

# EXCLUSIVE BUYER-BROKER AGREEMENT & AGENCY DISCLOSURE

THIS IS A LEGALLY BINDING AGREEMENT - READ CAREFULLY BEFORE SIGNING

## DESIGNATED AGENCY BROKERAGE

**THIS EXCLUSIVE BUYER-BROKER AGREEMENT** is entered into on this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by and between \_\_\_\_\_ (the "Company") and \_\_\_\_\_ ("Buyer")

**1. TERM OF AGREEMENT.** The Buyer hereby retains the Company, including \_\_\_\_\_ (the "Buyer's Agent") as the authorized agent for the Company, starting on the date listed above, and ending at 5:00 P.M. (MST) on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, or the closing of the acquisition of a property, which ever occurs first (the "Initial Term"), to act as the **EXCLUSIVE** Buyer's Agent in locating and/or negotiating for the acquisition of a property in \_\_\_\_\_ County, Utah. During the Initial Term of this Exclusive Buyer-Broker Agreement, and any extensions thereof, the Buyer agrees not to enter into another buyer-broker agreement with another real estate agent or brokerage.

**2. BROKERAGE FEE.** If, during the Initial Term, or any extension of the Initial Term, the Buyer, or any other person acting in the Buyer's behalf, acquires an interest in any real property, the Buyer agrees to pay to the Company a brokerage fee in the amount of \$\_\_\_\_\_ or \_\_\_\_\_% of the acquisition price of the property. If the property acquired by the Buyer is listed with a brokerage, the selling commission paid to the Company by the listing brokerage shall satisfy the Buyer's obligation for the brokerage fee shown above provided that the brokerage fee is not less than the amount shown above. If the brokerage fee is less than the amount shown above, Buyer will pay the difference at closing. If the property is not listed with a brokerage, in the absence of a commission agreement with the owner of the selected property, the brokerage fee shown above shall be paid by the Buyer. Unless otherwise agreed to in writing by the Buyer and the Company, the brokerage fee shown above shall be due and payable on: (a) if a purchase, the date of recording of the closing documents; (b) if a lease, the effective date of the lease, or (c) if an option, the date the option agreement is signed. If the transaction is prevented by default of Buyer, the compensation shall be immediately payable to the Company.

**3. PROTECTION PERIOD.** If within \_\_\_\_\_ months after the termination or expiration of this Exclusive Buyer-Broker Agreement, Buyer or any person acting on the Buyer's behalf, enters into an agreement to purchase, exchange for, obtain an option on, or lease any property located for Buyer by Buyer's Agent or the Company, or on which Buyer's Agent negotiates in Buyer's behalf during the Initial Term, Buyer agrees to pay to the Company the brokerage fee referenced in Section 2.

**4. BUYER REPRESENTATIONS/DISCLOSURES.** THE BUYER WARRANTS THAT THE BUYER HAS NOT ENTERED INTO ANY OTHER BUYER-BROKER AGREEMENT WITH ANY OTHER BROKERAGE THAT IS STILL IN FORCE AND EFFECT. The Buyer will: (a) in all communications with other real estate agents, notify the agents in advance that the Buyer has entered into this Exclusive Buyer-Broker Agreement with the Company; (b) furnish the Buyer's Agent with relevant personal and financial information to facilitate the Buyer's ability to acquire a property; (c) exercise care and diligence in evaluating the physical and legal condition of the property selected by the Buyer; (d) hold harmless the Company and the Buyer's Agent against any claims as the result of any injuries incurred while inspecting any property; (e) upon signing of this Exclusive Buyer-Broker Agreement, personally review and sign the Buyer Due Diligence Checklist form; and (f) disclose to the Buyer's Agent all properties in which the Buyer, as of the date of this Exclusive Buyer-Broker Agreement, is either negotiating to acquire or has a present interest in acquiring.

**5. AGENCY RELATIONSHIPS.** By signing this Exclusive Buyer-Broker Agreement, the Buyer designates the Buyer's Agent and the Principal/Branch Broker for the Company (the "Broker"), as agents for the Buyer to locate properties for the Buyer's consideration and review. The Buyer authorizes the Buyer's Agent or the Broker to appoint another agent in the Company to also represent the Buyer in the event the Buyer's Agent or the Broker will be unavailable to service the Buyer. As agents for the Buyer, the Buyer's Agent and the Broker have fiduciary duties to the Buyer that include loyalty, full disclosure, confidentiality, and reasonable care. The Buyer understands, however, that the Buyer's Agent and the Broker may now, or in the future, be agents for a Seller who may have a property that the Buyer may wish to acquire. Then the Buyer's Agent and the Broker would be acting as Limited Agents - representing both the Buyer and seller at the same time. A Limited Agent has fiduciary duties to both the Buyer and the seller. However, those duties are "limited" because the agent cannot provide to both parties undivided loyalty, full confidentiality and full disclosure of all information known to the agent. For this reason, the Limited Agent is bound by a further duty of neutrality. Being neutral, the Limited Agent may not disclose to either party information likely to weaken the bargaining position of the other - for example, the highest price the Buyer will offer, or the lowest price the seller will accept. **THE BUYER IS ADVISED THAT NEITHER THE BUYER NOR THE SELLER IS REQUIRED TO ACCEPT A LIMITED AGENCY SITUATION IN THE COMPANY, AND EACH PARTY IS ENTITLED TO BE REPRESENTED BY ITS OWN AGENT.** If Limited Agency is agreed to below; (a) the Buyer authorizes the Buyer's Agent and the Broker to represent both the Buyer and the Seller as Limited Agents when the Buyer's Agent and the Broker also represent the Seller of the Property the Buyer desires to acquire; (b) the Buyer further agrees that when another agent in the Company represents the Seller, that agent will exclusively represent the Seller, the Buyer's Agent will exclusively represent the Buyer, and the Broker will act as Limited Broker. **IN EITHER EVENT, IF LIMITED AGENCY IS AGREED TO BELOW, THE BUYER AND THE SELLER WILL BE REQUIRED TO SIGN A SEPARATE LIMITED AGENCY CONSENT AGREEMENT AT THE TIME THE LIMITED AGENCY SITUATION ARISES. INITIAL APPLICABLE BOX: [ ] I AGREE TO LIMITED AGENCY; OR [ ] I DO NOT AGREE TO LIMITED AGENCY.**

**6. PROFESSIONAL ADVICE.** The Company and the Buyer's agent are trained in the marketing of real estate. Neither the Company nor the Buyer's Agent are trained or licensed to provide the Buyer with professional advice regarding the physical condition of any property or regarding legal or tax matters. **BUYER IS ADVISED NOT TO RELY ON THE COMPANY, OR ON ANY AGENTS OF THE COMPANY, FOR A DETERMINATION REGARDING THE PHYSICAL OR LEGAL CONDITION OF THE PROPERTY, including, but not limited to: past**

or present compliance with zoning and building code requirements; the condition of any appliances; the condition of heating/cooling, plumbing, and electrical fixtures and equipment; sewer problems; moisture or other problems in the roof or foundation; the availability and location of utilities; the location of property lines; and the exact square footage or acreage of the property. AS PART OF ANY WRITTEN OFFER TO PURCHASE A PROPERTY, THE COMPANY STRONGLY RECOMMENDS THAT THE BUYER ENGAGE THE SERVICES OF APPROPRIATE PROFESSIONALS TO CONDUCT INSPECTIONS, INVESTIGATIONS, TESTS, SURVEYS, AND OTHER EVALUATIONS OF THE PROPERTY AT THE BUYER'S EXPENSE. IF THE BUYER FAILS TO DO SO, THE BUYER IS ACTING CONTRARY TO THE ADVICE OF THE COMPANY.

**7. DISPUTE RESOLUTION.** The parties agree that any dispute related to this Exclusive Buyer-Broker Agreement, arising prior to or after the acquisition of a property, shall first be submitted to mediation through a mediation provider mutually agreed upon by the Buyer and the Company. If the parties cannot agree upon a mediation provider, the dispute shall be submitted to the American Arbitration Association. Each party agrees to bear its own costs of mediation. If mediation fails, the other remedies available under this Exclusive Buyer-Broker Agreement shall apply.

**8. ATTORNEY FEES.** Except as provided in Section 7, in case of the employment of an attorney in any matter arising out of this Exclusive Buyer-Broker Agreement, the prevailing party shall be entitled to receive from the other party all costs and attorney fees, whether the matter is resolved through court action or otherwise. If, through no fault of the Company, any litigation arises out of the Buyer's employment of the Company under this Exclusive Buyer-Broker Agreement (whether before or after the acquisition of a property), the Buyer agrees to indemnify the Company and the Buyer's Agent from all costs and attorney fees incurred by the Company and/or the Buyer's Agent in pursuing and/or defending such action.

**9. BUYER AUTHORIZATIONS.** Buyer authorizes the Company and/or Buyer's Agent to disclose after closing to each MLS in which the Company participates (consistent with the requirements of each such MLS), the final terms and sales price of the property acquired by Buyer under the terms of this Agreement. Buyer also authorizes the Company and/or Buyer's Agent to communicate with Buyer for the purpose of soliciting real estate related goods and services during and after the term of this Buyer-Broker Agreement, at the following numbers: (hm) \_\_\_\_\_ (wk) \_\_\_\_\_ (cell) \_\_\_\_\_ (fax) \_\_\_\_\_ and/or (email) \_\_\_\_\_. In any transaction for the acquisition of a property, Buyer agrees that the Earnest Money Deposit may be placed in an interest-bearing trust account with interest paid to the Utah Association of Realtors® Housing Opportunity Fund (UARHOF) to assist in creating affordable housing throughout the state.

**10. ATTACHMENT.** There ☐ ARE ☐ ARE NOT additional terms contained in an Addendum attached to this Exclusive Buyer-Broker Agreement. If an Addendum is attached, the terms of that Addendum are incorporated into this Exclusive Buyer-Broker Agreement by this reference.

**11. EQUAL HOUSING OPPORTUNITY.** The Buyer and the Company will comply with Federal, State, and local fair housing laws.

**12. FAXES.** Facsimile (fax) transmission of a signed copy of this Exclusive Buyer-Broker Agreement, and retransmission of a signed fax, shall be the same as delivery of an original. If this transaction involves multiple Buyers, this Exclusive Buyer-Broker Agreement may be executed in counterparts.

**13. ENTIRE AGREEMENT.** This Exclusive Buyer-Broker Agreement, including the Buyer Due Diligence Checklist form, contains the entire agreement between the parties relating to the subject matter of this Exclusive Buyer-Broker Agreement. This Exclusive Buyer-Broker Agreement shall not be modified or amended except in writing signed by the parties hereto.

**THE UNDERSIGNED** Buyer does hereby accept the terms of this Exclusive Buyer-Broker Agreement.

_____ (Buyer's Signature)	_____ (Address/Phone)	_____ (Date)
_____ (Buyer's Signature)	_____ (Address/Phone)	_____ (Date)
The Company		
By: _____ (Buyer's Agent)	by: _____ (Principal/Branch Broker)	_____ (Date)

**WHITE:** Broker

**CANARY:** Buyer's Agent

**PINK:** Buyer

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