

# EXCLUSIVE BUYER REPRESENTATION AGREEMENT (Designated Agency)

1 **Broker/Firm:** \_\_\_\_\_

2 **Address of Firm:** \_\_\_\_\_

3 **Buyer:** \_\_\_\_\_

4 **1. TERM.**

5 For and in consideration of the mutual promises contained herein and other good and valuable consideration, the receipt  
6 and sufficiency of which is hereby acknowledged, this Agreement is entered into on this \_\_\_\_\_ day of  
7 \_\_\_\_\_, 20\_\_ (“Effective Date”) by and between the undersigned  
8 \_\_\_\_\_ (“Client” or “Buyer”) and Firm/Broker of  
9 \_\_\_\_\_ (“Broker”), Broker shall act as Client’s  
10 exclusive agent to locate property for Client’s purchase, lease, exchange or option (collectively “Purchase”) during the  
11 term of this agreement, and to advocate the Client’s best interests in the negotiation of terms and conditions of any such  
12 Purchase. This Buyer Representation Agreement (“Agreement”) begins on the Effective Date and terminates at 11:59 p.m.  
13 local time on \_\_\_\_\_, \_\_\_\_\_, or at the closing (or in the case of a lease, the date of possession) of  
14 any Purchase under this Agreement, if such occurs earlier. If a contract to purchase, exchange, or lease is signed before  
15 this Agreement expires, the term hereof shall continue until final disposition of the Purchase and Sales Agreement,  
16 exchange agreement, or lease agreement.

17 **2. TYPE OF PROPERTY SOUGHT BY CLIENT.**

18 **A. General Description, Size and Location:** \_\_\_\_\_

19 \_\_\_\_\_

20 **B. Price Range & Terms:** \_\_\_\_\_

21 **C. Sources to be Searched for Property:** \_\_\_\_\_

22 \_\_\_\_\_

23 **D. Other Terms/Conditions:** \_\_\_\_\_

24 **E. Properties Specifically Exempted from this Agreement:** \_\_\_\_\_

25 \_\_\_\_\_

26 **3. CLIENT DUTIES.**

27 Buyer agrees:

28 A. To Purchase property exclusively through Broker during the term of this Agreement;

29 B. To furnish Broker on a timely basis with any necessary personal and/or financial information to ensure Client’s ability  
30 to Purchase;

31 C. That Client is not under an exclusive right to buy contract or exclusive buyer representation agreement with any other  
32 agent at this time;

33 D. **Termination.** Should the Broker consent to release this Representation Agreement prior to the expiration of the term  
34 of this Agreement or any extensions, Buyer agrees to pay all costs incurred by Broker or other amount as agreed to by  
35 the parties as a cancellation fee, in addition to any other sums that may be due to Broker.

36 E. **Carry-Over Clause.** Should the Buyer contract to buy or exchange, or contract to lease a property within \_\_\_\_\_  
37 days after the expiration of this Agreement with any Seller/Landlord (or anyone acting on Seller’s/Landlord’s behalf)  
38 who has been introduced to Buyer, directly or indirectly, during the term hereof, as extended, the Buyer agrees to pay  
39 the compensation as set forth below. This carry-over clause shall not apply if the Buyer is subject to a buyer’s  
40 representation agreement with another licensed real estate broker at the time of such contract.

41 F. That Client has reviewed this Agreement and agrees with the terms herein.

42 **4. COMPENSATION.**

43 **BROKER COMPENSATION IS NOT SET BY LAW AND COMPENSATION RATES ARE FULLY**  
44 **NEGOTIABLE.**

- 45 A. **Compensation for Broker's Services:** Broker shall be compensated an amount of \$ \_\_\_\_\_ or \_\_\_\_\_ %  
46 based on the total sale price in consideration of Broker's services as described herein.
- 47 B. **Compensation from Seller:** Buyer authorizes Broker to negotiate with the Seller and/or the Seller's agent for this  
48 fee, the payment of which shall be fully disclosed to Buyer.
- 49 C. **Difference: In the event that the amount of any cooperating compensation paid by Seller or Seller's broker is**  
50 **less than the amount listed herein, Buyer agrees to pay Broker the difference at closing.**
- 51 D. **Compensation if Buyer Leases:** In the event that Buyer leases a property in lieu of purchase, the Buyer agrees to pay  
52 Broker a total of \$ \_\_\_\_\_ in compensation unless otherwise stated herein.
- 53 E. **Cap on Compensation:** If Broker is an MLS participant, Broker shall not receive compensation from any source that  
54 exceeds the amount listed herein.
- 55 F. **VA Buyer:** In the event the buyer broker compensation herein is considered a non-allowable pursuant to VA  
56 guidelines and thus cannot be paid by Buyer, this obligation is waived by Broker.
- 57 G. Broker's fee is earned at the signing by both parties of an agreement to purchase, lease, exchange or the exercise of  
58 an option for any property(ies) as described above and is due at the closing of any such transaction or upon possession  
59 of property unless otherwise stated herein. In the event that Buyer defaults on performance of a valid contract for  
60 sale, lease, exchange or exercised option, Broker's fee shall be due on the date of default. Buyer agrees to pay all  
61 reasonable attorney's fees together with any court costs and expenses which real estate firm incurs in enforcing any  
62 of Buyer's obligations to pay compensation under this Agreement. The parties hereby agree that all remedies are fair  
63 and equitable and neither party shall assert the lack of mutuality of remedies as a defense in the event of a dispute.
- 64 H. The payment of any fee by Seller shall not make Broker either the Agent or Subagent of the Seller.
- 65 I. If Client utilizes the services of another real estate broker or deals solely with a Seller's Agent or the Seller directly at  
66 any time during the effective period of this Agreement and/or any extensions thereof and then enters into an agreement  
67 with a seller/owner to Purchase any property(ies) described above, the Buyer still owes a commission to the Broker  
68 provided herein.

69 **5. AGENCY.**

70 **A. Definitions**

- 71 1. **Broker.** In this Agreement, the term "Broker" shall mean a licensed Tennessee real estate broker or brokerage  
72 firm and where the context would indicate, the Broker's affiliated licensees, including but not limited to the  
73 Designated Agent.
- 74 2. **Designated Agent for the Buyer.** The individual licensee that has been assigned by the Managing Broker and  
75 is working as an agent for the Buyer in this consumer's prospective transaction, to the exclusion of all other  
76 licensees in the company. Even if someone else in the licensee's company represents a Seller of a prospective  
77 property, the Designated Agent for the Buyer shall continue to work as an advocate for the best interests of the  
78 Buyer. An agency relationship, by law, can only be established by a written agency agreement.
- 79 3. **Facilitator/Transaction Broker (not an agent for either party).** The licensee is not working as an agent for  
80 either party in this consumer's prospective transaction. A Facilitator may advise either or both of the parties to a  
81 transaction but cannot be considered a representative or advocate of either party. By law, any licensee or company  
82 who has not entered into a written agency agreement with either party in the transaction is considered a Facilitator  
83 or Transaction Broker until such time as an agency agreement is established.
- 84 4. **Dual agency.** The licensee has agreements to provide services as an agent to more than one (1) party in a specific  
85 transaction and in which the interests of such parties are adverse. This agency status may only be employed upon  
86 full disclosure to each party and with each party's informed consent.
- 87 5. **Adverse Facts.** "Adverse Facts" means conditions or occurrences generally recognized by competent licensees  
88 that have a negative impact on the value of the real estate, significantly reduce the structural integrity of  
89 improvements to real property or present a significant health risk to occupants of the property.
- 90 6. **Confidentiality.** By law, every licensee is obligated to protect some information as confidential. This includes  
91 any information revealed by a consumer which may be helpful to the other party IF it was revealed by the

This form is copyrighted and may only be used in real estate transactions in which Darren DeMartino is involved as a Tennessee REALTORS® authorized user. Unauthorized use of the form may result in legal sanctions being brought against the user and should be reported to Tennessee REALTORS® at 615- 321-1477.

92 consumer BEFORE the licensee disclosed any agency relationship with that other party. AFTER the licensee  
93 discloses that licensee has an agency relationship with another party, any such information which the consumer  
94 THEN reveals must be passed on by the licensee to that other party. Buyer understands that there is a possibility  
95 that sellers or sellers' representatives may not treat the existence, terms, or conditions of offers as confidential  
96 unless confidentiality is required by law, regulation, or by any confidentiality agreement between the parties.

97 **B. Duties owed to all Parties to a Transaction.**

98 **Pursuant to the Tennessee Real Estate Broker License Act, every Real Estate Licensee owes the following duties**  
99 **to every Buyer and Seller, Tenant and Landlord (collectively "Buyers" and "Sellers") unless otherwise**  
100 **provided by law:**

- 101 1. To diligently exercise reasonable skill and care in providing services to all parties to the transaction;
- 102 2. To disclose to each party to the transaction any Adverse Facts of which Licensee has actual notice or knowledge;
- 103 3. To maintain for each party in a transaction the confidentiality of any information obtained by a Licensee prior to  
104 disclosure to all parties of a written agency agreement entered into by the Licensee to represent either or both  
105 parties in the transaction. This duty of confidentiality extends to any information that the party would reasonably  
106 expect to be held in confidence, except for information which the party has authorized for disclosure or  
107 information required by law to be disclosed;
- 108 4. To provide services to each party to the transaction with honesty and good faith;
- 109 5. To disclose to each party to the transaction timely and accurate information regarding market conditions that  
110 might affect such transaction only when such information is available through public records and when such  
111 information is requested by a party;
- 112 6 To give timely account for earnest money deposits and all other property received from any party to a transaction;  
113 and
- 114 7. A. To refrain from engaging in self-dealing or acting on behalf of Licensee's immediate family, or on behalf  
115 of any other individual, organization or business entity in which Licensee has a personal interest without  
116 prior disclosure of such personal interest and the timely written consent of all parties to the transaction; and  
117 B. To refrain from recommending to any party to the transaction the use of services of another individual,  
118 organization or business entity in which the Licensee has an interest or from whom the Licensee may receive  
119 a referral fee or other compensation for the referrals, other than referrals to other Licensees to provide real  
120 estate services, without timely disclosing to the party who receives the referral, the Licensee's interest in  
121 such referral or the fact that a referral fee may be received.

122 **C. Duties Owed to Client.**

123 **In addition to the above, the Licensee has the following duties to Client if the Licensee has become an agent or**  
124 **Designated Agent in a transaction:**

- 125 1. Obey all lawful instructions of the Client when such instructions are within the scope of this agency agreement  
126 between the Licensee and the Buyer/Client;
- 127 2. Be loyal to the interests of the Client. A Licensee must place the interests of the Client before all others in  
128 negotiation of a transaction and in other activities, except where such loyalty duty would violate Licensee's duties  
129 to a customer in the transaction; and
- 130 3. Unless the following duties are specifically and individually waived in writing by a Client, Licensee shall assist  
131 the Client by:
  - 132 A. Scheduling all property showings on behalf of the Client;
  - 133 B. Receiving all offers and counter offers and forwarding them promptly to the Client;
  - 134 C. Answering any questions that the Client may have in negotiation of a successful purchase within the scope  
135 of the Licensee's expertise; and
  - 136 D. Advising the Client as to whatever forms, procedures and steps are needed after execution of the purchase  
137 agreement for a successful closing of the transaction.

138 Upon Waiver of any of the above duties listed under subsection 4.C.3., the Client may not expect or seek  
139 assistance from any other licensees in the transaction for the performance of said duties.

140 **D. Agent Disclosure.** Pursuant to Tennessee Real Estate Commission Rule 1260-2-.36, Broker must disclose certain  
141 things to Client prior to the execution of this Agreement. Client hereby agrees that Broker has disclosed the following  
142 and that this Agreement constitutes written confirmation of same:

143 During the effective period of this Agreement:

- 144 1. Client should not contact listing agents directly and should make all arrangements to view and inspect  
145 property through Broker;
- 146 2. In the event Client comes into contact with a Seller's Agent(s) (for example, at an open house viewing),  
147 Client shall immediately inform the Seller's Agent(s) that Client is represented by Broker; and
- 148 3. If Client purchases property(ies) covered by this Agreement through another real estate licensee or a Seller's  
149 Agent(s) or directly from a Seller, Client understands that Client still owes a commission to the Broker as set  
150 forth in this Agreement.

151 **E. Buyer's Authorizations.**

- 152 1. **Appointment of Designated Agent.** Buyer hereby authorizes Managing Broker to appoint the Selling Licensee  
153 as Designated Agent for the Buyer, to the exclusion of any other licensees associated with Broker. A Designated  
154 Agent for the Buyer can and shall continue to advocate Buyer's interests in a transaction even if a Designated  
155 Agent for the Seller (other than the Licensee listed below) is also associated with Broker. The Managing Broker  
156 hereby appoints \_\_\_\_\_ to be the Designated  
157 Agent for the Buyer in this transaction.
- 158 2. **Appointment of Subsequent Designated Agent.** Buyer hereby authorizes the Managing Broker, if necessary,  
159 to appoint a licensee, other than the Licensee named above, as Designated Agent for the Buyer, to the exclusion  
160 of any other licensees associated with Broker. This shall be accomplished through an amendment to this  
161 Agreement, if necessary.
- 162 3. **Default to Facilitator in the event that both parties are represented by the same Designated Agent.** The  
163 Designated Agent shall default to Facilitator status for all showings or transactions *involving the same Designated*  
164 *Agent for both the Buyer and a prospective Seller*, immediately notifying (verbally) the Buyer and the Seller of  
165 the need to default to this Facilitator status to be confirmed in writing prior to the execution of the contract. Upon  
166 any default to Facilitator status, the former Designated Agent must assume a neutral position and shall not be an  
167 advocate for either the Buyer or any prospective Seller.
- 168 4. **Resumption of Agency Status.** In the event that the Designated Agent defaults to a Facilitator status, this  
169 Facilitator status shall only be temporary. The Facilitator status shall only last until any transaction or  
170 contemplated transaction in which the parties are all assisted by the same Facilitator is resolved (either because  
171 the transaction is closed or the transaction or contemplated transaction is terminated or not accepted and no further  
172 negotiations occur between the parties). At that time, the Agent shall immediately revert back to Designated  
173 Agency status for the Buyer.

174 **6. CONFIDENTIALITY.**

175 Information which the Buyer authorizes Broker and Broker's affiliated Licensees to disclose which might otherwise be  
176 confidential: \_\_\_\_\_  
177 \_\_\_\_\_

178 **7. EARNEST MONEY/TRUST MONEY.**

179 Broker is authorized to accept a deposit of earnest money/trust money to be applied to the purchase price for a property.  
180 Such deposit is to be held by Broker in an escrow or trustee account or forwarded to party authorized to hold said funds as  
181 set forth in an executed contract for purchase, lease, exchange or option agreement until disbursed in accordance with the  
182 terms of said agreement.

183 **8. LIMITATIONS ON BROKER'S AUTHORITY AND RESPONSIBILITY.**

184 Buyer acknowledges and agrees that Broker and Designated Agent:

- 185 A. May show the same properties to other prospective buyers;
- 186 B. Is not an expert with regard to matters that could be revealed through a survey, title search, or inspection; the  
187 insurability of the property or cost to insure the property; for the condition of the property, any portion thereof, or any  
188 item therein; for any geological issues present on the property; for any issues arising out of the failure to inspect  
189 property prior to entering into an agreement to Purchase property and/or closing on property; for the necessity or cost  
190 of any repairs to property; hazardous or toxic materials; square footage; acreage; the availability and cost of utilities,

This form is copyrighted and may only be used in real estate transactions in which Darren DeMartino is involved as a Tennessee REALTORS® authorized user. Unauthorized use of the form may result in legal sanctions being brought against the user and should be reported to Tennessee REALTORS® at 615- 321-1477.



191 septic or community amenities; conditions existing off a property which may affect said property; proposed or pending  
192 condemnation actions involving the property; uses and zoning of a property, whether permitted or proposed; for  
193 applicable boundaries of school districts or other school information; termites and wood destroying organisms;  
194 building products and construction techniques; the tax or legal consequences of a contemplated transaction; matters  
195 relating to financing; for the appraised or future value of a property; etc. Buyer acknowledges that Broker is not an  
196 expert with respect to the above matters and is hereby advised to seek independent expert advice on any of these or  
197 other matters which are of concern to Buyer;

198 C. Shall owe no duties to Buyer nor have any authority to act on behalf of Buyer other than what is set forth in this  
199 Agreement and the duties contained in the Tennessee Real Estate License Act of 1973, as amended, and the Tennessee  
200 Real Estate Commission Rules; and

201 D. May make all disclosures required by law and/or the National Association of Realtors® Code of Ethics.

202 E. **Hereby advises Buyer of the possibility that some properties may utilize security devices that record physical**  
203 **movements or audio conversations. Therefore, Buyers should limit making comments concerning the value,**  
204 **features, or condition while viewing any property.**

## 205 9. SANCTIONED FOREIGN BUSINESSES, GOVERNMENTS, AND NONRESIDENT ALIENS.

206 Buyer is hereby notified that Pursuant to Tenn. Code Ann. §66-2-301, et seq., a prohibited foreign party or prohibited  
207 foreign-party controlled business shall not acquire by grant, purchase, devise, descent, or otherwise an interest in  
208 agricultural land. A prohibited foreign-party business shall not acquire by grant, purchase, devise, descent, or otherwise  
209 an interest in non-agricultural land in this state. Tenn. Code Ann. §66-2-308 does include certain exceptions to this part.

210 Buyer warrants Buyer has reviewed Tenn. Code Ann. Title 66, Chapter 2, Part 3 and is not prohibited from purchasing  
211 agricultural or non-agricultural land in Tennessee pursuant to the statute.

## 212 10. EXPERT ASSISTANCE.

213 While Broker and the Licensees associated with Broker have considerable general knowledge of the real estate industry  
214 and real estate practices, they are not experts in matters of law, tax, financing, square footage, home inspections, wood  
215 destroying organisms, surveying, structural conditions, geological issues, hazardous materials, engineering, etc. Client  
216 acknowledges Broker's advice to seek professional assistance and advice in these and other areas of professional expertise  
217 as needed. If Broker or licensees associated with Broker provide names or sources to Client for such advice or assistance,  
218 those services and / or products are not warranted or guaranteed by the Broker or the Licensees associated with Broker.

## 219 11. OTHER PROVISIONS.

220 A. **Binding Effect, Entire Agreement, Modification, and Assignment.** This Agreement shall be for the benefit of, and  
221 be binding upon, the parties hereto, their heirs, successors, legal representatives and permitted assigns. This  
222 Agreement may only be assigned with the written consent of both parties. This Agreement constitutes the sole and  
223 entire agreement between the parties hereto and no modification of this Agreement shall be binding unless signed by  
224 all parties or assigns to this Agreement. No representation, promise, or inducement not included in this Agreement  
225 shall be binding upon any party hereto. Any assignee shall fulfill all the terms and conditions of this Agreement.

226 B. **Governing Law and Venue.** This Agreement is intended as a contract for buyer's agency representation and shall  
227 be governed by and interpreted in accordance with the laws and in the courts of the state of Tennessee.

228 C. **Terminology.** As the context may require in this Agreement: (1) the singular shall mean the plural and vice versa;  
229 (2) all pronouns shall mean and include the person, entity, firm or corporation to which they relate; (3) the masculine  
230 shall mean the feminine and vice versa; and (4) the term day(s) used throughout this Agreement shall be deemed to  
231 be calendar day(s) ending at 11:59 p.m. local time unless otherwise specified in this Agreement. Local time shall be  
232 determined by the location of the Firm.

233 D. **Severability.** If any portion or provision of this Agreement is held or adjudicated to be invalid or unenforceable for  
234 any reason, each such portion or provision shall be severed from the remaining portions or provisions of this  
235 Agreement, and the remaining portions or provisions shall be unaffected and remain in full force and effect.

236 E. **Fair Housing.** Broker and Designated Agent shall provide services without regard to race, color, creed, religion, sex,  
237 handicap, familial status, national origin, sexual orientation or gender identity. A request to observe discriminatory  
238 practices in the sale, lease, exchange, or option of property shall not be granted.

## 239 12. LEGAL DOCUMENTS. THIS IS AN IMPORTANT LEGAL DOCUMENT CREATING VALUABLE RIGHTS AND 240 OBLIGATIONS. IF YOU HAVE QUESTIONS ABOUT IT, YOU SHOULD REVIEW IT WITH YOUR ATTORNEY.

This form is copyrighted and may only be used in real estate transactions in which Darren DeMartino is involved as a Tennessee REALTORS® authorized user. Unauthorized use of the form may result in legal sanctions being brought against the user and should be reported to Tennessee REALTORS® at 615- 321-1477.



241 NEITHER THE BROKER NOR ANY AGENT OR FACILITATOR IS AUTHORIZED OR QUALIFIED TO GIVE YOU  
242 ANY ADVICE CONCERNING THE ADVISABILITY OR LEGAL EFFECT OF ITS PROVISIONS. BY SIGNING  
243 THIS DOCUMENT, YOU ARE CERTIFYING THAT YOU HAVE READ AND ACCEPT THESE TERMS AND  
244 ACKNOWLEDGE RECEIPT OF THIS AGREEMENT.

245 **13. EXHIBITS AND ADDENDA.** All exhibits and/or addenda attached hereto, listed below, or referenced herein are  
246 made a part of this Agreement.

247 \_\_\_\_\_  
248 \_\_\_\_\_  
249 \_\_\_\_\_  
250 \_\_\_\_\_  
251 \_\_\_\_\_  
252 \_\_\_\_\_

253 **14. SPECIAL STIPULATIONS.** The following Special Stipulations, if conflicting with any preceding section, shall control:

254 \_\_\_\_\_  
255 \_\_\_\_\_  
256 \_\_\_\_\_  
257 \_\_\_\_\_  
258 \_\_\_\_\_  
259 \_\_\_\_\_

260 The party(ies) below have signed and acknowledge receipt of a copy.

261 _____ 262 <b>BY: Broker or Licensee Authorized by Broker</b>	_____
_____ at _____ o'clock <input type="checkbox"/> am/ <input type="checkbox"/> pm	<b>BROKER/FIRM</b>
Date	Address
_____	Phone: _____
265 Print/Type Name	
266	

267 The party(ies) below have signed and acknowledge receipt of a copy.

268 _____	_____
269 <b>BUYER</b>	<b>BUYER</b>
270 _____	_____
271 Print/Type Name	Print/Type Name
272 _____ at _____ o'clock <input type="checkbox"/> am/ <input type="checkbox"/> pm	_____ at _____ o'clock <input type="checkbox"/> am/ <input type="checkbox"/> pm
273 Date	Date
274 _____	_____
275 Address	Address
276 Phone: _____ (H) _____ (Cell)	Phone: _____ (H) _____ (Cell)
277 _____ (W) Email: _____	_____ (W) Email: _____

*NOTE: This form is provided by Tennessee REALTORS® to its members for their use in real estate transactions and is to be used as is. By downloading and/or using this form, you agree and covenant not to alter, amend, or edit said form or its contents except as where provided in the blank fields, and agree and acknowledge that any such alteration, amendment or edit of said form is done at your own risk. Use of the Tennessee REALTORS® logo in conjunction with any form other than standardized forms created by Tennessee REALTORS® is strictly prohibited. This form is subject to periodic revision and it is the responsibility of the member to use the most recent available form.*