

# BUYER DESIGNATED BROKERAGE AGREEMENT

Approved by the Nova Scotia Real Estate Commission (NSREC) for use by licensees under the *Nova Scotia Real Estate Trading Act*.  
The NSREC is the regulatory body for real estate in Nova Scotia.

This Buyer Designated Brokerage Agreement (this Agreement) is between:

**The Buyer:**

and

**The Brokerage:**

Name: \_\_\_\_\_

Brokerage Name: \_\_\_\_\_

Name: \_\_\_\_\_

\_\_\_\_\_

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

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

CITY \_\_\_\_\_ POSTAL CODE \_\_\_\_\_

CITY \_\_\_\_\_ POSTAL CODE \_\_\_\_\_

Phone: \_\_\_\_\_

Phone: \_\_\_\_\_

Buyer Email 1: \_\_\_\_\_

Email: \_\_\_\_\_

Buyer Email 2: \_\_\_\_\_

THE BUYER AND THE BROKERAGE AGREE that the Brokerage will assist the Buyer to purchase a property in the geographic area(s) described as:

and that the Brokerage will have the exclusive right to act on behalf of the Buyer on the following terms:

## 1. Appointment of Designated Agent(s)

1.1. This Agreement is entered into by the Buyer and the Brokerage on the basis of the following facts:

- a) Designated Agency means the contract is with the Brokerage and agency representation is with the Designated Agent(s); and
- b) the Brokerage is prepared to designate a separate agent to act as the sole agent, and in the interests, of the Buyer. The Brokerage may also designate separate agents for any seller(s) with a property also represented by the Brokerage.

1.2. The Brokerage designates:

\_\_\_\_\_  
\_\_\_\_\_

As the Designated Agent(s) to serve as sole agent for the Buyer, subject to clause 8. If additional space is required, ☐ see Addendum.

1.3. If for any reason, the Designated Agent(s) ceases to be licensed with the Brokerage, the Brokerage will designate another member of the Brokerage to serve as the sole agent for the Buyer by amendment.

## 2. Brokerage's Obligations

2.1 The Buyer agrees that the Brokerage's responsibilities will be limited to:

- a) treating the interests of both the Buyer and the Seller(s) represented by the Designated Agent(s) in an even-handed, objective and impartial manner;
- b) ensuring compliance of all relevant provisions of the Brokerage's policies and procedures, the *Nova Scotia Real Estate Trading Act*, its Regulations and the NSREC By-law by the Designated Agent(s), the Brokerage and the Brokerage's support staff; and
- c) holding all monies or property received by the Brokerage in trust in accordance with the provisions of the *Nova Scotia Real Estate Trading Act*.

2.2 The Brokerage and the Designated Agent(s) undertake that they will not:

- a) use confidential information received from the Buyer, or obtained as a result of providing services under this Agreement, for their own gain or the gain of its employees or to the prejudice of the Buyer's interests; or

- b) disclose any confidential information concerning the Buyer to any other person unless:

- i) authorized by the Buyer; or
- ii) required by law.

## 3. Effective Dates

This Agreement will commence on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_, and will expire at 11:59 p.m. Atlantic Time on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

## 4. Designated Agent's Obligations

4.1. The Designated Agent(s) will:

- a) use their best efforts in locating a property in the specified geographic area(s) that meets the material requirements identified by the Buyer and to promote the interests of the Buyer;
- b) subject to clause 8, act only as the Buyer's agent;
- c) obey all lawful instructions of the Buyer;
- d) fulfill its fiduciary obligations of loyalty, confidentiality and of full disclosure of all conflicts of interest;
- e) exercise reasonable care and skill in the performance of this Agreement;
- f) use their best efforts to discover and disclose to the Buyer all relevant facts pertaining to any property for which the Buyer is considering making an offer;
- g) advise the Buyer to obtain expert advice when necessary;
- h) assist the Buyer in negotiating favourable terms and conditions with a seller and in preparing and complying with a legally binding Agreement of Purchase and Sale for the Property;
- i) present all offers and counter-offers promptly to and from the Buyer, even when the Property is already subject to an Agreement of Purchase and Sale; and
- j) keep the Buyer fully informed regarding the transaction;
- k) act in the best interests of the Buyer; and
- l) explain all forms and documents to the Buyer prior to execution.

**4.2. Disclosure of Availability:** The Designated Agent(s) has disclosed that they will be regularly available to service this agreement, subject to any exceptions outlined in clause 4.3.

**4.3.** If applicable, the Designated Agent(s) has disclosed that they will not be available on the following dates/times: \_\_\_\_\_

## 5. Buyer's Obligations

**5.1.** The Buyer warrants that the Buyer:

- a) is not currently represented by and will not enter into any other Buyer Brokerage Agreement/Buyer Designated Brokerage Agreement with another brokerage during the term of this Agreement with respect to the same geographic area(s);
- b) will make reasonable efforts to communicate and cooperate with the Designated Agent(s) in a timely manner;
- c) has disclosed to the Designated Agent(s) all of the material requirements that the Buyer is seeking in a property and will immediately advise the Designated Agent(s) of any material change in the information provided; and
- d) agrees to be bound by offers and counter offers and related documentation that may be transmitted electronically and that reproductions of the signatures therein will be treated as originals.

**5.2. Referral of Inquiries:** The Buyer will immediately advise the Designated Agent(s) during the term of this Agreement:

- a) of all properties within the geographic area(s) in which the Buyer is interested; and
- b) of all inquiries by, and all offers to sell from, interested sellers or their representatives.

**5.3. Indemnification:** The Buyer will hold harmless the Brokerage, the Designated Agent(s) and any co-operating brokerage for any claims that may arise from their reasonable and good faith reliance on representations made and information provided by the Buyer.

**5.4. Buyer Covenants:** The Buyer agrees that:

- a) the Designated Agent(s) may represent other buyers and, subject to clause 8, sellers;
- b) the Brokerage and the Designated Agent(s) cannot disclose to the Buyer confidential information obtained through any other agency relationship to which the Brokerage or the Designated Agent(s) is or was a party;
- c) the Brokerage or the Designated Agent(s) will not be obligated to seek additional properties to purchase while the Buyer is party to an Agreement of Purchase and Sale once the conditions unrelated to title have been met; and
- d) the Brokerage may share the contents of the transaction file within the Brokerage for administrative purposes.

## 6. Brokerage's Remuneration

**6.1. Source of Remuneration:** The Buyer and the Brokerage agree that the Brokerage is to be paid remuneration of \_\_\_\_\_

(CDN plus applicable HST and any other taxes payable in respect of the remuneration)

which shall be paid as follows:

- a) by the Seller or the Seller's Brokerage in accordance with the agreement between the Seller and/or the Seller's Brokerage;
- b) if the amount offered by the Seller or the Seller's Brokerage is less than the minimum agreed remuneration, the Buyer may be required to pay the difference to the Brokerage, to be negotiated for that specific property;

- c) if the amount offered by the Seller or the Seller's brokerage is more than the maximum agreed remuneration, the Brokerage will retain the excess amount; and
- d) the Brokerage will provide written notification to the Buyer of the remuneration being offered by the Seller or the Seller's brokerage prior to drafting an offer to purchase **OR** upon any subsequent change to the remuneration.

**6.2. Payment of Remuneration:** The Brokerage's remuneration will be paid per 6.1 on closing, if during the term of this Agreement, a legally enforceable Agreement of Purchase and Sale, from whatever source obtained, is entered into between the Buyer and a seller (other than a seller who has been specifically excluded in writing from this Agreement) **AND** the purchase is completed **OR** the Buyer, without legal justification, fails to complete the purchase.

**6.3.** If this Agreement expires or is terminated without a legally enforceable Agreement of Purchase and Sale, the Buyer may obtain representation with another brokerage and not be liable for remuneration payable under this Agreement.

**6.4. Limitation on other Remuneration:** The Brokerage agrees not to accept any other remuneration, whatever its form (including finder's fee, referral fee or gift) and from whatever source (including the Seller, a mortgage lender, another brokerage or contractor), directly or indirectly related to their agency under this Agreement, unless, before accepting such remuneration, the Brokerage and Designated Agent(s) have:

- a) fully disclosed, in writing, to the Buyer all relevant facts relating to the offer of remuneration including the maximum amount to be received; and
- b) obtained the Buyer's written consent for the Brokerage or Designated Agent(s) receiving such remuneration.

## 7. Use and Distribution of Information

**7.1.** The Buyer consents to the collection, use and disclosure of their personal information by the Brokerage and the Designated Agent(s) related to the Agreement of Purchase and Sale including, but not limited to:

- a) providing to present and past unrepresented parties and clients marketing materials, newsletters and other information that the Brokerage believes may be of interest to them;
- b) their name being made available to Seller(s) to be used to complete the Seller Unrepresented Party Acknowledgement and Fee Agreement if clause 6.1(a) is applicable; and
- c) disclosing all or some of it to government departments, appraisers, municipal organizations and others.

**7.2.** The Buyer consents to placement of the purchase information by the Brokerage and the Designated Agent(s) into the database of the appropriate MLS® and acknowledges that the database of the MLS® is the property of the NSAR and can be licensed, resold or otherwise dealt with as they see fit. The Buyer further acknowledges that some or all of the information, including the purchase price, may be published and distributed in print, before the closing in accordance with MLS® rules, and made available on the internet through public websites including those maintained by licensees and brokerages, and by the Canadian Real Estate Association on realtor.ca.

## 8. Change in Representative Capacity of the Designated Agent(s)

**8.1.** If the Designated Agent(s) has a Seller client and the Buyer wants to view that Seller's property, the Designated Agent(s) will:

- a) disclose this fact to both the Buyer and the Seller;
- b) unless instructed otherwise by the Seller, facilitate the viewing of the Property by the Buyer and make available the marketing information to all potential buyers; however, the mere viewing of a property will not mean the Buyer is interested in a property for the purposes of clause 8.2 and therefore would not create a conflict of interest between the parties; and
- c) proceed in accordance with clause 8.2 should the Buyer express interest in the Seller's property.

BUYER'S INITIALS: \_\_\_\_\_ / \_\_\_\_\_



**8.2.** If the Designated Agent(s) is the agent of a Seller client and a Buyer client becomes interested in purchasing the Seller's Property, the Designated Agent(s) will:

- a) immediately advise the Buyer and the Seller of the implications of concurrent representation as specified in clause 8.2(d);
- b) give the Buyer and the Seller an opportunity to seek independent advice; and
- c) offer to continue to represent the one party, be it the seller or the buyer, with whom it first entered into an agency relationship, subject to any conflicts of interest, and the brokerage will offer the option to:
  - i) recommend the other party to another brokerage or designated agent(s) where the other party can receive the benefit of agency representation; or
  - ii) be treated as an unrepresented party (see definition in Form 100: Working With the Real Estate Industry.)
- d) If the Buyer and the Seller have been presented with the options in subsection (c)(i) or (ii) and still wish to continue the transaction with the same designated agent(s), without any representation, the Buyer and the Seller may be offered the option of entering into a transaction brokerage relationship prior to the preparation of the agreement to facilitate the sale of the property under the terms and conditions specified in the Transaction Brokerage Agreement.

**8.3.** If the interests of the Brokerage or Designated Agent(s), including any individual in a management or ownership position, conflict or may conflict with the interests of the client, refer to by-laws 733 and 734.

## 9. Termination of this Agreement

**9.1.** Without prejudice to the acquired rights of the Buyer or the Brokerage, this Agreement will terminate:

- a) on the expiration of the term of this Agreement as specified in clause 3;
- b) on an earlier date than that specified in clause 3 if mutually agreed to by the Buyer and the Brokerage in writing;
- c) on a completed purchase of a property prior to the expiration of the term of this Agreement;
- d) on the suspension or termination of the Brokerage's licence to trade in real estate;
- e) on the bankruptcy or insolvency of the Brokerage or if it is in receivership;

- f) at the option of the non-defaulting party, exercised in writing, on a material breach of any of the terms of this Agreement by either the Buyer, the Brokerage or the Designated Agent(s);
- g) at the option of the Brokerage, if after reasonable effort, the Brokerage is unable to contact the Buyer to satisfy this Agreement; or
- h) at the option of the Buyer, if after reasonable effort, the Buyer is unable to contact the Brokerage to satisfy this Agreement.

## 10. Continuing Duties

**10.1.** The termination of this Agreement does not relieve the Brokerage or Designated Agent(s) from their duty:

- a) to account for all property and money received by the Brokerage; and
- b) of confidentiality to the Buyer.

## 11. Miscellaneous Provisions

**11.1.** The Buyer agrees that:

- a) the Brokerage and the Designated Agent(s) have advised the Buyer to seek financing pre-approval;
- b) this Agreement will be governed by the laws of the Province of Nova Scotia and the Buyer, the Brokerage and the Designated Agent(s) shall submit to the jurisdiction of the Courts of the Province of Nova Scotia for the resolution of any disputes that may arise out of this Agreement;
- c) no amendment to the terms of this Agreement shall be effective unless it is in writing and signed by the Buyer and a Brokerage Representative;
- d) if there is conflict or discrepancy between any provision added to this Agreement and any provision in the standard pre-set portion hereof, the added provision will supersede the standard pre-set provision to the extent of such conflict or discrepancy; and
- e) this Agreement will be read with all changes of number and gender required by the context.

## 12. Additional Provisions

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## 13. Acceptance

This Agreement will constitute the entire Agreement between the Buyer, the Designated Agent(s), and the Brokerage, and there are no representations, warranties, collateral agreements or conditions which affect this Agreement other than as expressed herein.

The Buyer hereby agrees and acknowledges having read and accept this Agreement on the terms set forth, and have received a true copy of this Agreement.

Signed and delivered in the presence of:

In Witness whereof I have hereunto set my hand:

\_\_\_\_\_  
Witness

\_\_\_\_\_  
Buyer

\_\_\_\_\_  
Date

\_\_\_\_\_  
Witness

\_\_\_\_\_  
Buyer

\_\_\_\_\_  
Date

\_\_\_\_\_  
Witness

\_\_\_\_\_  
Brokerage Representative

\_\_\_\_\_  
Date

