



# BUYER REPRESENTATION AGREEMENT

This form is furnished by the Austin Board of REALTORS®

\_\_\_\_\_ (“Buyer”) appoints \_\_\_\_\_ (“Broker”) as Buyer's exclusive agent and grants to Broker the exclusive right to represent Buyer in locating and purchasing suitable real property (i.e.)  residential,  commercial,  other \_\_\_\_\_ (“the Property”) in the following Market Area: \_\_\_\_\_

Section 1. **Beginning and Duration of Agency.** Broker's authority as Buyer's exclusive agent shall begin on \_\_\_\_\_ / \_\_\_\_\_ / \_\_\_\_\_ (date) and shall continue until \_\_\_\_\_ / \_\_\_\_\_ / \_\_\_\_\_ (date) or the purchase of the Property by Buyer.

Section 2. **Professional Service Fee.** Broker agrees to first seek compensation out of the commission, if any, which the Seller of the Property has agreed to pay upon the sale of the Property. Any fee received by Broker from the Seller of the Property shall be credited against the Professional Service Fee payable to Broker under this subsection.

Buyer agrees to pay Broker a Professional Service Fee according to the following:

- A. If at the time Buyer contracts to buy the Property, it IS subject to an exclusive right to sell listing contract held by any person other than Broker, Buyer shall pay a fee equal to \$ \_\_\_\_\_ or \_\_\_\_\_ % of the purchase price; or
- B. If at the time Buyer contracts to buy the Property, it IS NOT subject to an exclusive right to sell listing contract (i.e. for sale by Seller or by builder), Buyer shall pay a fee equal to \$ \_\_\_\_\_ or \_\_\_\_\_ % of the purchase price.
- C. See attached Professional Fee Addendum

If the fee to be received by Broker out of any commission paid by the Seller of the Property is (a) less than the Professional Service Fee payable to Broker by Buyer, Buyer shall pay Broker the difference at closing; or (b) greater than the Professional Service Fee payable to Broker by Buyer, Broker shall notify Buyer and Buyer shall have the option of (1) allowing Broker to retain the excess payment or (2) requiring the Broker to attempt to negotiate a reduction in the purchase price of the Property by the amount of the excess commission to be paid to Broker.

Section 3. **Conflicts of Interest And Multiple Representation.** During the term of this agreement, Broker is Buyer's agent and shall represent the interests of Buyer in any negotiations for the purchase or acquisition of real property in the Market Area, unless Buyer authorizes Broker as set forth below, to represent both Buyer and a prospective seller of real property in the Market Area, in which event certain restrictions and limitations apply to Broker's representation of Buyer's interests.

Buyer authorizes Broker to act as Intermediary.

Buyer authorizes Broker to show to Buyer properties which Broker has listed for sale (Listed Property). If Buyer wishes to purchase Listed Property, Buyer authorizes Broker to serve as an intermediary between Buyer and the Seller of the Listed Property. Broker's Compensation shall be paid in accordance with the terms to this agreement. Broker may, after providing written notice to Buyer, appoint one or more licensees associated with the broker to communicate with and carry out Buyer's instructions and one or more licensees to communicate with and carry out the instructions of the Seller of the Listed Property. The law in the State of Texas states that a broker may not serve as an intermediary in a transaction unless both parties consent in writing.

If Broker serves as an intermediary between Buyer and the Seller of Listed Property in the purchase or acquisition of real property within the Market Area, Broker (and any licensees associated with Broker):

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

Buyer does not authorize Broker to act as Intermediary.

If Buyer has not authorized Broker to serve as an intermediary or Buyer desires to inspect or purchase Listed Property and the Seller of the Listed Property has not consented to allow Broker to serve as an intermediary, any such property (excluded property) shall be deemed excluded from this agreement. Broker may continue to serve as agent for the Seller of such property. Buyer shall not be required to pay Broker any fees or commissions with regard to such property. Buyer may contract directly with another Broker or Broker may refer Buyer to another Broker to represent Buyer in the purchase of such property. If Broker refers Buyer, unless Buyer objects in writing, Broker may negotiate for a referral fee.

PAGE TWO OF THIS CONTRACT CONTAINS ADDITIONAL TERMS OF THE CONTRACT WHICH ARE INCORPORATED INTO THIS CONTRACT. BROKER CANNOT GIVE LEGAL ADVICE. THIS IS INTENDED TO BE A LEGALLY BINDING CONTRACT. READ IT CAREFULLY. IF YOU DO NOT UNDERSTAND THE EFFECT OF THIS CONTRACT, CONSULT YOUR ATTORNEY BEFORE SIGNING.

The Effective Date of this agreement is \_\_\_\_\_ / \_\_\_\_\_ / \_\_\_\_\_ (date). All parties acknowledge reading and understanding the agreement.

\_\_\_\_\_ Buyer \_\_\_\_\_ Broker  
\_\_\_\_\_ Buyer By: \_\_\_\_\_

# ADDITIONAL BUYER REPRESENTATION AGREEMENT TERMS

**Duties And Obligations of Parties.** Subject to the limitations stated in this agreement, Broker agrees to use Broker's best efforts as Buyer's agent to (a) identify and submit property to Buyer which in Broker's opinion appear to substantially meet the criteria established by Buyer for the Property; and (b) assist Buyer in negotiating acceptance of Buyer's offer to purchase the Property. Broker's duties to Buyer include loyalty, obedience, disclosure, confidentiality, due diligence and reasonable care, and accounting, subject to the terms, restrictions, or limitations contained in this agreement. Buyer represents that Buyer is not now a party to a Buyer Representation Agreement with another Broker for the purchase of Property in the Market Area. Buyer shall conduct all negotiations for purchase of Property in the Market Area through Broker and shall provide to Broker all information related to the Property received from any source during the term of this agreement.

**Additional Professional Service Fee Terms.** (A) If Buyer is unable to close the purchase of Property due to default by the seller of the Property and with no fault by Buyer, the Professional Service Fee, if any, required by this agreement shall be waived. (B) If a transaction fails to close due to default by Buyer, the Professional Service Fee will not be waived and will be due and payable immediately. Broker is not obligated to advance funds for Buyer in order to complete a closing. (C) Buyer's obligation to pay the Professional Service Fee is conditioned only upon the successful completion of the purpose(s) of this agency or the acceptance by Buyer of a transaction not in exact compliance with the terms specified in this agreement, but within the purview of this Agency Agreement. (D) The Professional Service Fee shall be deemed fully earned when Buyer acquires the Property directly or through Broker, or through any other broker, person or entity, without any discount or allowance for any efforts made by Buyer or by any other agent of Buyer. (E) The Professional Service Fee shall apply to contracts made (i) during the original term of this Agency Agreement; (ii) during any extension of the original or extended terms; and (iii) to contracts made within 90 days after this Agency Agreement expires or is terminated, if the property acquired by Buyer was submitted in writing to Buyer by Broker during the original term or any extension of the term of this Agency Agreement.

**Confidential Information.** Broker shall not knowingly, during the term of this agreement or after its termination, disclose information obtained in confidence from Buyer except as authorized by Buyer or as required by law. Broker shall not disclose to Buyer any information obtained in confidence regarding any other person Broker represents or may have represented as required by law.

**Cooperating Broker.** Buyer authorizes Broker to share or divide Broker's Compensation, on terms and conditions as Broker determines, with any licensed real estate broker or brokers who assist Broker in locating or acquiring real property for buyer within the Market Area.

**Multiple Properties, Buyers or Offers.** Buyer acknowledges that other buyers may seek to acquire through Broker the same or similar properties as Buyer is seeking to acquire. Buyer consents to Broker's representation of other buyers during and after the expiration of this Agency Agreement. Broker will not disclose the price offered or financial details of Buyer's offer to other potential buyers nor will Broker disclose to Buyer the details of any other offer presented by another buyer represented by Broker. Broker shall remain neutral in presenting multiple offers from buyers represented by Broker or if Broker is an intermediary. If the purpose(s) of this Agency includes acquisition of more than one parcel of real property, the provisions of this Section shall apply only to the parcel(s) in which Broker has a conflict.

**Notice to Buyer.** If Buyer agrees to purchase property, Buyer should have an abstract covering the property examined by an attorney of Buyer's choice or obtain a policy of title insurance.

**Default.** Failure by either party to comply with this agreement shall be a default, and non-defaulting party may seek any relief as provided by law. In the event of Buyer's default, Buyer shall be liable for any compensation Broker is entitled to receive under this agreement or the fair value of Broker's services rendered to the time of default.

## Miscellaneous Provisions.

- a) For purposes of this agreement: (i) "Buyer" means buyer or tenant; (ii) "buy", or "purchase" means to buy, purchase, or rent; (iii) "purchasing" and "purchased" mean to purchase, or rent or to have purchased, or rented; (iv) "seller" or "owner" means a seller or landlord; (v) Market Area shall mean that area located wholly or partially within the perimeter boundaries of the area or counties listed under Market Area of this contract; and (vi) "Broker" means principal Broker and not associated broker. However, fiduciary duties of Broker extend to the associated licensees.
- (b) Unless otherwise agreed in writing, Broker may disclose Buyer's identity to third parties.
- (c) The parties agree not to discriminate against any prospective seller because of the race, creed, color, sex, sexual preference, marital status, national origin, or familial, occupational, or handicapped status of such person.
- (d) This agreement can only be modified by another written agreement.
- (e) Buyer is advised to seek legal, tax and other professional advice relating to any proposed transaction and Broker makes no representation or warranty with respect to the advisability of or the legal effect of any transaction contemplated by Buyer.
- (f) If any part of this agreement is invalid or unenforceable, the remainder of the agreement shall not be affected and all other provisions of this agreement shall remain valid and enforceable to the fullest extent permitted by law.
- (g) The parties agree to make a good faith attempt to mediate any disputes which arise prior to resorting to litigation. However, if there is litigation concerning the rights of Buyer and/or Broker under this Agency Agreement, the parties agree that the Court shall award reasonable attorney's fees to the prevailing party.
- (h) Broker advises Buyer that residential service contracts (home warranties) are available from residential service companies licensed under Article 6537b, Texas Civil Statutes. A residential service contract is an agreement whereby the residential service company may, under the terms of the agreement, repair or replace all or any part of the appliances, or electrical, plumbing, heating, cooling, or other systems.
- (i) Broker is not qualified to render property inspections, or surveys. Buyer should seek experts to render such services. Broker is obliged to disclose any material defect in a property known to Broker. Selection of inspectors and repairmen is the responsibility of the parties to a contract or lease and not the Broker.

Initial for Identification \_\_\_\_\_, \_\_\_\_\_, Buyer and \_\_\_\_\_, Broker  
(ABoR 11/99)