

Houston Association of Realtors



TEXAS ASSOCIATION OF REALTORS®

BUYER/TENANT REPRESENTATION AGREEMENT - RESIDENTIAL

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1. PARTIES: The parties to this agreement and the parties' contact information are as follows:

Client: _____ Broker: _____
Address: _____ Address: _____
City, State, Zip: _____ City State, Zip: _____
Phone: _____ Phone: _____
Fax: _____ Fax: _____
E-mail: _____ E-mail: _____

2. APPOINTMENT: Client grants to Broker the exclusive right to act as Client's real estate agent for the purpose of acquiring property in the market area.

3. DEFINITIONS:

- A. "Acquire" means to purchase or lease.
- B. "Closing" in a sale transaction means the date legal title to a property is conveyed to a purchaser of property under a contract to buy. "Closing" in a lease transaction means the date a landlord and tenant enter into a binding lease of a property.
- C. "Market area" means that area in the State of Texas within the perimeter boundaries of the following areas: _____
_____.
- D. "Property" means any interest in real estate including but not limited to properties listed in a multiple listing service or Internet listing services, properties for sale by owners, and properties for sale by builders. Client intends to acquire _____ properties in the market area. If Client intends to acquire more than one property, the terms "property", "price", "purchase", and "lease" will be read to include the plural.

4. TERM: This agreement commences on _____ and ends at the earlier of:

- A. 11:59 p.m. on _____; or
- B. the closing of the transaction of the last property that Client intends to acquire.

5. BROKER'S OBLIGATIONS: Broker will:

- A. use Broker's best efforts to assist Client in acquiring property in the market area;
- B. assist Client in negotiating the acquisition of property in the market area; and
- C. comply with other provisions of this agreement.

6. CLIENT'S OBLIGATIONS: Client will:

- A. work exclusively through Broker in acquiring property in the market area and negotiate the acquisition of property in the market area only through Broker;
- B. inform other brokers, salespersons, sellers, and landlords with whom Client may have contact that Broker exclusively represents Client for the purpose of acquiring property in the market area and refer all such persons to Broker; and
- C. comply with other provisions of this agreement.

7. REPRESENTATIONS:

- A. Each person signing this agreement represents that the person has the legal capacity and authority to bind the respective party to this agreement.
- B. Client represents that Client is not now a party to another buyer or tenant representation agreement with another broker for the acquisition of property in the market area.
- C. Client represents that all information relating to Client's ability to acquire property in the market area Client gives to Broker is true and correct.
- D. Name any employer, relocation company, or other entity that will provide benefits to Client when acquiring property in the market area: _____.
- E. Client learned of Broker's firm by: _____.

8. AGENCY RELATIONSHIPS: Broker will exclusively represent Client in all transactions contemplated by this agreement except for the acquisition of property listed by Broker. For properties listed by Broker, Client consents to the following agency relationship with Broker. (Check A or B only.)

A. Intermediary Status: Client desires to see Broker's listings. If Client wishes to acquire one of Broker's listings, Client authorizes Broker to act as an intermediary as follows. (Check (1) or (2) only.)

- (1) With the Possibility of Appointments:
 - (a) If Client wishes to acquire one of Broker's listings that is serviced by an associate other than the associate servicing Client under this agreement, Broker will appoint the licensed associate then servicing Client under this agreement to communicate with, carry out instructions of, and provide opinions and advice during negotiations to Client. Broker will appoint the licensed associate then servicing the owner under the listing agreement to the owner for the same purpose.
 - (b) If Client wishes to acquire one of Broker's listings that is serviced by the same associate that is servicing Client under this agreement Broker will notify Client that:
 - (1) Broker will assign another licensed associate to communicate with, carry out instructions of, and provide opinions and advice during negotiations to Client and will appoint the licensed associate servicing the owner under the listing agreement to the owner for the same purpose; or
 - (2) Broker will make no appointments to either party and the associate servicing the parties will act solely as Broker's intermediary representative. The associate may facilitate the transaction but will not render opinions or advice during negotiations to either party.
- (2) With No Appointments: Broker will not appoint specific associates to either Client or the owner. Any associate(s) servicing the parties will act solely as Broker's intermediary representative(s). The associate(s) may facilitate the transaction for the parties but will not render opinions or advice during negotiations to either party.

B. No Intermediary Status:

- (1) Client does not wish to be shown or to acquire any of Broker's listings.
- (2) Broker exclusively represents buyers or tenants and does not represent sellers or landlords.

Notice: If Broker acts as an intermediary under Paragraph 8A, Broker and any of Broker's associates:

- may not disclose to Client that the seller or landlord will accept a price less than the asking price unless otherwise instructed in a separate writing by the seller or landlord;
- may not disclose to the seller or landlord that Client will pay a price greater than the price submitted in a written offer to the seller or landlord unless otherwise instructed in a separate writing by Client;
- may not disclose any confidential information or any information a seller or landlord or Client specifically instructs Broker in writing not to disclose unless otherwise instructed in a separate writing by the respective party or required to disclose the information by the Real Estate License Act or a court order or if the information materially relates to the condition of the property;
- shall treat all parties to the transaction honestly; and
- shall comply with the Real Estate License Act.

9. COMPETING CLIENTS: Client acknowledges that Broker may represent other prospective buyers or tenants who may seek to acquire properties that may be of interest to Client. Client agrees that Broker may, during the term of this agreement and after it ends, represent such other prospects, show the other prospects the same properties that Broker shows to Client, and act as a real estate broker for such other prospects in negotiating the acquisition of properties that Client may seek to acquire.

10. CONFIDENTIAL INFORMATION: During the term of this agreement or after its termination, Broker may not knowingly disclose information obtained in confidence from Client except as authorized by Client or required by law. Broker may not disclose to Client any information obtained in confidence regarding any other person Broker represents or may have represented except as required by law.

11. BROKER'S FEES: (Notice: Section 15(a)(6)(D) of the Real Estate License Act prohibits a broker from receiving compensation from more than one party except with the full knowledge and consent of all parties.)

A. Broker's fees under this agreement are as follows: (Check all that apply.)

- (1) Commission: Broker will receive a commission calculated as follows:
 - if Client agrees to purchase property in the market area: _____% of the gross sales price; or
_____;
 - if Client agrees to lease property in the market area: _____% of one month's rent; or
_____.

(a) Source of Commission Payment:

- ☞ (1) Broker will seek to obtain payment of the commission specified in Paragraph 11A(1) first from the seller, landlord, or their agents. If such persons refuse or fail to pay Broker the amount specified, Client will pay Broker the amount specified less any amounts Broker receives from such persons.
- ☞ (2) Client will pay Broker the commission specified in Paragraph 11A(1).

(b) Earned and Payable: A person is not obligated to pay Broker a commission until such time as Broker's commission is *earned and payable*.

- (1) Broker's commission is earned when Client enters into a binding written contract for the purchase or lease of property in the market area.
- (2) Broker's commission is payable, either during the term of this agreement or after it ends, upon the earlier of:
 - (A) the closing of the transaction to acquire the property;
 - (B) Client's breach of a written contract to purchase or lease a property in the market area; or
 - (C) Client's breach of this agreement.
- (3) If Client acquires more than one property under this agreement, Broker's commissions for each property acquired are earned as each property is acquired and are payable at each closing of the properties acquired.

(c) Additional Compensation: If a seller, landlord, or their agents offer compensation in excess of the amount stated in Paragraph 11A(1) (for example, marketing incentives or bonuses to cooperating brokers) Broker may retain the additional compensation in addition to the fees specified above. Client is not obligated to pay any such additional compensation to Broker.

(d) Acquisition of Broker's Listing: Notwithstanding any provision to the contrary, if Client acquires a property listed by Broker, Broker will be paid in accordance with the terms of Broker's listing agreement with the owner and Client will have no obligation to pay Broker.

- ☞ (2) Hourly Fees: Client will pay Broker fees at the rate of \$ _____ per hour. If Broker also receives fees under Paragraph 11A(1) or if Client acquires one of Broker's listings, Broker will refund the hourly fees upon receipt of the fees under Paragraph 11A(1) or the listing. Broker's hourly fees are earned when Broker's services are rendered and are payable when billed.

- ☞ (3) Retainer: Upon execution of this agreement, Client will pay Broker a retainer of \$ _____. The retainer is earned at the time it is paid. Broker will refund the retainer to Client only upon Broker's receipt of all other fees under this agreement.

B. In addition to the fees under Paragraph 11A, Broker is entitled to the following fees.

- (1) Construction: If Client uses Broker's services to procure or negotiate the construction of improvements to property that Client owns or may acquire, Client will pay Broker at the time the construction is substantially complete a fee equal to: _____ This Paragraph 11B(1) does not apply if the contractor pays Broker the amount specified in this paragraph under a separate agreement.
- (2) Service Providers: If Broker refers Client or any party to a transaction contemplated by this agreement to a service provider (for example, mover, cable company, telecommunications provider, utility, or contractor) Broker may receive a fee from the service provider for the referral.
- (3) Other: _____

C. Protection Period:

- (1) "Protection period" means that time starting the day after this agreement ends and continuing for _____ days.
- (2) If, within the protection period, Client or a related party enters into a contract to acquire property in the market area that was called to Client's attention during the term of this agreement, Client will pay Broker, upon closing, an amount equal to the fees Broker would have been entitled to receive had Client entered into a contract to acquire the property during the term of this agreement, if Broker, not later than 10 days after this agreement ends, sends Client written notice identifying the properties called to Client's attention.
- (3) This Paragraph 11C survives termination of this agreement. This Paragraph 11C will not apply if Client is, during the protection period, bound under a representation agreement with another Texas-licensed real estate broker at the time the acquisition is negotiated and the other broker is paid a fee for negotiating the transaction.

D. County: All amounts payable to Broker are to be paid in cash in _____ County, Texas.

E. Escrow Authorization: Client authorizes, and Broker may so instruct, any escrow or closing agent authorized to close a transaction for the acquisition of property contemplated by this agreement to collect and disburse to Broker all amounts payable to Broker..

12. **MEDIATION:** The parties agree to negotiate in good faith in an effort to resolve any dispute that may arise related to this agreement or any transaction related to or contemplated by this agreement. If the dispute cannot be resolved by negotiation, the parties will submit the dispute to mediation before resorting to arbitration or litigation and will equally share the costs of a mutually acceptable mediator.

13. **DEFAULT:** If either party fails to comply with this agreement or makes a false representation in this agreement, the non-complying party is in default. If Client is in default, Client will be liable for the amount of compensation that Broker would have received under this agreement if Client was not in default. If Broker is in default, Client may exercise any remedy at law.

14. **ATTORNEY'S FEES:** If Client or Broker is a prevailing party in any legal proceeding brought as a result of a dispute under this agreement or any transaction related to or contemplated by this agreement, such party will be entitled to recover from the non-prevailing party all costs of such proceeding and reasonable attorney's fees.

15. **LIMITATION OF LIABILITY:** Neither Broker, any other broker, or their associates is responsible or liable for Client's personal injuries or for any loss or damage to Client's property. Client will indemnify and hold Broker, any other broker, and their associates harmless from : (1) any personal injury; (2) loss or damage to Client's property; or (3) any injury or damage that Client may cause to others or their property.

16. **ADDENDA:** Addenda and other related documents which are part of this agreement are: **Information about Brokerage Services** and _____

_____.
This agreement will be automatically amended to include the legal description of any properties Client acquires or attempts to acquire under this agreement.

17. **SPECIAL PROVISIONS:**

18. **ADDITIONAL NOTICES:**

- A. **Broker's fees and the sharing of fees between brokers are not fixed, controlled, recommended, suggested, or maintained by the Association of REALTORS® or any listing service.**
- B. **Broker's services are provided without regard to race, color, religion, national origin, sex, disability or familial status. Local ordinances may provide for additional protected classes (e.g., status as a student, marital status, sexual orientation, or age).**
- C. **Broker is not a property inspector, surveyor, engineer, environmental assessor, or compliance inspector. Client should seek experts to render such services for any property Client seeks to acquire.**
- D. **If Client purchases property, Client should have an abstract covering the property examined by an attorney of Client's selection, or Client should be furnished with or obtain a title policy.**
- E. **Broker cannot give legal advice. READ THIS AGREEMENT CAREFULLY. If you do not understand the effect of this agreement, consult your attorney BEFORE signing.**

Broker's Printed Name License No. Client's Signature Date

By: _____
Broker's or Associate's Signature Date Client's Signature Date