



REALTORS® ASSOCIATION OF NEW MEXICO
BUYER BROKER AGREEMENT – 2017
PART I – BROKER DUTIES

As required by New Mexico law, before the time a broker generates or presents any written document that has the potential to become an express written agreement, the broker shall disclose in writing to their prospective customer or client, and obtain a written acknowledgement from their prospective customer or client, showing the delivery of the disclosure of the following broker duties:

- A.** Honesty and reasonable care as set forth in the provisions of this section;
- B.** Compliance with local, state, and federal fair housing and anti-discrimination laws, the New Mexico Real Estate License Law and the Real Estate Commission rules and other applicable local, state, and federal laws and regulations;
- C.** Performance of any and all written agreements made with the customer or client;
- D.** Assistance to the broker's customer or client in completing the transaction, unless otherwise agreed to in writing by the customer or client, including
 - 1.** Presentation of all offers or counteroffers in a timely manner, and
 - 2.** Assistance in complying with the terms and conditions of the contract and with the closing of the transaction;
If the broker in a transaction is not providing the service, advice or assistance described in paragraphs D(1) and D(2) above, the customer or client must agree in writing that the broker is not expected to provide such service, advice or assistance, and the broker shall disclose the existence of such agreement in writing to the other brokers involved in the transaction;
- E.** Acknowledgment by the broker that there may be matters related to the transaction that are outside the associate broker's or qualifying broker's knowledge or expertise and that the associate broker or qualifying broker will suggest that the customer or client seek expert advice on these matters;
- F.** Prompt accounting for all money or property received by the broker;
- G.** Written disclosure to their client or customer and to other brokers involved in the transaction of any potential conflict of interest that the broker has in the transaction including but not limited to:
 - 1.** Any *written* brokerage relationship the broker has with any other parties to the transaction or;
 - 2.** Any material interest or relationship of a business, personal, or family nature that the broker has in the transaction;
 - 3.** Other brokerage relationship options available in New Mexico;
- H.** Written disclosure of any adverse material facts actually known by the associate broker or qualifying broker about the property or the transaction, or about the financial ability of the parties to the transaction to complete the transaction; adverse material facts requiring disclosure do not include any information covered by federal fair housing laws or the New Mexico Human Rights Act;
- I.** Maintenance of any confidential information learned in the course of any prior agency relationship unless the disclosure is with the former client's consent or is required by law;
- J.** Unless otherwise authorized in writing, an associate broker or qualifying broker shall not disclose to their customer or client during the transaction that their seller client or customer has previously indicated they will accept a sales price less than the asking or listed price of a property; that their buyer client or customer has previously indicated they will pay a price greater than the price submitted in a written offer; the motivation of their client or customer for selling or buying property; that their seller client or customer or their buyer client or customer will agree to financing terms other than those offered; or any other information requested in writing by the associate broker's or qualifying broker's customer or client to remain confidential, unless disclosure is required by law.

BUYER AND BROKER SHOULD ACKNOWLEDGE RECEIPT OF THIS INFORMATION BY INITIALING BELOW.

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PART II**

1. _____ (Buyer's Broker) working with Buyer does does not have a material interest or relationship of a business, personal or family nature in the transaction, including compensation from more than one party:

If the Brokerage or Qualifying Broker has a material interest or relationship of a business, personal or family nature in the transaction, that interest or relationship must also be disclosed separately.

2. Buyer is is not a New Mexico real estate Broker.

3. Buyer is is not subject to another existing Buyer Broker agreement on the subject property.

Buyer Date Time Buyer Date Time

BUYER'S BROKER

Buyer's Brokerage Firm

Broker (Print Name)

Broker is is not a REALTOR®

Signature Date Time



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1. BROKERAGE RELATIONSHIP. The undersigned Brokerage and _____ ("Buyer") agree that Broker is providing services to Buyer as a Transaction Broker without creating an agency relationship. It is the parties' intention to minimize the likelihood that Buyer will be held liable for the acts and omissions of the Broker and to eliminate the possibility that Broker is held liable to Buyer under agency law.

2. BUYER COMMITMENT.

A. ALL INCLUSIVE COMMITMENT (COVERING ANY AND ALL PROPERTIES). Buyer grants to the undersigned Brokerage the exclusive right to assist Buyer in locating and in the purchase of real property generally described below, or any other real property which is acceptable to Buyer. "Purchase" includes buying, exchanging, or otherwise creating a right to acquire any interest in property described in this paragraph.

- (1) General Location: _____
- (2) Type: RESIDENTIAL: resale new construction
 COMMERCIAL: office industrial shopping center warehouse specialty retail residential investment (rental)
 VACANT LAND FARM AND RANCH OTHER _____
- (3) Price Range \$ _____
- (4) Financing Type: _____
- (5) Terms: _____
- (6) Date Desired: _____
- (7) Other: _____

Buyer will not work with any other real estate Broker or without Broker to locate, view, negotiate, or purchase any type of Property described in this Paragraph.

B. LIMITED COMMITMENT (SPECIFIC IDENTIFIED PROPERTIES). Buyer grants to the undersigned Brokerage the right to assist Buyer exclusively, but only with respect to the Property described below. "Purchasing" includes buying, exchanging, or otherwise creating a right to acquire any interest in property described below.

Describe as fully and completely as possible; if more than one, describe all.

1. _____
 Address _____ City _____

Legal Description
 or see metes and bounds description attached as Exhibit _____, _____ County, New Mexico.

2. _____
 Address _____ City _____

Legal Description
 or see metes and bounds description attached as Exhibit _____, _____ County, New Mexico.

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3. _____
Address _____ City _____

Legal Description

or see metes and bounds description attached as Exhibit _____, _____ County, New Mexico.
Buyer will not work with any other real estate Broker or without Broker to locate, view, negotiate, or purchase any of the Properties described in this Paragraph, but Buyer may work with any other real estate Broker or without Broker to locate, view, negotiate, or purchase any property not described in this Paragraph.

3. TERM. The term of this Agreement will begin on _____, _____ and terminate at 11:59 p.m. Mountain Time on _____, _____, or if a property is under contract or the Buyer is negotiating the purchase of the Property as defined in paragraph 2, on the date the Agreement would otherwise terminate, the term will automatically be extended through closing or other final disposition of that property. The word "Term" will include all extensions.

4. BROKER OBLIGATIONS. During the term of this Agreement Broker will:

- A. Become familiar with Buyer's property requirements;
- B. Assist Buyer to locate suitable properties;
- C. Assist Buyer to locate financing;
- D. Assist Buyer to prepare offers (including providing information concerning comparable properties);
- E. Assist Buyer in negotiating acquisition terms;
- F. Assist Buyer in monitoring pre-closing and closing procedures;
- G. Act solely for Buyer in any transaction and renounce all express or implied offers of subagency from Seller or Seller's Broker, unless otherwise specifically and expressly agreed to by Buyer in writing; and
- H. Prior to submitting a Purchase Agreement to the Seller, obtain from the Seller or Seller's Broker an Estimated Property Tax Levy with respect to the Property identified in the Purchase Agreement or in which the Buyer is interested. Per New Mexico law, the listed price specified will be the value of the Property as used to calculate the Estimated Property Tax Levy. If an Estimated Property Tax Levy on the Property identified in a Purchase Agreement or in which Buyer is interested is not readily available, Buyer may waive the right to obtain the Estimated Property Tax Levy prior to submitting the Purchase Agreement by completing the appropriate box in the RANM Purchase Agreement.
- I. Other _____

5. BUYER OBLIGATIONS. Buyer will:

- A. Provide accurate, up to date, complete information about Buyer's property requirements, financial qualifications, and relevant personal situation and hold Broker harmless from any liability resulting from inaccurate or incomplete information supplied by Buyer.
- B. Refer to Broker all inquiries from any source.
- C. Act in good faith with Broker and in all negotiations for property subject to this Agreement.
- D. Other _____

6. COMPENSATION.

- A. Buyer will pay Broker firm as compensation _____ plus applicable New Mexico Gross Receipts Tax. Broker will use Broker's best efforts to collect compensation from the Seller or the Listing Broker. Any amount collected will be credited against any amount due from Buyer. In the event Seller's offer of compensation is other than the above amount, Broker will notify Buyer in writing before Buyer signs a Purchase Agreement.
- B. Buyer agrees that Broker has no duty to inform Buyer of, or show Buyer, any properties with respect to which compensation is less than _____ plus applicable New Mexico Gross Receipts Tax, unless Buyer agrees in writing to pay the difference between what is offered and the amount stated herein.

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C. Compensation must be paid upon the occurrence of any of the following:

(1) Buyer or any other person acting on behalf of Buyer enters into an agreement to purchase as defined herein, or does purchase as defined herein, any property subject to this Agreement during the term of this Agreement, whether or not Buyer sought the assistance of Broker. If any such transaction fails to close because of a default of the Seller, compensation otherwise due will be waived; if because of a default of Buyer, compensation due under this Agreement will not be waived.

(2) Within _____ days after termination of this Agreement, if Buyer or anyone acting on behalf of Buyer acquires any real property subject to this Agreement which Broker submitted to Buyer during the term of this Agreement or within ten (10) days after the term of this Agreement. However, this provision will not apply if Buyer enters into another exclusive agreement covering the same property or type of property covered by this Agreement with another licensed real estate Broker which is effective during the period set forth in the first sentence of this subparagraph.

D. If Buyer decides to lease a Property, then Buyer agrees to compensate Broker _____ plus applicable New Mexico Gross Receipt Tax.

7. OTHER POTENTIAL BUYERS. Buyer acknowledges that Broker may make known to other buyer clients or customers the same or similar properties as Buyer is seeking to acquire and Buyer consents to this activity of Broker.

8. AUTHORIZATION. Broker is permitted to disclose the sale price of any property purchased by Buyer under this Agreement to a multiple listing service or listing exchange.

9. NON-DISCRIMINATION.

A. RESIDENTIAL: Buyer understands that federal housing laws, the New Mexico Human Rights Act, and the New Mexico Real Estate Commission Regulations prohibit discrimination in the sale, rental, appraisal, financing, or advertising of housing or other property on the basis of race, age, color, religion, sex, sexual orientation, gender identity, familial status, spousal affiliation, physical or mental handicap, national origin, or ancestry.

B. COMMERCIAL: Seller understands that the New Mexico Human Rights Act prohibits discrimination in the sale or lease of any real property on the basis of race, religion, color, national origin, ancestry, sex, sexual orientation, gender identity, physical or mental handicap or spousal affiliation.

10. EXPERT ASSISTANCE. Broker advises Buyer to obtain expert assistance regarding legal, tax, and accounting matters or matters relating to zoning, surveying, inspections, construction, hazardous materials, engineering, or other matters which are not within the expertise of Broker. Broker shall have no liability with respect to such matters.

11. FACSIMILE TRANSMISSION. The facsimile transmission of a signed copy of this or any document in this transaction will constitute delivery of that document. A facsimile, email, or electronically transmitted signature shall have the same force and effect as an original signature.

12. MEDIATION. If a dispute arises between the parties relating to this Agreement, the parties agree to submit the dispute to mediation. The parties will jointly appoint a mediator and will share equally the costs of the mediation. If a mediator cannot be agreed on or mediation is unsuccessful, the parties may enforce their rights and obligations under this Agreement in any manner provided by New Mexico law.

13. FOREIGN SELLERS. The disposition of a U.S. Real Property interest by a Foreign Person is subject to the Foreign Investment in Real Property Tax Act of 1980 (FIRPTA) income tax withholding. FIRPTA applies if the Seller is a Foreign Person, Foreign Corporation or Partnership, or non-resident Alien, unless BOTH the purchase price \$300,000 or less AND Buyer intends to use the Property as Buyer's primary residence. Federal law requires that if Seller is a Foreign Person, then Buyer must withhold ten percent (10%) of the amount realized from the sale of the Property and remit it to the Internal Revenue Service (IRS) within twenty (20) days of Closing unless the Seller provides written confirmation from the IRS that Seller is not subject to withholding. Generally speaking, the "amount realized" is the sales/purchase price of the Real Estate. If Seller is Non-Foreign, the Seller must provide proof of Non-Foreign Status by fully executing the Affidavit of Non-Foreign Seller (RANM Form 2303) and delivering it to either the Buyer or to a Qualified Substitute. Under FIRPTA, if Seller is a Foreign Person and Buyer fails to withhold taxes, the Buyer may be held liable for the tax, in addition to other fines and penalties and the Buyer's Broker may be fined up to the amount of this commission. (See RANM Form 2304 - Information Sheet - FIRPTA).

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14. FARMS AND RANCHES. The Agricultural Foreign Investment Disclosure Act (AFIDA) requires disclosure of a transfer of interest in certain agricultural land (including farms and ranches) to or from a foreign person to the Agricultural Stabilization and Conservation Service within 90 days of the transaction, on a form provided by the ASCS. AFIDA does not apply to agricultural land if in the aggregate it is not more than 10 acres and if the gross annual receipts from sale of farm, ranch, farming or timber products do not exceed \$1000.00. A "foreign person" is certain foreign corporations or a person who is not a citizen of the U.S. or certain of its possessions, who is not a permanent resident and who is not paroled into the U.S.

Buyer is is not a foreign person as defined in this paragraph.

15. ATTORNEY FEES. If either party uses the services of an attorney to enforce the party's rights or the other's obligations under this Agreement, the damages will include attorneys' fees and costs. Time is of the essence of this Agreement.

16. ENTIRE AGREEMENT. This Agreement contains the entire Agreement between the parties relating to the subject matter and supersedes any previous agreements, arrangements, undertakings or proposals, oral or written. This Agreement may be varied only by a document signed by both parties.

17. FORCE MAJEURE. Neither party shall be liable for delay or failure to perform any obligation under this Agreement if the delay or failure is caused by any circumstance beyond their reasonable control, including but not limited to, acts of God, war, civil unrest or industrial action.

18. LAW AND JURISDICTION. This Agreement shall be governed by and construed in accordance with the laws of New Mexico and each party agrees to submit to the exclusive jurisdiction of the courts of New Mexico.

19. SEVERANCE. If any provision of this Agreement is held invalid, illegal or unenforceable for any reason by any court of competent jurisdiction, such provision shall be severed and the remainder of the provisions hereof shall continue in full force and effect as if this Agreement had been agreed with the invalid illegal or unenforceable provision eliminated.

20. ADDITIONAL TERMS.

The REALTORS® Association of New Mexico and the local board or association of REALTORS® do not fix, control, recommend, suggest or maintain compensation rates for services to be rendered by members, nor the division of Broker's compensation between Broker and cooperating Brokers in a transaction. The amount of compensation and the terms of this Agreement are not prescribed by law and are subject to negotiation.

Agency Addendum is attached to this Agreement: Yes No

BUYER

Buyer Signature Date Time

Buyer Signature Date Time

Buyer Names (Print)

Email Address

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Buyer Address _____ City _____ State _____ Zip Code _____

Buyer Home Phone _____ Business Phone _____ Fax _____

BROKER

Broker Firm _____

Broker is is not a REALTOR®

By (Print) _____

By (Signature) _____ Date _____ Time _____

Address _____ City _____ State _____ Zip Code _____

Business Phone _____ Fax _____ Email Address _____

Qualifying Broker's Name _____ Phone Number _____ Qualifying Broker's NMREC License Number _____