



# EXCLUSIVE BUYER BROKERING AGREEMENT

(RESIDENTIAL)

AS APPROVED BY THE MIDLAND BOARD OF REALTORS®, INC



**NOTICE:** The amount or rate of real estate commissions is not fixed by law. They are set by each broker individually and may be negotiable between the Buyer and Broker.

Broker: \_\_\_\_\_

Client: \_\_\_\_\_

**INFORMATION ONLY**

1. **PURPOSE:** Client has appointed the Broker to assist Client to locate property for purchase, exchange, option or lease.
2. **BROKER'S ROLE:** Broker agrees to exercise effort to achieve the purpose of this Agreement. At time of any initial contact, broker shall inform all prospective Sellers and their agents that Broker is acting on behalf of Client. CLIENT ACKNOWLEDGES THAT BROKER IS NOT AN APPRAISER, ATTORNEY, FINANCIAL EXPERT, STRUCTURAL AND MECHANICAL ENGINEER, ENVIRONMENTAL EXPERT, SURVEYOR, OR TAX ADVISOR AND THAT CLIENT (S) HAS BEEN ADVISED TO CONTACT OTHER PROFESSIONALS ON THESE MATTERS.
3. **CLIENT'S ROLE:** Client agrees to: a) Provide broker with reliable information deemed necessary for the performance of Broker's duties. b) Indemnify, defend and hold Broker harmless from all loss, liability, costs, (including attorney's fees and damages). c) Make him/her self available to meet with Broker to view properties, in order that Broker will be able to perform his/her duties. d) Disclose to other agents at *first contact* that a formal Client relationship exists with Broker. e) Work exclusively with Broker and its associated salespersons during the term of this agreement to view and refer all property inquires.
4. **EXCLUSIVE AGENT:** Client agrees that during the term of the Agreement any and all inquiries and/or negotiations on behalf of Client relating to the acquisition of any Desired Property shall be through Broker.
5. **TERM:** This Contract shall begin at 12:01 a.m. on \_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_ and expire at 11:59 p.m. on \_\_\_\_\_, 20 \_\_\_\_ unless sooner terminated by written agreement of the parties or by completion of the purpose(s) of agency.
6. **COMPENSATION OF BROKER:** In the event Client contracts to purchase the desired property through the services of Broker, Broker shall be compensated by the seller or the listing broker. In the event no compensation is offered by the seller or the listing broker, Client will pay Broker a commission equal to \_\_\_\_% of the purchase price. The commission is due and payable upon closing. The Commission shall apply to any purchase agreements executed during the term of this Agreement, or during any extension of this Agreement. The Commission will also apply to purchase agreements executed within \_\_\_\_ months after the expiration or other termination of this Agreement, if the property acquired was presented to Client through the services of Broker; except that no commission shall be owed to Broker if the buyer enters into an exclusive buyer broker agreement, in good faith, with another member of the Midland Board of REALTORS®, Inc., Multiple Listing Service upon expiration of this contract. If the seller fails to close with no fault on the part of the Client, then the Commission shall be waived. If the transaction does not close because of any fault on the part of the Client, the Commission shall NOT be waived and shall become immediately due and payable. Client will receive a credit against any amount owed to broker for any commission paid to Broker by a seller or a cooperating broker.
7. **OTHER POTENTIAL CLIENTS.** Client understands that other potential clients or buyers may consider, make offers on, lease or purchase through Broker the same or similar properties as Client is seeking. Client consents to Broker's representation of such other potential client/buyers before, during and after the expiration of this Agreement.
8. **CONFLICTING INTEREST.** Broker also enters into contracts with persons who wish to sell property ("Sellers"). Such property is commonly known as a "Company Listing". If Client wishes to make an offer on a Company Listing, Broker will serve as either a dual agent or Transaction Coordinator. Certain conflicts of interest may arise because the Seller and the Client have different interests to protect. Client consents in advance to the Broker acting as either a Dual Agent or a Transaction Coordinator and agrees that, under such circumstances, the following provisions shall govern the Broker's actions:
  - a. Broker will not knowingly say anything or do anything which might place one party at a disadvantage, such as disclose personal confidences or any information learned in a prior real estate transaction or fiduciary relationship; and

CLIENT(S) \_\_\_\_/\_\_\_\_/\_\_\_\_/\_\_\_\_

BROKER/AGENT \_\_\_\_\_

- b. The Broker shall assume a role as an intermediary, facilitator, and/or mediator to assist Client and Seller; and
- c. Broker shall not disclose to Client that the Seller might accept a price other than the listing price; nor shall Broker disclose to the Seller that the Client might be willing to pay a higher price.

If, as to any interest in real property within the scope of the purpose(s) of agency as set forth in Section 2, Broker has any ownership interest, or has any listing contract with the owner, for sale of the property under which Broker may be collecting a commission, and Client indicates interest in such property, Broker shall immediately notify Client of the facts regarding Broker's interest in such real property or Broker's contractual relationship with its owner.

If the purpose(s) of agency, as set forth in paragraph 1, includes acquisition of more than one parcel of real property, the provisions of this paragraph shall be applied only in respect to the parcel(s) as to which Broker has any of the interests or contractual relationships described in the preceding paragraph of this section.

CLIENT(S) \_\_\_\_/\_\_\_\_/\_\_\_\_/\_\_\_\_

BROKER/AGENT \_\_\_\_\_

- 9. **NON-DISCLOSURE:** Client understands and agrees that Broker shall not disclose information learned during the course of any prior or pending real estate transaction or fiduciary relationship.
- 10. **COSTS OF SERVICES OR PRODUCTS OBTAINED FROM OUTSIDE SOURCES.** Broker will not obtain or order products or services from outside sources (e.g., surveys, soil tests, title reports, and inspections) without the prior consent of Client. Client agrees to pay for all costs for products or services so obtained.
- 11. **INDEMNIFICATION OF BROKER.** Client AGREES TO INDEMNIFY, defend and hold Broker and Broker's agents harmless of and from all loss, liability, costs, including attorneys fees and damages suffered or incurred by Broker and/or Broker's agents arising from or in connection with BUYER'S NONPERFORMANCE or breach of this CONTRACT.
- 12. **NON-DISCRIMINATION.** It is agreed by Broker and Client, that as required by law, discrimination because of religion, race, color, national origin, age, sex, handicap or familial or marital status or sexual orientation by the parties in respect to the purchase of property is prohibited.
- 13. **ASSIGNMENT BY BUYER.** No assignment of Buyer's rights under this contract and no assignment of rights in property obtained for Buyer under this contract shall operate to defeat any of Broker's rights.
- 14. **ELECTRONIC COMMUNICATIONS.** The parties agree that this Contract, any amendment or modification of this Contract or any other written notice or communication in connection with this Contract may be delivered or given by sending or transmitting it by electronic mail or by fax. Any such communication shall be deemed delivered at the time it is sent or transmitted. The parties agree that the electronic signatures and initials shall be deemed to be valid and binding upon the parties as if the original signatures or initials were present in the documents in the handwriting of each party. All electronic mail shall be delivered to the Buyer at the following address: \_\_\_\_\_. All electronic mail shall be delivered to the Broker at the following address: \_\_\_\_\_. Either party shall provide the other with notice of any change of electronic mail.
- 15. **ENTIRE AGREEMENT.** Time is of the essence. All prior agreements between the parties are incorporated in this Agreement which constitutes the entire contract. Its terms are intended by the parties as a final expression of their agreement with respect to such terms as are included herein and may not be contradicted by evidence of any prior agreement or contemporaneous oral agreement. The parties further intend that this Agreement constitutes the complete and exclusive statement of its terms and that no extrinsic evidence whatsoever may be introduced in any judicial or arbitration proceeding, if any, involving this Agreement.
- 16. **RECEIPT.** Client has read this Agreement and acknowledges receipt of a completed copy of this Agreement.

**Broker:**

**Client:**

Accepted By: \_\_\_\_\_

\_\_\_\_\_

Company: \_\_\_\_\_

\_\_\_\_\_

Address: \_\_\_\_\_

\_\_\_\_\_

Address: \_\_\_\_\_

Address, Zip and Phone

\_\_\_\_\_

Address, Zip and Phone

Date: \_\_\_\_\_

Date: \_\_\_\_\_

**Disclaimer:** This form is provided as a service of the Midland Board of REALTORS®. Please review both the form and details of the particular transaction to ensure that each section is appropriate for the transaction. The Midland Board of REALTORS® is not responsible for use or misuse of the form or misrepresentation or for warranties made in connection with the form