



# ROANOKE VALLEY ASSOCIATION OF REALTORS®



## Exclusive Right to Represent Buyer Agreement

*This is a suggested form. If not understood, seek legal advice before signing.*

This AGREEMENT is made on \_\_\_\_\_ between \_\_\_\_\_  
 (“BUYER”)  
 and \_\_\_\_\_ (“BROKER”).  
 (firm name)

In consideration of services to be rendered and the mutual covenants of each unto the other, the BROKER is hereby granted the right to represent the BUYER in the acquisition of real property. As used in this Agreement, “acquisition of real property” will include any purchase, option or exchange of property or an agreement to do so. The term “Buyer’s Agent” means the sales associate who signs this Agreement on behalf of the BROKER and any other sales associates assigned by BROKER, if BROKER deems necessary.

**1. BUYER’S REPRESENTATIONS.** The BUYER represents that as of the commencement date of this Agreement, the BUYER is not a party to an exclusive buyer representation agreement with any other real estate broker.

**2. PURPOSE.** The BUYER is retaining the BROKER and BUYER's Agent to acquire the following type of real property (Property):  
\_\_\_\_\_

**3. TERM.** This Agreement commences when signed and, subject to Paragraph 8, expires at 11:59 p.m. on  
\_\_\_\_\_, \_\_\_\_\_.

**4. BROKER and BUYER’s AGENT’s DUTIES.** The BROKER and BUYER’s Agent will represent BUYER as a standard agent in this brokerage relationship and promote the interests of the BUYER by:

- (a) Performing in accordance with the terms of this Agreement;
- (b) Seeking property at a price and terms acceptable to the BUYER; BUYER understands that BROKER’s principal source of information about available properties will be local multiple listing services; however, BROKER may from time to time become aware of properties for sale, but not offered through any multiple listing service, that may be suitable to BUYER. BROKER will have no obligation to search out such properties beyond those that come to the attention of BROKER in the ordinary course of business.
- (c) Presenting in a timely manner all offers or counteroffers to and from the BUYER;
- (d) Disclosing to the BUYER all material facts related to the property or concerning the transaction of which BROKER and BUYER’s Agent have actual knowledge;
- (e) Account for in a timely manner all earnest money received in which the BUYER has or may have an interest.

Unless otherwise provided by law or the BUYER consents in writing to the release of the information, the BROKER and BUYER’s Agent will maintain the confidentiality of all personal and financial information known or obtained during the agency relationship. Buyers are advised that sellers or their representatives may not treat the existence, terms or conditions of offers as confidential unless required by law, regulation or by any confidentiality agreements between the parties. In satisfying these duties, the BROKER and BUYER’s Agent will exercise ordinary care, comply with all applicable laws and regulations, treat all prospective sellers honestly and not knowingly give them false information, and disclose whether or not the Buyer’s intent is to occupy the property as a principal residence. In addition, the BROKER and BUYER’s Agent may show the same property to other buyers, represent other buyers, represent sellers relative to other properties, or provide assistance to a seller or prospective seller that are not inconsistent with the BROKER and BUYER’s Agent’s duties under this Agreement.

**5. BROKER & BUYER'S AGENT DISCLAIMER.** The BUYER acknowledges that the BROKER is being retained solely as a real estate agent and not as an attorney, tax advisor, lender, appraiser, surveyor, structural engineer, home inspector, loan officer or other professional service provider. The BUYER has been advised to seek professional advice concerning the condition of the property, legal, and tax matters.

**6. BUYER’S DUTIES.** The BUYER will:

- (a) Work exclusively with the BROKER and BUYER’s Agent during the term of this Agreement.
- (b) Comply with the reasonable requests of the BROKER and BUYER’s Agent to supply any pertinent financial or personal data needed to fulfill the agreement.
- (c) Inform BUYER’s Agent whether the BUYER’s intent is to occupy the property as a principal residence.
- (d) Supply information on the progress of the loan to the BUYER’s Agent or authorize the lender to release the information to the BUYER’s Agent. The BUYER further authorizes the BUYER’s Agent to release this information to the Seller’s Listing Agent and/or the Seller, if not listed with a broker.
- (e) Keep the BUYER’s Agent informed on any factors that may impact their ability to fulfill the terms of the purchase agreement.

- (f) Cooperate with BROKER and BUYER's Agent to establish hours to view properties.
- (g) Consult with BUYER's Agent before visiting any real property as described in Paragraph 2 or contacting any other agents to avoid the possibility of confusion over the agency relationships and misunderstandings about liability for compensation.
- (h) Inform all agents whom BUYER contacts of BUYER's relationship with BROKER and BUYER's Agent.

**7. SERVICE FEE.** Upon signing this Agreement, BUYER will pay a Service Fee of \_\_\_\_\_ for enlisting BROKER's services under this Agreement. BROKER  will or  will not give BUYER a credit for the Service Fee if and when BUYER obtains title to the type of property described above. The parties hereto agree that this Service Fee is earned upon signing of this Agreement for services to be rendered by BROKER and is non-refundable. This Service Fee will not be placed in BROKER's escrow account.

**8. BROKERAGE FEE.** BROKER and BUYER AGENT are authorized to receive the compensation offered by the Listing Firm to a Buyer's Broker or paid by the seller, which compensation will be credited against the brokerage fee due by BUYER to BROKER. For the services rendered by BROKER and BUYER's AGENT, BUYER agrees to pay BROKER a fee (the "Fee") equal to (select one):

- the brokerage fee offered by the seller or seller's listing agent to the Buyer's BROKER on property acquired by BUYER, but such brokerage fee will not be less than \_\_\_\_\_; **OR**
- \_\_\_\_\_% of the gross purchase price of the property acquired by BUYER; **OR**
- other \_\_\_\_\_

The Fee will be earned during the term of this Agreement if the BUYER enters into a contract to acquire a property described above through the services of BROKER and BUYER's AGENT and subsequently obtains title thereto. The Fee will also be earned if the property is shown by the BROKER or BUYER's AGENT during the term of this Agreement and BUYER enters into a contract to acquire a property described above within \_\_\_ days after expiration of this agreement and subsequently obtains title thereto, unless BUYER has entered into a subsequent buyer brokerage agreement with another real estate brokerage firm. BUYER also authorizes BROKER to retain any selling bonus offered, and BROKER will give BUYER notice of such bonus promptly, but in all events before contract ratification. The Fee will be payable to BROKER upon the earlier of transfer of title or any action by BUYER or default by BUYER which results in BUYER not obtaining title to the Property after the material conditions of a contract to purchase the Property are met. BUYER's obligation to pay the Fee will survive the termination of this Agreement. Any compensation received by BROKER from the Listing Firm or seller (including any selling bonus) in excess of the Fee will be paid to and retained by BROKER even though said amount may exceed the Fee. After crediting any compensation received by BROKER from the Listing Firm or the seller, BUYER will be responsible for the balance of the Fee due to BROKER.

**9. DISCLOSED DUAL AND DESIGNATED AGENCY.** The BUYER acknowledges that in the normal course of business the BROKER may represent seller clients of properties in which the BUYER is interested. If the BUYER wishes to purchase any property listed with the BROKER, then the BUYER may be represented in one of the two ways that are permitted under Virginia law. In this situation, either Disclosed Dual Agency or Disclosed Designated Agency may occur and the appropriate Consent and Confirmation Agreement will be presented to the BUYER and the Seller for their consideration. A copy of each Consent and Confirmation Agreement follows this Agreement.

Disclosed Dual Agency occurs when the Seller's Listing Agent also represents the BUYER. The limitation on the Disclosed Dual Agent's ability to represent fully either party is explained fully following this Agreement.

**OR**

Disclosed Designated Agency occurs when a buyer and seller in a particular transaction are represented by different sales associates affiliated with the same firm. The Disclosed Designated Agents are not dual agents and represent fully the interest of their respective clients in a particular transaction. A copy of each Consent and Confirmation follows this Agreement.

**10. FAIR HOUSING DISCLOSURE.** Properties will be shown and made available to the BUYER without regard to race, color, religion, sex, disability, familial status, elderliness, national origin, sexual orientation, gender identity, status as a veteran or source of funds as well as all classes protected by the laws of the United States, the Commonwealth of Virginia and applicable local jurisdictions.

**11. MEGAN'S LAW DISCLOSURE.** The BUYER should exercise whatever due diligence BUYER deems necessary with respect to information on any sexual offenders registered under Chapter 23 (19.2-387 et seq.) of Title 19.2. Such information may be obtained by contacting your local police department or the Department of State Police, Central Criminal Records Exchange, at 804-674-2000 or [www.vsp.state.va.us](http://www.vsp.state.va.us).

**12. LICENSE DISCLOSURE.** BUYER (check as applicable) is \_\_\_\_\_ is not \_\_\_\_\_ a licensed (active/inactive) real estate agent/broker.

**13. BUYER DEFAULT.** In the event BUYER defaults under this Agreement, BROKER will be entitled to recover from BUYER the reasonable attorney's fee and court costs incurred by BROKER in enforcing the provisions of this Agreement.

**14. ADDITIONAL DOCUMENTS AND OTHER PROVISIONS.** Attached hereto and made a part of this Agreement are:

\_\_\_\_\_

\_\_\_\_\_

**15. FACSIMILES.** This Agreement may be signed in one or more counterparts, all of which will be considered the same instrument. Signed documents and counterparts received via electronic or facsimile transmission will be considered originals and are likewise enforceable.

**16. ELECTRONIC SIGNATURES.** In accordance with the Uniform Electronic Transactions Act (UETA) and the Electronic Signatures in Global and National Commerce Act, or E-Sign, and other applicable local or state legislation regarding Electronic Signatures and Transactions, the parties do hereby recognize the use of electronic signatures as an additional method of signing and/or initialing this Agreement and any addenda or amendments.

**17. RECORDINGS WITHIN THE PROPERTY:** Prior to photographing, videographing or videotelephoning the property without prior written permission of the owner, BUYER should speak with an attorney. BUYER should be aware that the seller may have a security system that records or allows for remote monitoring of the property, including recording or broadcasting audio. Sellers may be able to listen to conversations in their properties and BUYER should be aware that any discussions of negotiation strategies held in the property may not be confidential. BUYER hereby releases BROKER, buyer agent and employees from any liability which may result from any recording in the property.

**18. WIRE FRAUD ALERT: Criminals are hacking email accounts of real estate agents, title companies, settlement attorneys and others, resulting in fraudulent wire instructions being used to divert funds to the account of the criminal. All parties are advised not to wire any funds without personally speaking with the intended recipient of the wire to confirm the routing number and the account number. Parties should not send personal information such as Social Security numbers, bank account numbers and credit card numbers except through secure email or personal delivery to the intended recipient.**

**19. ENTIRE AGREEMENT.** This Agreement represents the entire agreement between BUYER and BROKER and may not be modified or changed except by written instrument executed by the parties. This contract is and will be governed by the laws of the Commonwealth of Virginia and the BUYER binds himself, his heirs, successors, assigns, executors and/or administrators for the faithful performance of the Agreement. To the extent any handwritten or typewritten terms herein conflict with, or are inconsistent with the printed terms hereof, the handwritten or typewritten terms will control. Should any portion of this Agreement be deemed ineffective and/or unenforceable, all other provisions hereof will remain in full force and effect. The terms of this Agreement will remain in full force and effect as set forth herein and any revision, modification or termination of the terms hereof must be in writing to be effective. Receipt of a signed copy of this Agreement is hereby acknowledged by BUYER.

|                       |              |                          |
|-----------------------|--------------|--------------------------|
| _____                 |              | _____ Firm Name          |
| Buyer's Signature     | Date         |                          |
| _____                 |              | By: _____                |
| Buyer's Signature     | Date         | Buyer's Agent            |
| _____                 |              | Supervising Broker _____ |
| Address               |              |                          |
| _____                 |              | Broker Contact _____     |
| City, State, Zip Code |              | (Phone)                  |
| _____                 |              | Agent Contact _____      |
| Telephone: _____      |              | (Phone)                  |
| Office                | Home         | _____ (Agent Email)      |
| _____ (Fax)           | _____ (Cell) |                          |
| _____                 |              |                          |
| (Email)               |              |                          |

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# Dual Agency Consent and Confirmation

(To be signed by Seller before reviewing offer and to be signed by Buyer before signing offer.)

1. Seller and Buyer acknowledge and agree that the real estate firm's principal and/or supervising broker and the Seller's Listing Agent and Buyer's Agent (collectively called the "Agent") are undertaking a Consensual Dual Agency representation in the sale of the above property. Seller and Buyer have previously been informed of the possibility of Dual Agency arising if a buyer client becomes interested in a seller client's property. Seller and Buyer have consented to this dual representation and hereby confirm their consent by signing the appropriate form after reading the following description of the type of representation to be provided.

## 2. Description of Agent's Role:

Because the Agent is acting for both Seller and Buyer in this transaction, the Agent will remain impartial to Seller and Buyer. Seller and Buyer acknowledge that, prior to the creation of the Dual Agency, the Agent acted as the agent to both Seller and Buyer. In those separate roles, the Agent may have obtained information which, if disclosed, could harm the position of the party providing such information to the Agent. Seller and Buyer agree that the Agent will not be liable to either party for refusing or failing to disclose information which, in the sole discretion of the Agent, would harm one party's position and would benefit the other party. However, this Agreement will not prevent the Agent from disclosing to Buyer any material adverse facts pertaining to the physical condition of the property actually known by the Agent or any other information which must be disclosed by law or regulation. The Agent agrees not to disclose (a) to Buyer information about what price Seller will accept other than the Listing Price, or (b) to Seller information about what price Buyer will pay other than any written offered price. Agent may be acting without knowledge of the Seller's or Buyer's needs, their knowledge of the market or their capabilities in dealing with the intricacies of real estate transactions. In the event of default by either party the Agent may terminate its Dual Agency role and this Agreement by providing a written termination notice to Seller and Buyer. If the Seller and Buyer do not enter into an agreement for the purchase of the Seller's property, such dual agency shall terminate.

## 3. Description of Seller's and Buyer's Role:

Because of the Agent's Dual Agency relationship, Seller and Buyer understand that they have the responsibility of making their own decisions as to what terms are to be included in any Purchase Agreement between them. Seller and Buyer also acknowledge that they are aware of the implications of the Agent's Dual Agency role including the limitation on the Agent's ability to represent fully Seller or Buyer. Seller and Buyer have determined that the benefits of entering into a transaction between them with the Agent acting as agent for both of them outweigh such implications. Seller and Buyer understand that they may each seek independent legal counsel in order to assist with any matter relating to a Purchase Agreement or to the transaction which is the subject matter of a Purchase Agreement. Seller and Buyer agree that Agent will not be liable for any claims, damages, losses, expenses or liabilities arising from the Agent's role as a Dual Agent. Seller and Buyer will have a duty to protect their own interests and should read this Agreement and any Purchase Agreement carefully to ensure that they accurately set forth the terms which they want included in said agreements. **Either party may engage another agent at additional cost to represent their respective interests.**

## **EXAMPLES OF WHAT THE AGENT WILL OR MAY DO FOR SELLER AND BUYER WHEN ACTING AS A DUAL AGENT:**

- Agent will treat the Seller and Buyer honestly.
- Agent will disclose any material adverse facts pertaining to the physical condition of the Property actually known by the Agent and any other information which must be disclosed by law or regulation.
- Agent will assist with the preparation of the Purchase Agreement.
- Agent may respond to questions about the Property.
- Agent may arrange for Property inspections.
- Agent may explain closing costs and procedures.
- Agent may assist with comparison of financing alternatives.
- Agent may provide information about comparable properties so the Seller and Buyer may make an educated decision on what price to accept or to offer.

## **WHAT THE AGENT WILL NOT DO FOR SELLER AND BUYER WHEN ACTING AS A DUAL AGENT:**

- Agent will not disclose to either party or their representatives any personal, financial, or confidential information known by the Agent or obtained by the Agent in the course of the agency relationship, without the prior written consent of the party adversely affected by the disclosure.
- Agent will not disclose the price the Seller will accept other than the listing price without written permission of the Seller.
- Agent will not disclose the price the Buyer is willing to pay without written permission of the Buyer.
- Agent will not advise either Buyer or Seller as to the terms to offer or accept in any offer or counteroffer; however, Agent may have advised one party as to such terms prior to the commencement of the dual agency.
- Agent will not advise either Buyer or Seller as to the suitability of the Property, its condition (other than to make any disclosures as required by law of any licensee representing a seller) or the repairs to make or request.
- Agent will not advise either Buyer or Seller should any dispute arise ~~later~~ relating to the transaction.

# Designated Agency Consent and Confirmation

(To be signed by Seller before reviewing offer and to be signed by Buyer before signing offer.)

The Buyer and Seller may be represented in a particular transaction by the same firm, but only if the scope of the agency is limited by a written agreement and only with the express knowledge and written consent of both the Buyer and the Seller.

1. Seller and Buyer have previously been informed of the possibility of Designated Agency arising if a buyer and seller in a particular transaction are represented by different agents affiliated with the same firm. Disclosed Designated Agency occurs when the firm's principal and/or supervising broker elects to assign Disclosed Designated Agents to represent different clients in the same transaction. Seller and Buyer acknowledge and agree that the firm's principal and/or supervising broker, and the Seller's Listing Agent and Buyer's Agent are undertaking a consensual designated agency representation in the sale of the above property. The firm's principal and/or supervising broker reserves the right to assign a Designated Agent other than the Seller's Listing Agent or Buyer's Agent. The principal and/or supervising broker will act as a Disclosed Dual Agent of both the Seller and Buyer clients.

## 2. Description of Agent's Role:

The Designated Seller's Agent and the Designated Buyer's Agent represent only the interests of their respective clients, and may therefore represent those interests fully. The Designated Seller's Agent and the Designated Buyer's Agent may not disclose, except to their principal and/or supervising broker, personal or financial information received from the clients in the course of the agency relationship and any other information a client requests be kept confidential, unless that information is required by law to be disclosed or the client consents to its disclosure in writing.

## 3. Firm's Principal and/or Supervising Broker's Role:

To ensure that the Seller's Listing Agent and Buyer's Agent can fully represent the interests of their clients, the principal and/or supervising broker will act as a Disclosed Dual Agent of both the Seller and the Buyer clients, and as such will remain impartial to both the Seller and Buyer. As a Disclosed Dual Agent, the principal and/or supervising broker:

- A. Must not disclose to either client or their representatives any personal, financial and confidential information known or obtained during the agency relationship, without the prior written consent of the party adversely affected by the disclosure.
- B. Will treat the Seller and Buyer honestly.
- C. May provide facts and choices to the Seller and Buyer and their Designated Agent.
- D. May not advise the Seller or Buyer or their Designated Agents as to the terms to offer or accept in any offer or counteroffer; however, may have advised one party as to such terms prior to the commencement of the Dual Agency.
- E. May not advise the Seller or Buyer or their Designated Agents as to the suitability of the Property, its condition (other than to make any disclosures as required by law of any licensee representing a seller) or the repairs to make or request.
- F. May not advise the Seller or Buyer or their Designated Agents should any dispute arise later relating to the transaction.

Nothing contained in this Agreement will prevent the Disclosed Dual Agent from disclosing to the Buyer and the Seller any material adverse facts pertaining to the physical condition of the property actually known by the Disclosed Dual Agent or any other information that must be disclosed by law or regulation.