



# BUYER REPRESENTATION AND BROKER COMPENSATION AGREEMENT

(C.A.R. Form BRBC, 12/22)

1. REPRESENTATION PERIOD AND RIGHT TO REPRESENT: \_\_\_\_\_ ("Buyer") grants \_\_\_\_\_ ("Broker") beginning on \_\_\_\_\_ (date) and ending (i) \_\_\_\_\_ days later at 11:59 P.M., or (ii) upon completion of a resulting transaction, whichever occurs first ("Representation Period"), the non-exclusive right (unless paragraph 4B(2) is checked) to represent Buyer in acquiring real property or a manufactured home.

2. NO PRE-EXISTING BUYER REPRESENTATION AND COMPENSATION AGREEMENTS: Buyer acknowledges that Buyer has not entered into a representation agreement with another broker and has no obligation to pay compensation to any other broker, arising out of the acquisition of the Property identified in paragraph 3, except (identify other brokers and properties): \_\_\_\_\_

3. PROPERTY TO BE ACQUIRED ("Property"):

A. Location:

City(ies) of \_\_\_\_\_,  County(ies) of \_\_\_\_\_

Price range: \$ \_\_\_\_\_ to \$ \_\_\_\_\_

Other: \_\_\_\_\_

OR B.  The following specified properties only: \_\_\_\_\_

OR C.  The properties identified on the attached list.

4. COMPENSATION TO BROKER:

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 Buyer and Broker (real estate commissions include all compensation and fees to Broker).

A. BUYER AGREES TO PAY TO BROKER AS FOLLOWS: ((1) applies unless (2) or (3) is checked. Do not check both.)

(1) \_\_\_\_\_ percent of the acquisition price AND \$ \_\_\_\_\_,

OR  (2) \$ \_\_\_\_\_,

OR  (3) Pursuant to the compensation schedule attached.

B. BROKER RIGHT TO COMPENSATION: Broker shall be entitled to compensation specified in paragraph 4A from Buyer if during the Representation Period, or any extension thereof, Buyer enters into an agreement to purchase, lease, or otherwise acquire any Property described in paragraph 3, and the seller thereof completes the transaction or is prevented from doing so by default of Buyer as follows:

(1) BROKER INVOLVEMENT (NON-EXCLUSIVE REPRESENTATION): Compensation is payable only if there was Broker Involvement with the Property. "Broker Involvement" means any of the following: (i) Buyer physically entered and was shown the Property by Broker; (ii) Broker showed the Property to Buyer virtually; (iii) Broker submitted to seller a signed, written offer from Buyer to acquire, lease, exchange or obtain an option on the Property; or (iv) the Property was introduced to Buyer by Broker or one for which Broker acted on Buyer's behalf. However, merely sending Buyer a list of properties shall not be deemed Broker Involvement without documented action on the part of Broker analyzing the Property for Buyer, specifically, or assisting Buyer in the potential acquisition of the Property, or communicating with seller or seller's agent regarding Buyer's potential acquisition of the Property.

OR  (2) BUYER ACQUISITION (EXCLUSIVE REPRESENTATION): This Agreement shall be exclusive and irrevocable. Broker will devote time and resources to assist Buyer in finding and acquiring the Property in the expectation of being paid for Broker's services. Broker is entitled to compensation if Buyer acquires Property during the Representation Period with or without Broker Involvement, even if another broker is also entitled to be paid for representing Buyer.

(3) Buyer includes any person or entity, other than Broker, related to Buyer or who in any manner acts on Buyer's behalf to acquire property described in paragraph 3.

C. CANCELLATION OF BUYER REPRESENTATION AGREEMENT:

(1) Either Buyer or Broker may cancel this Agreement by giving written notice to the other. This Agreement shall be terminated: (i) If paragraph 4B(1) applies, upon receipt of the notice or  \_\_\_\_\_ days after receipt; or (ii) If paragraph 4B(2) applies, 30 days after receipt of the notice. Broker shall nonetheless be entitled to compensation if, during the Representation Period or any time specified in paragraph 4E, Buyer acquires Property for which there was Broker Involvement (see paragraph 4B(1)) provided Broker delivers to Buyer a written list of those properties for which there was Broker Involvement. The written list of Broker Involvement properties shall be delivered to Buyer within 5 calendar days after the effective date of the cancellation. Before, during and after the 5-day period, Buyer is advised to notify any other broker of Broker's rights under this paragraph.

(2) (If checked AND only if paragraph 4B(2) applies) Neither party shall have the right to cancel this Agreement prior to expiration, except by mutual agreement.

D. ACCOUNTING FOR PAYMENTS TO BROKER BY OTHERS:

(1) If anyone other than Buyer compensates Broker for services covered by this Agreement, that amount shall be credited toward Buyer's obligation to pay compensation.

(2) If third-party payments received exceed Buyer's obligation, the excess amount shall be paid to Broker, or  credited to Buyer, or  other \_\_\_\_\_.

(3) AUTHORIZATION TO INCLUDE COMMISSION IN OFFER: Buyer authorizes ( does not authorize) Broker to include a term in Buyer's offer obligating Seller to pay Broker directly or through escrow, for any compensation that Buyer owes Broker.

E. ADDITIONAL BROKER RIGHT TO COMPENSATION: Broker shall be entitled to the compensation provided for in paragraph 4A if, within \_\_\_\_\_ calendar days after expiration of the Representation Period or any extension thereof or, if there is a cancellation, after the effective date of the cancellation in paragraph 4C, Buyer enters into an agreement to acquire Property for which there was Broker Involvement provided, prior to expiration of this Agreement or any extension thereof or, if there is a cancellation, within the time specified in paragraph 4C, Broker delivers Buyer a written notice of those properties which there was Broker Involvement.



**F. DISCLOSURE OF ANTICIPATED PAYMENTS TO BROKER BY OTHERS:**

- (1) Broker, prior to writing an offer on a property (OR, if checked,  prior to showing a property) will disclose to Buyer the amount of compensation Broker expects to receive from a third-party on that property by providing Buyer with either: (i) a copy of the MLS listing showing the cooperating compensation offered to Broker; or (ii) a separate document, such as an Anticipated Broker Compensation Disclosure (C.A.R. Form ABCD).
- (2) Broker, independently or through escrow, will disclose the final compensation Broker receives from anyone other than Buyer.
- (3) Buyer is responsible for payment of compensation if the third-party does not pay as anticipated.

**G. TIMING OF COMPENSATION:** Compensation is payable:

- (1) Upon completion of any resulting transaction, and if escrow is used, through escrow. Broker shall be entitled to compensation whether any escrow resulting from an agreement for Property specified in **paragraph 3** closes during or after the expiration of the Representation Period.
- (2) If acquisition is prevented by default of Buyer, upon Buyer's default.
- (3) If acquisition is prevented by a party to the transaction other than Buyer, when Buyer collects damages by suit, settlement or otherwise. Compensation shall equal one-half of the damages recovered, not to exceed the compensation provided for in **paragraph 4A**, after first deducting the unreimbursed payments, credits and expenses of collection and suit, if any.

**H. PAYMENT THROUGH ESCROW:** Buyer hereby irrevocably assigns to Broker the compensation provided for in this Agreement from Buyer's funds in escrow. Buyer agrees to submit to escrow any funds needed to compensate Broker under this Agreement. Broker may submit this Agreement, as instructions to compensate Broker, to any escrow regarding property involving Buyer and a seller or other transferor.

**I. PREEXISTING BUYER REPRESENTATION AND COMPENSATION AGREEMENTS:** If Buyer acquires a Property during the time Buyer is obligated to compensate another broker identified in **paragraph 2**, Broker is neither entitled to compensation under this Agreement, nor obligated to represent Buyer in such transaction.

**5. AGENCY RELATIONSHIPS:**

**A. DISCLOSURE:** Buyer acknowledges receipt of the  "Disclosure Regarding Real Estate Agency Relationships" (C.A.R. Form AD) prior to entering into this Agreement.

**B. POSSIBLE DUAL AGENCY WITH SELLER:** Broker will represent Buyer in any resulting transaction. Broker may act as an agent for both Buyer and a seller. Broker, in writing, shall confirm the agency relationship with only Buyer, or both Buyer and Seller, prior to or concurrent with Buyer's execution of a contract to acquire a Property. Buyer acknowledges receipt of a  Possible Representation of More Than One Buyer or Seller – Disclosure and Consent (C.A.R. Form PRBS).

**6. BROKER AUTHORIZATIONS AND OBLIGATIONS:**

**A.** Buyer authorizes Broker and Broker agrees to use reasonable skill and diligence to provide guidance to and help Buyer with the acquisition of Property. Broker will assist Buyer by (i) locating and presenting selected properties to Buyer, presenting offers authorized by Buyer, and assisting Buyer in negotiating for acceptance of such offers and, as applicable, terms and conditions following such acceptance, and facilitating the escrow process for such accepted offers; (ii) as directed by or agreed with Buyer, ordering reports and Investigations, and scheduling and attending meetings and appointments with professionals chosen by Buyer; and (iii) upon request, providing Buyer with a list of professionals or vendors who perform the services described in the attached Buyer's Investigation Advisory, provided Broker has a referral list for such requested services; and (iv) upon request, assisting Buyer with the financing process by making referrals to lenders known to Broker, and assisting Buyer in obtaining loan pre-qualification, to the extent Broker can do so without acting as a Mortgage Loan Broker. See C.A.R. Form BTA for more information.

**B.** If the Property contains residential property with one to four dwelling units, Broker will conduct a reasonably competent and diligent, visual inspection of the accessible areas of the one to four Property (excluding any common areas) and disclose to Buyer all facts materially affecting the value or desirability of such Property that are revealed by this inspection.

**C.** Broker shall deliver or communicate to Buyer any disclosures, materials or information received by, in the personal possession of or personally known to the individual signing for Broker during the Representation Period. Unless otherwise specified in writing, any information provided through Broker in the course of representing Buyer has not been and will not be verified by Broker.

**D.** Broker's services are performed in compliance with federal, state and local anti-discrimination laws.

**7. BUYER OBLIGATIONS:**

**A. GOOD FAITH:** Buyer agrees to timely view and consider properties selected by Broker and to negotiate in good faith to acquire a property. Buyer further agrees to act in good faith toward the completion of any contract entered into for a Property in furtherance of this Agreement.

**B. PERSONAL AND FINANCIAL INFORMATION:** Within 5 (or  \_\_\_\_\_) calendar days from the execution of this Agreement, Buyer shall provide relevant personal and financial information, including, but not limited to, proof of funds and a preapproval/prequalification letter, to Broker to assure Buyer's ability to acquire Property. If Buyer fails to provide such information, or if Buyer does not qualify financially to acquire Property, then Broker may cancel this Agreement in writing.

**C. REASONABLE CARE AND OTHER PROFESSIONAL ASSISTANCE:** Buyer is obligated, and agrees, to read all documents provided to Buyer. Buyer agrees to seek desired assistance from appropriate professionals, selected by Buyer, such as those referenced in the attached Buyer's Investigation Advisory. Buyer is advised to read the attached Buyer's Investigation Advisory and Buyer Transactional Advisory for a list of items and other concerns that may warrant investigation by Buyer or other professionals.

**D. REPORTS/INVESTIGATIONS:** Buyer agrees to pay for reports, Investigations and meetings arranged by Broker on Buyer's behalf.

**E. BUYER MATERIAL ISSUES:** Buyer shall notify Broker in writing (C.A.R. Form BMI) of any material issue to Buyer, such as, but not limited to, Buyer requests for information on, or concerns regarding, any particular subject of interest or importance to Buyer.

**F. INCORRECT, INCOMPLETE OR INACCURATE INFORMATION:** Buyer agrees to indemnify, defend and hold Broker harmless from all claims, disputes, litigation, judgments, attorney fees and costs arising from any incorrect information supplied by Buyer, or from any Material Issues that Buyer fails to disclose in writing to Broker.

**8. ATTORNEY FEES:** In any action, proceeding or arbitration between Buyer and Broker arising out of this Agreement, Buyer and Broker are each responsible for paying their own attorney fees and costs, except as otherwise specified in **paragraph 9A**.

**9. DISPUTE RESOLUTION:**

**A. MEDIATION:** Buyer and Broker agree to mediate any dispute or claim arising between them under this Agreement, before resorting to arbitration or court action. Mediation fees, if any, shall be divided equally among the parties involved. If, for any dispute or claim to which this paragraph applies, any party (i) commences an action without first attempting to resolve the matter through mediation, or (ii) before commencement of an action, refuses to mediate after a request has been made, then if that party is the losing party in any such action, the prevailing party shall be entitled to recover attorney's fees from the non-mediating party, notwithstanding the terms in **paragraph 8**. Exclusions from the mediation agreement are specified in **paragraph 9B**.



**B. MEDIATION TERMS:** The following matters are excluded from mediation: (i) a judicial or non-judicial foreclosure or other action or proceeding to enforce a deed of trust, mortgage or installment land sale contract as defined in Civil code § 2985; (ii) an unlawful detainer action; (iii) the filing or enforcement of a mechanic's lien; and (iv) any matter that is within the jurisdiction of a probate, small claims or bankruptcy court. The filing of a court action to enable the recording of a notice of pending action for order of attachment, receivership, injunction, or other provisional remedies, shall not constitute a waiver of the mediation provisions, provided the filing party, concurrent with or immediately after such filing, makes a request to the court for a stay of litigation pending any mediation proceeding.

**C. ARBITRATION ADVISORY:** If Buyer and Broker desire to resolve disputes arising between them through arbitration rather than court, they can document their agreement by attaching and signing an Arbitration Agreement (C.A.R. Form ARB).

**10. ADVISORIES, ADDENDA AND DISCLOSURES:** The following advisories, addenda and disclosures are attached:

- A.  Buyer Transactional Advisory (C.A.R. Form BTA)
- B.  Buyer's Investigation Advisory (C.A.R. Form BIA)
- C.  Possible Representation of More Than One Buyer or Seller (C.A.R. Form PRBS)
- D.  Statewide Buyer and Seller Advisory (C.A.R. Form SBSA)
- E.  Other: \_\_\_\_\_

**11. OTHER TERMS:** \_\_\_\_\_

**12. ENTIRE AGREEMENT:** All understanding between the parties are incorporated in this Agreement. Its terms are intended by the parties as a final, complete and exclusive expression of their agreement with respect to its subject matter, and may not be contradicted by evidence of any prior agreement or contemporaneous oral agreement. This Agreement may not be extended, amended, modified, altered or changed, except in writing signed by Buyer and Broker. In the event that any provision of this Agreement is held to be ineffective or invalid, the remaining provisions will nevertheless be given full force and effect. This Agreement and any supplement, addendum or modification, including any photocopy, facsimile, or electronic, may be executed in counterparts.

**Buyer acknowledges that Buyer has read, understands, received a copy of and agrees to the terms of this Agreement.**

**A.  ENTITY BUYERS: (Note: If this paragraph is completed, a Representative Capacity Signature Disclosure (C.A.R. Form RCSD) is not required for the Legally Authorized Signers designated below.)**

- (1) One or more Buyers is a trust, corporation, LLC, probate estate, partnership, holding a power of attorney or other entity.
- (2) This Agreement is being Signed by a Legally Authorized Signer in a representative capacity and not for him/herself as an individual. The Legally Authorized Signer (i) represents that the entity for which that person is acting already exists and is in good standing to do business in California and (ii) shall Deliver to Broker, within 3 Days of signing, evidence of authority to act in that capacity.
- (3) The name(s) of the Legally Authorized Signer(s) is: \_\_\_\_\_
- (4) If a trust, Buyer may be identified as trustee(s) of the trust or by simplified trust name (ex. John Doe, co-trustee, Jane Doe, co-trustee or Doe Revocable Family Trust).
- (5) If the entity is a trust or under probate, the following is the full name of the trust or probate case, including case #: \_\_\_\_\_

**B. BUYER SIGNATURE(S):**

(Signature) By, \_\_\_\_\_ Date: \_\_\_\_\_

Printed name of Buyer: \_\_\_\_\_

Printed Name of Legally Authorized Signer: \_\_\_\_\_ Title, if applicable, \_\_\_\_\_

(Signature) By, \_\_\_\_\_ Date: \_\_\_\_\_

Printed name of Buyer: \_\_\_\_\_

Printed Name of Legally Authorized Signer: \_\_\_\_\_ Title, if applicable, \_\_\_\_\_

Additional Signature Addendum attached (C.A.R. Form ASA)

**BROKER SIGNATURE(S):**

Buyer's Brokerage Firm \_\_\_\_\_ Lic. # \_\_\_\_\_

By \_\_\_\_\_ Lic. # \_\_\_\_\_ Date \_\_\_\_\_

By \_\_\_\_\_ Lic. # \_\_\_\_\_ Date \_\_\_\_\_

Address \_\_\_\_\_ City \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_

Email \_\_\_\_\_ Phone # \_\_\_\_\_

More than one agent from the same firm represents Buyer. Additional Agent Acknowledgement (C.A.R. Form AAA) attached.

More than one brokerage firm represents Buyer. Additional Broker Acknowledgement (C.A.R. Form ABA) attached.

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