EXCLUSIVE RIGHT TO BUY
BUYER AGENCY CONTRACT

1. APPOINTMENT OF BROKER: By this contract _____ ("Buyer") appoints Broker in Charge of _____ Company ("Broker") as Buyer's exclusive agent, subject to the terms and conditions stated in this Contract. By appointing Broker as Buyer's exclusive agent, Buyer agrees to conduct all negotiations for the types of property described in Section 2 below through Broker, and refer to Broker all inquiries made to Buyer about such properties from other brokers, salespersons, sellers and others during the term of this contract. "Negotiation" as used in this agreement shall mean property shown, negotiated, or information requested by Buyer through Broker.

2. PURPOSE OF AGENCY: Buyer desires to purchase or lease real property (which may include items of personal property) described as follows:
Type: ☐ Residential ☐ Commercial ☐ Industrial ☐ Vacant Land ☐ Other
General Description: _____
Approximate Price Range: $ _____
General Location: _____
Preferred Terms: _____
Other: _____

3. BROKER'S DUTIES: (a) The Broker shall provide to Buyer a meaningful explanation of agency and shall use Broker's professional real estate knowledge and skills to represent the Buyer in a diligent and effective manner and to locate property which is available for purchase or lease and suitable to the Buyer; (b) if the Broker is not representing the seller, the Broker shall represent solely the interest of the Buyer in all negotiations and transactions regarding the acquisition of real property, and repudiate any agency or subagency relationship with the seller or the company representing the seller and shall not claim the subagency compensation offered to the selling broker in the Multiple Listing Service; (c) if the Broker represents the seller as well as the Buyer (i.e., disclosed dual agency), the Broker shall **not** disclose to the Buyer information obtained within the confidentiality and trust of the fiduciary relationship with the seller, nor disclose to the seller information similarly obtained from the Buyer, without the consent of the party adversely affected by the disclosure; (d) the Broker may represent other buyers who may be interested in the same property as the Buyer. Upon the termination or completion of this agreement, Broker shall keep confidential all information received during the course of this agreement which was made confidential by written request or instructions from the client, except as provided for under South Carolina law.

Broker represents that Broker is duly licensed under the laws of the State of South Carolina as a real estate broker. Broker will use his best efforts as Buyer's agent to locate property of the type described in Section 2 of this contract and to negotiate acceptance of any offer by Buyer to purchase or lease such property. During the term of this Contract, Broker will give Buyer information describing and identifying properties that appear to Broker to substantially meet the conditions set forth in Section 2.

4. BUYER'S DUTIES. BUYER AGREES TO:
(A) Work exclusively with Broker and its Affiliated licensees during the term of this agreement by: (1) viewing any property (previewing, etc.) only with Broker or Broker's designated representative and not with another real estate broker, salesperson or seller; and (2) exclusively allowing Broker or Salesperson to identify property, negotiate for Buyer and otherwise to represent Buyer; and (3) referring to Broker all inquiries received in any form from any other real estate broker or affiliated licensees; and (4) holding Broker harmless from liability as a result of incomplete/inaccurate information provided to Broker by Buyer or Seller; (5) holding Broker harmless from liability as a result of Seller's failure to provide a complete Seller's Property Condition Disclosure statement; and (6) indemnifying Broker against all claims, damages, losses, expenses, or liability arising from the handling of earnest money by anyone other than Broker.
(B) Assist Broker and its Affiliated Licensees in the process of identifying, negotiating and contracting to purchase, lease or otherwise acquire by: (1) providing Broker with reliable information (including financial information and written authorization to obtain verification of funds) that Broker deems necessary for the performance of this Agreement; and (2) making himself available to meet with Broker and to see properties, in order that the Broker will be able to perform the promises of the Brokerage Engagement.
(C) Provide Broker and its Affiliated Licensees the following information: (1) general nature, location, and requirements of desired property; and (2) price range, and other terms and conditions relating to desired property.
(D) To authorize Buyer's attorneys and the settlement agent to furnish to Broker copies of the final HUD-1 settlement statement for the transaction prior to the closing date.

5. COMPENSATION OF BROKER: Brokers fees will be deemed earned when Buyer is under contract to purchase any property presented by Broker or negotiated by Buyer. This fee will be due and payable at closing or upon Buyer's default. If Buyer defaults, the total compensation that would have been due Broker will be due and payable immediately in cash from the Buyer. In consideration of the services performed by Broker under the terms of this Contract, Buyer agrees to pay Broker the following fee(s): **(CHECK ALL APPLICABLE SECTIONS)**

☐ a. **Retainer Fee:** Buyer will pay Broker a nonrefundable retainer fee of $_____ due and payable upon the signing of this contract. This fee ☐ shall or ☐ shall not be credited against the Brokerage fee.

☐ b. **Service Fee:** Buyer shall pay Broker a Service Fee of $_____ to be paid on _____ , _____ , whether or not Buyer purchases any property. **(Check applicable sub-section.)**

☐ This Service Fee shall be the only fee due Broker from Buyer under the terms of this Contract.
☐ This Service Fee shall be credited against the Brokerage Fee described in subsection (c) below and shall be kept by Broker whether or not a Brokerage Fee is earned.
☐ This Service Fee shall be credited against the Brokerage Fee described in subsection (c) below and shall be kept by Broker whether or not a Brokerage Fee is earned, unless Buyer enters into a purchase and sale agreement. In the event that Buyer enters into a purchase and sale agreement, Buyer and Broker agree that the above Service Fee will be credited against the Brokerage Fee as defined below.

☐ c. **Brokerage Fee:** Buyer shall pay Broker a Brokerage Fee which is the greater of $ _____ or _____ % of the purchase or total lease price (renewal, if applicable) of any property purchased or leased by Buyer, including "For Sale by Owner" properties. If within _____ days after the expiration of this Contract Buyer purchases or leases any property which Broker has negotiated during the term of this Contract, Buyer will pay Broker the Brokerage Fee stated above. Broker shall use his best efforts to obtain payment of the Brokerage Fee out of the transaction, but Buyer shall have the obligation to pay Broker the Brokerage Fee set forth in this Contract if Broker cannot obtain payment of such fee out of the transaction. Any fees paid by the seller or seller's agent shall be credited against the Brokerage fee.

☐ d. **Brokerage Fee:** Broker shall obtain payment of the Brokerage Fee out of the transaction. Broker shall be paid by the cooperating broker as stated in the Multiple Listing Service or as agreed to by the Broker and cooperating broker, or as agreed to by the Broker and Seller in a "For Sale By Owner" transaction. Buyer shall not be responsible for paying Broker the Brokerage fee.

6. TERM OF AGENCY: Broker's authority to act as Buyer's exclusive agent under the terms of this Contract shall begin on _____ , _____ and shall end at 11:59 p.m. on _____ , _____ .

7. CONSENT TO DISCLOSED DUAL AGENCY/DESIGNATED AGENCY: (INITIAL APPLICABLE CHOICES)

_____ Buyer acknowledges receiving an explanation of the types of agency relationships that are offered by brokerage and a South Carolina Disclosure of Real Estate Brokerage Relationships form at the first practical opportunity at which substantive contact occurred between the agent and buyer.

Buyer acknowledges that after entering into this written agency contract, agent might request a modification in order to act as a **dual agent** or a **designated agent** in a specific transaction. If asked:

_____ Permission to act as a dual agent will not be considered.
_____ Permission to act as a dual agent may be considered at the time I am provided with information about the other party to a transaction. If Buyer agrees, Buyer will execute a separate written **Dual Agency Agreement.**
_____ Permission to act as a designated agent will not be considered.
_____ Permission to act as a designated agent may be considered at the time I am provided with information about the other party to a transaction. If Buyer agrees, Buyer will execute a separate written **Designated Agency Agreement.**

8. OTHER POTENTIAL BUYERS: Buyer understands that other potential buyers have entered into similar agency contracts with Broker which may involve the purchase or lease, through Broker of the same or similar property or properties as Buyer is attempting to purchase or lease. Buyer consents to Broker's representation of such other buyers. Broker agrees not to give Buyer's confidential information to such other buyers and not to give such other buyers' confidential information to Buyer unless otherwise agreed.

9. INDEMNIFICATION OF BROKER: Buyer promises to disclose to Broker whether Buyer has signed any agency agreement with any other Broker, or has been given prior information about any property that is the subject of this Contract by any other Broker or salesperson, or has previously been shown any such property by any other broker or salesperson. If Buyer fails to tell Broker about such other broker's or salesperson's involvement, and Broker incurs any loss or damage as a result of any claim being brought against him on account of such involvement, due to no fault of Broker, then Buyer shall pay Broker all such losses and damages incurred by Broker because of such claim.

10. DISCLOSURE OF BUYER'S IDENTITY/CONFIDENTIALITY: The Broker ☐ does or ☐ does not have the Buyer's permission to disclose Buyer's identity to all property owners and other third parties. The Buyer is advised of the possibility that seller or seller's agent may not treat the existence, terms, or conditions of offers as confidential unless confidentiality is required by law, regulation, or by confidentiality agreement of the parties.

11. BROKER LIABILITY LIMITATION: *Buyer agrees Broker provided Buyer with benefits, services, assistance, and value value in bringing about this Contract. In consideration and recognition of the risks, rewards, compensation and benefits arising from this transaction to Broker, Buyer agrees that he shall pay Broker's attorney fees and that Broker, shall not be liable to Buyer, in an amount exceeding that Broker's Compensation by reason of any act or omission, including negligence, misrepresentation, errors and omission, or breach of undertaking, except for intentional or willful acts. This limitation shall apply regardless of the cause of action or legal theory asserted against Broker, unless the claim is for an intentional or willful act. This limitation of liability shall apply to all claims, losses, costs, damages or claimed expenses of any nature from any cause(s), except intentional or willful acts, so that the total liability of Broker shall not exceed the amount set forth herein. Buyer will indemnify and hold harmless and pay attorneys fees for Broker from breach of contract, any negligent or intentional acts or omissions by any Parties, Inspectors, Professionals, Service Providers, Contractors, etc. including any introduced or recommended by Broker. Buyer agrees that there is valid and sufficient consideration for this limitation of liability and that Broker is the intended third-party beneficiary of this provision.*

12. NONDISCRIMINATION: Broker and Buyer agree that all actions carried out under this contract shall be in full compliance with local, state, and federal fair housing laws against discrimination on the basis of race, creed, color, religion, national origin, sex, familial status, marital status, age or disabilities.

13. PROFESSIONAL COUNSEL: Buyer acknowledges that Broker is being retained solely as a real estate agent and not as an attorney, tax advisor, lender, appraiser, surveyor, structural engineer, home inspector or other professional service provider. Buyer agrees to seek professional advice concerning the condition of the property, legal, tax and other professional service matters.

14. MEDIATION CLAUSE: Any dispute or claim arising out of or relating to this Agreement, the breach of this Agreement or the services provided in relation to this Agreement, shall be submitted to mediation in accordance with the Rules and Procedures of the Dispute Resolution System of the NATIONAL ASSOCIATION OF REALTORS®. Disputes shall include representations made by Buyer or Broker in connection with the services to which this Agreement pertains, including without limitation, allegations of concealment, misrepresentation, negligence and/or fraud. Any agreement signed by the parties pursuant to the mediation conference shall be binding. This mediation clause shall survive for a period of 120 days after the date of the closing.

15. SEX OFFENDER/CRIMINAL INFORMATION: Buyer agrees that Broker is not responsible for obtaining or disclosing information in the SC Sex Offender Registry and no course of action may be brought against the Broker for failure to obtain or disclose sex offender or criminal information. Buyer agrees that they have sole responsibility to obtain their own sex offender, death, psychological stigma, clandestine laboratory, and crime information from sources (e.g. law enforcement, P.I., web). The Buyer may obtain information about the Sex Offender Registry and persons registered with the Registry by contacting the local county Sheriff or other appropriate law enforcement officials.

16. ENTIRE BINDING AGREEMENT: This written instrument, including the additional terms and conditions set forth on the reverse, expresses the entire agreement and all promises, covenants, and warranties between the Buyer and Broker. It can be changed only by a subsequently written instrument signed by both parties.

17. CONTINGENCIES: _____

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18. FACSIMILE AND OTHER ELECTRONIC MEANS: The parties agree that this Agreement may be communicated by use of a fax or other secure electronic means, including but not limited to electronic mail and the internet, and the signatures, initials and handwritten or typewritten modifications to any of the foregoing shall be deemed to be valid and binding upon the parties as if the original signatures, initials and handwritten or typewritten modifications were present on the documents in the handwriting of each party.

THIS IS A LEGALLY BINDING AGREEMENT. BUYER SHALL SEEK FURTHER ASSISTANCE IF THE CONTENTS ARE NOT UNDERSTOOD. BUYER AND BROKER ACKNOWLEDGES RECEIPT OF A COPY OF THIS AGREEMENT AND COPY OF THE SC DISCLOSURE OF REAL ESTATE BROKERAGE RELATIONSHIPS FORM. BUYER AGREES TO RECEIVE COMMUNICATIONS FROM BROKER AT THE EMAIL ADDRESS, PHONE AND FAX NUMBER LISTED BELOW.

_____ Email: _____
BUYER Date Time Phone: _____
Fax: _____

_____ Email: _____
BUYER Date Time Phone: _____
Fax: _____

BUYER Address: _____

_____ BY: _____
BROKER/BUYER'S AGENT COMPANY Broker/Licensee Date Time

The foregoing form is available for use by the entire real estate industry. The use of the form is not intended to identify the user as a REALTOR®. REALTOR® is the registered collective membership mark which may be used only by real estate licensees who are members of the NATIONAL ASSOCIATION OF REALTORS® and who subscribe to its Code of Ethics. Expressly prohibited is the duplication or reproduction of such form or the use of the name "South Carolina Association of REALTORS®" in connection with any written form without the prior written consent of the South Carolina Association of REALTORS®. The foregoing form may not be edited, revised, or changed without the prior written consent of the South Carolina Association of REALTORS®.

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