based on any known or unknown past, current, or future condition of the above property and/or its improvements including but not limited to latent or patent defects, repairs, or replacements.

3. **BUYER'S ROLE:** BUYER agrees to work exclusively with Broker and his/her associated salespersons during the term of this Agreement and assist Broker and associated salespersons in the process of identifying, negotiating and contracting to purchase, lease or otherwise acquire real property. BUYER agrees to conduct all negotiations for property of the type described above through Broker and to refer to Broker all inquiries received in any form from real estate brokers, salespersons, prospective sellers or any other source, during the time this Agreement is in effect.

4. **BROKER'S AUTHORITY AND ROLE:** Broker is hereby authorized to locate and present properties to BUYER, to present offers authorized by BUYER, to negotiate for acceptance of such offers and to negotiate (but the Broker shall not be obligated to negotiate) for the payment of all or a portion of Broker's commission herein under with the SELLERS of real property or persons working on behalf of the SELLERS. Broker agrees to: (A) meet with BUYER to discuss property objectives, requirements, possession time schedule, financial capability, acquisition strategies and other purchasing factors; (B) assist BUYER in locating and viewing available property suitable for purchase by BUYER; (C) assist BUYER in determining financial alternatives; (D) assist BUYER in obtaining available information of a material nature relative to desired property; and (E) assist BUYER in the process of identifying, negotiating, contracting, leasing, or otherwise acquiring property and in monitoring closing and time deadlines.

5. **AGENCY RELATIONSHIP:** BUYER acknowledges receiving the "Real Estate Brokerage Relationships" brochure. BUYER understands that other potential BUYERS may consider, make offers on, or purchase through Broker the same or similar properties as BUYER seeks to acquire. BUYER consents to Broker's representation of such potential BUYERS before, during and after the expiration of this Contract. In such a situation, Broker will not disclose to either BUYER the terms of the other's offer.



**Types of Brokerage Relationships:** A real estate licensee may work with a buyer or seller as a seller's agent, buyer's agent or transaction broker. The disclosure of the brokerage relationship between all licensees involved and the seller and buyer must be included in any contract for sale and in any lot reservation agreement.

**Seller's Agent:** The seller's agent represents the seller only, so the buyer may be either unrepresented or represented by another agent. In order to function as a seller's agent, the broker must enter into a written agreement to represent the seller. Under a seller agency agreement, all licensees at the brokerage are seller's agents unless a designated agent is named in the agreement. If a designated agent is named, only the designated agent has the duties of a seller's agent and the supervising broker of the designated agent functions as a transaction broker.

**Buyer's Agent:** The buyer's agent represents the buyer only, so the seller may be either unrepresented or represented by another agent. In order to function as a buyer's agent, the broker must enter into a written agreement to represent the buyer. Under a buyer agency agreement, all licensees at the brokerage are buyer's agents unless a designated agent is named in the agreement. If a designated agent is named, only the designated agent has the duties of a buyer's agent and the supervising broker of the designated agent functions as a transaction broker.

**A Transaction Broker** is not an agent for either party and does not advocate the interests of either party. A transaction brokerage agreement can be written or verbal.

**6. BUYER'S ACKNOWLEDGMENT OF POTENTIAL FOR BROKER TO ACT AS TRANSACTION BROKER.** BUYER acknowledges that Broker may have clients who have retained Broker to represent them as a SELLER in the sale of property. If a BUYER client becomes interested in making an offer on SELLER client's property, then the Broker would become a Transaction Broker **unless designated agents have been appointed pursuant to paragraph 7.** A Transaction Broker Addendum to their Agency Agreements with the Broker must be signed by the BUYER prior to writing an offer to purchase the property and by the SELLER prior to signing the purchase contract. As a transaction Broker, Broker would **assist the parties with the transaction without being an agent or advocate for the interests of either party**, and would not, without prior consent of both parties, disclose any information or personal confidences about a party which might place the other party at an advantage.

**7. BUYER'S ACKNOWLEDGMENT OF POSSIBLE DESIGNATED AGENT RELATIONSHIP.** A designated agent is a real estate licensee affiliated with a Broker who has been designated by the Broker, or the Broker's duly authorized representative, to act as the agent of a Broker's BUYER or SELLER client to the exclusion of all other affiliated licensees.

a. **If a Designated Agent IS NOT appointed to represent BUYER, BUYER** understands that another licensee with the brokerage firm may act as a Designated Agent for a SELLER in whose property BUYER is interested. If this should occur, BUYER understands that:

- (1) The supervising Broker (or branch Broker, if applicable) will act as a Transaction Broker, or may appoint an affiliated licensee to act in the transaction as a Transaction Broker.
- (2) The designated agent for the SELLER will perform all of the duties of a SELLER'S Agent and will be the SELLER'S legal agent to the exclusion of all other licensees in the brokerage firm.
- (3) All other licensees affiliated with the firm will represent the BUYER in the purchase of SELLER'S property and will perform all of the duties of a BUYER'S Agent.

b. **If a designated agent IS appointed to represent BUYER, BUYER** understands that:

- (1) The Designated Agent will perform all of the duties of a BUYER'S Agent and will be BUYER'S legal agent to the exclusion of all other licensees in the brokerage firm.
- (2) Another licensee with the brokerage firm may act as a Designated Agent for the SELLER in the purchase of SELLER'S property.
- (3) The supervising Broker (or branch Broker, if applicable) will act as a Transaction Broker or may appoint an affiliated licensee to act in the transaction as a Transaction Broker.
- (4) If the Designated Agent for BUYER is also the Designated Agent of a SELLER in whose property BUYER is interested, the designated Agent cannot represent both SELLER and BUYER. With the informed consent of both BUYER and SELLER, the designated agent may act as a Transaction Broker.
- (5) If a BUYER client of a Designated Agent wants to see a property which was personally listed by the supervising Broker, the supervising Broker, with the written consent of SELLER, may specifically designate an affiliated licensee who will act as designated agent for SELLER.

8. BUYER consents to:

(Please initial below)

- a. Supervising/Branch Broker acting as a Transaction Broker: YES \_\_\_\_\_ NO \_\_\_\_\_
- b. A designated agent for the SELLER: YES \_\_\_\_\_ NO \_\_\_\_\_
- c. A designated agent for the BUYER: YES \_\_\_\_\_ NO \_\_\_\_\_
- d. \_\_\_\_\_: YES \_\_\_\_\_ NO \_\_\_\_\_  
(acting as BUYER'S Designated Agent)
- e. BUYER'S Designated Agent acting as a Transaction Broker if he/she is also designated agent for the SELLER: YES \_\_\_\_\_ NO \_\_\_\_\_

9. COMPENSATION: BUYER agrees to pay Broker, as compensation for services rendered, as follows:

(the amount of compensation reflected must be objectively ascertainable and may not be open-ended)

**BUYER is advised that Broker commissions are not set by law, regulation or policy of any real estate trade association. The compensation paid to a real estate broker is always fully negotiable when entering into an Agency Agreement.**

a. Unless otherwise specified herein, BUYER and Broker hereby agree that Broker shall first seek payment of the fee from the transaction. Broker may receive compensation from the contract proceeds from the SELLER and, in such event, any commission or fees paid from the SELLER'S proceeds shall be credited against the amounts due from the BUYER.

b. If the fee cannot be obtained from the transaction, in whole or in part, BUYER shall pay Broker the balance due as provided in this Agreement.

c. Unless otherwise specified herein, such compensation shall be due and payable on the happening of any of the following events, to wit:

(1) If a purchase or lease or other acquisition of real property, as described herein, is concluded before the expiration of this Agreement by the Broker named above or by the BUYER or, through any other person or,

(2) Such compensation shall be paid if purchase, lease or other acquisition of real property is concluded within \_\_\_\_\_ days after expiration of this Agreement, or any extension thereof, as long as the description of the property acquired by BUYER was submitted, in writing, to BUYER by Broker or Broker's agent pursuant to Section 4 hereof, during the original term of this Agreement or any extension thereof.

10. BUYER'S RESPONSIBILITY: The duties of Broker and his/her associated salespersons contained herein do not relieve BUYER from the responsibility of protecting BUYER'S own interests. BUYER should read carefully all agreements to assure that they adequately express BUYER'S understanding of the transaction.

11. TRANSFER OR ASSIGNMENT: This Agreement shall not be transferred or assigned without the written consent of all parties to this Agreement, and any assignee shall fulfill all the terms and conditions of this Agreement. This Agreement shall inure to the benefit of, and be binding upon, the parties hereto, their heirs, successors, administrators, executors and assigns.

12. OTHER POTENTIAL BUYERS: BUYER understands that other potential BUYERS may consider, make offers on, or purchase through Broker the same or similar properties as BUYER seeks to acquire. BUYER consents to Broker's representation of such potential BUYERS before, during and after the expiration of this Agreement. Broker shall not, however, disclose to BUYER the material terms of any pending offer for the purchase of said property nor shall Broker reveal or discuss with other of its BUYER clients the material terms of any offer made by BUYER hereunder.

13. DISCLOSURE OF BUYER AGENCY: At the time of the initial contact, the Broker shall inform all prospective SELLERS and their agents with whom the Broker negotiates pursuant to this Agreement, that the Broker is acting on behalf of a BUYER.



14. DISCLOSURE OF BUYER'S IDENTITY:

- Broker does have BUYER'S permission to disclose BUYER'S identity.
- Broker does **NOT** have BUYER'S permission to disclose BUYER'S identity.

15. INDEMNIFICATION OF BROKER: BUYER agrees to indemnify Broker and to hold Broker harmless on account of any and all loss or damage arising out of this Agreement, provided Broker is not at fault, including, but not limited to, attorney's fees reasonable incurred by Broker.

16. LICENSED MATERIALS. BUYER acknowledges that in the course of listing and marketing properties, Sellers frequently grant an irrevocable, perpetual, non-exclusive and fully sub-licensable and assignable license to use, reproduce, modify, adapt, publish, create derivative works from, distribute, perform, and display any photographs, floor plans, architectural drawings, video images, sounds or other copyrightable material related to their properties ("marketing materials"). Said marketing materials may be licensed to third-party websites or referral services. BUYER has been advised and understands that such a license survives the closing of a successful transaction and that neither BUYER nor Buyer's Agent have the authority to revoke a license or require removal of marketing materials that have been published pursuant to a license granted by a Seller.

17. TERMINOLOGY AND CAPTIONS: All pronouns, singular or plural, masculine, feminine or neuter, shall mean and include the person, entity, firm or corporation to which they relate as the context may require. Wherever the context may require, the singular shall mean and include the plural and plural shall mean and include the singular. The captions and paragraph headings hereof are for reference and convenience only and do not enter into or become a part of the context.

18. EQUAL HOUSING OPPORTUNITY: Properties will be presented in compliance with federal, state and local fair housing laws and regulations.

19. ELECTRONIC SIGNATURES AND TRANSACTIONS: BUYER and BROKER agree that this transaction may be conducted through electronic means according to the Kansas Uniform Electronic Transactions Act. However, the BROKER has no authority or power of attorney to enter into electronic agreements with other parties to purchase specific property on behalf of the BUYER without the BUYER'S explicit authorization.

20. ADDITIONAL PROVISIONS: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

BUYER HEREBY AGREES TO THE FOREGOING AND ACKNOWLEDGES RECEIPT OF A COPY OF THIS AGREEMENT.

\_\_\_\_\_  
BUYER  
Buyer Name \_\_\_\_\_

\_\_\_\_\_  
Date

\_\_\_\_\_  
BUYER  
Buyer Name \_\_\_\_\_

\_\_\_\_\_  
Date

\_\_\_\_\_  
BUYER Agent

\_\_\_\_\_  
Date

\_\_\_\_\_  
Agency

