

If you are receiving this handout electronically, you may either view it on an electronic device or print out one copy for your use only.

You may not reproduce or redistribute any portion of this packet without the express written permission from the GAR Professional Development Department.

Georgia REALTORS® partners with the Local Boards and REALTOR® Firms to provide quality, affordable continuing education courses.



Buyer Representation: What Your Mama & ‘Em Don’t Tell You! #40775

Sponsored by:

Georgia Association of REALTORS®, GREC School #271

**Visit the Georgia REALTORS® website to learn about
membership benefits, continuing education opportunities,
networking events, and more!**



garealtor.com

NOTICE: *The following material is copyrighted.*

You may not reproduce or redistribute any portion of this packet without the express written permission from the GAR Professional Development Department.

This packet is provided to you for one-time use only in this GAR-sponsored course.

If you are receiving this handout electronically, you may either view it on an electronic device or print out one copy for your use only.



STUDENT NOTICE

The Georgia Association of REALTORS®, Inc. is approved by the Georgia Real Estate Commission (GREC) to offer continuing education, sales postlicense, and broker prelicense courses. The GREC school code number is 271 with a renewal date of December 31, 2023.

The Georgia Real Estate Commission has approved this course for three (3) hours of continuing education credit. GAR school policy defines an instructional hour as 50 minutes.

To receive continuing education (CE) credit for this in-classroom course, the student must:

- ✓ be on time
- ✓ sign in with the course facilitator before the course begins
- ✓ be present in the course during all instruction periods
- ✓ return a completed evaluation to facilitator at the end of course if an in-classroom format, or complete the online evaluation if a Livestream (virtual) class format – link will be emailed to you within a business day after the course.
- ✓ not have taken this course for continuing education credit within the past 366 days.

There is no make-up session for this course.

Cell phones and other electronic devices can be distracting. Use of communication methods such as text messaging, E-mailing, web surfing, etc. is prohibited while class is in session if it poses a distraction to other attendees and shall be grounds for dismissal. Taking pictures of PowerPoint slides requires the permission of the instructor.

Entrance qualifications and standards of completion will not be based on race, color, sex, religion, national origin, familial status, handicap, sexual orientation, or gender identity.

No recruiting for employment opportunities for any real estate brokerage firm is allowed during this course or on the premises while this course is in session. Any effort to recruit by anyone should be promptly reported to the Director of Professional Development; Georgia Association of REALTORS®; 770-451-1831; 6065 Barfield Road; Sandy Springs, GA 30328; or to the Georgia Real Estate Commission; 404-656-3916; International Tower; 229 Peachtree Street, NW; Suite 1000; Atlanta, GA 30303-1605.

Buyer Representation

What your Mama &
'em don't tell you



This course is approved by the Georgia Real Estate
Commission for 3 hours of real estate continuing
education.

Objectives

At the conclusion of this course, the student will be able to:

- ❖ Discuss agency responsibilities
- ❖ Differentiate between clients and customers
- ❖ State how agency relationships are created
- ❖ Identify and discuss types of agencies
- ❖ Differentiate between brokerage engagement agreements
- ❖ Differentiate between client level service and customer level service
- ❖ Negotiate on the behalf of the buyer client
- ❖ Discuss the different type of marketing for the buyer's agent

Buyer Representation

What your Mama & 'em don't tell you

I. Agency

A. History of real estate

In the late 1800's and early 1900's, "real estate brokers" would stand on the street curb and induce people into conversation. They were known as "curb stone brokers". If successful, this prospecting would find people willing to sell property at a price. This broker would often try to beat down the price to the seller so they could then purchase that property and sell to a buyer at an inflated price. This self dealing led to much disrepute for the real estate industry and practitioners.

The NATIONAL ASSOCIATION OF REALTORS® was founded as the National Association of Real Estate Exchanges on May 12, 1908 at the YMCA Auditorium in Chicago, IL. Three earlier attempts (beginning in 1891) at organizing a national real estate group were unsuccessful. With 120 founding members, 19 Boards, and one State Association, the National Association of Real Estate Exchanges' objective was "to unite the real estate men of America for the purpose of effectively exerting a combined influence upon matters affecting real estate interests."

The Association's founding boards included the Baltimore, MD; Bellington, WA; Chicago, IL; Cincinnati, OH; Cleveland, OH; Detroit, MI; Duluth, MN; Gary, IN; Kansas City, MO; Milwaukee, WI; Minneapolis, MN; Omaha, NE; Philadelphia, PA; St. Louis, MO; St. Paul, MN; Seattle, WA; Sioux City, IA; and Tacoma, WA, boards and the California State Realty Federation (now the California Association of REALTORS®).

(This information was copied from the realtor.org website)

In 1913, the first code of ethics was adopted with "the golden rule" being the central theme. In 1916 the name was changed to the National Association of Real Estate Boards and the term REALTOR® started being used nationally.

In 1974 the name again was changed to the NATIONAL ASSOCIATION OF REALTORS®.

B. History of agency in real estate

As brokers saw the need to cooperate, Multiple Listing Services were created. In these services, members would agree to share information and try to promote each others listings. There was a common agreement that the selling broker would share in the listing broker's commission as compensation for bringing the buyer to the property. This brought up the issue of who the selling broker represented in the transaction and it was at this juncture that many feel a substantial mistake was made. It was assumed and accepted by the industry, that since the seller was funding the commission at closing, and the selling broker was sharing in that commission, then it would follow that the selling broker would represent the seller as an agent of the listing broker; sub-agent of the seller.

Because the selling broker was spending all their time with the buyer, often didn't know the seller, but was being told they represented the seller in the transaction, this led to confusion and emotional conflict. The selling agent felt they should represent the interest of their new found best friend (the buyer), but was being told they represented the interest of the seller. This led to improper disclosures, improper representation, illegal dual agency's and ultimately, law suits. It was with the law suits that made the industry realize there was a problem and change needed to take place along with education about agency responsibilities.

C. Agency responsibilities

1. Client

- a. Undivided loyalty
Do what is best for the client
- b. Obedience
Obey legal and reasonable instructions
- c. Confidentiality
Be discreet
- d. Full disclosure
Tell all

- e. Accountability
Responsible for money and actions
- f. Fairness
Be aggressive, be bold but be fair
- g. Honesty
Tell the truth
- h. Integrity
The self control to do the right thing

2. Customer

- a. Accuracy
Even to a customer, you may be held responsible for the accuracy of your statements i.e. age, condition, square footage, etc.
- b. Fairness
Aggressively represent your client but temper that with fairness under the circumstances
- c. Honesty
It's OK for the truth to sound fascinating!
- d. Integrity
Again, everybody, client or customer, should be able to expect you to be a person of character.
- e. Disclosure (partial; not full)
Disclose that information to the customer that is in your client's best interest. Also disclose that information which is required by law, even if it is damaging to your client.

D. Creating the agency relationship

- 1. Expressed
Created by words

2. Implied
Created by actions

E. Types of agency relationships

1. Seller agency/landlord agency
Company represents sellers in transaction. In true seller agency, company policy would preclude agents from representing buyers (tenants).
2. Buyer agency/tenant agency
Company represents buyers in transaction. In true buyer agency, company policy would preclude agents from representing sellers (landlords).
3. Sub agency co-op
Two brokers working together to shepherd a transaction to closing. Both represent the seller. Listing broker as primary agent of the seller and selling broker as agent of the listing broker and sub-agent of the seller. Salespeople represent the interest of their broker. No representation of the buyer.
4. Single agency co-op
Two brokers working together to shepherd a transaction to closing. One (the listing broker) represents the seller's interest and the other (the selling broker) represents the buyer's interest. Broker's typically split the commission. It is immaterial under Georgia law, when discussing agency, who pays the commission.
5. Dual agency
One broker; one agent; one transaction; two clients. It is this presenter's opinion that this is a recipe for disaster! If you understand anything we have talked about to this point, you must agree. Conflict in full disclosure vs. confidentiality. Conflict in that the loyalties are divided.

6. Designated agency
One broker; two clients; two agents; one transaction. BRRETA says this is not a dual agency if parties are informed and agree. HUH!??? Looks like a duck, waddles like a duck, quacks like a duck. It is OK to disagree with me on this one; apparently the state legislature does.
7. Transaction broker
The broker has no client in the transaction. Owes customer duties to all parties.
8. Facilitator (moderator; communicator; arbitrator; negotiator)
This is not currently recognized in Georgia. I made it up because I like it. Let a man dream! This would replace dual agency and relieve the broker from duties of full disclosure and undivided loyalty. Different from a transaction broker because confidentiality is still in place.

F. Types of buyer brokerage engagement agreements

1. Exclusive right to represent
Client agrees to work with one brokerage firm and if that client buys a property during the engagement period, they will do so through the broker and protect that brokers rights to be compensated.
2. Exclusive agency
Client agrees to work with one brokerage firm and if that client buys a property during the engagement period, they will protect the broker's rights to be compensated. The buyer client, however, reserves the right to find a property on their own and have no compensation obligation to the broker.
3. Non-exclusive (open)
Buyer may enter into a nonexclusive relationship with as many brokers as they wish. The only broker that would be due any compensation would be the one who finds the client a property. If the buyer finds a property on their own, no compensation to any broker would be required. This type of agreement leads to disloyalty and dispute.

II. Understanding the buyer's agent

A. Must represent

1. Self
Have no choice. How could you honestly claim you were representing another when you are the "other party"?
2. Those that wish to be anonymous
Confidentiality is the key.

B. Should represent

1. Former clients
They would reasonably expect the same level of service they had received in previous transactions.
2. Current clients
See above! How could you logically represent the person as a client in a property they are trying to sell but not in the property they are trying to buy, especially when the transactions are running concurrently?
3. Referrals from clients
The client who is referring and the person referred would reasonably expect that they receive the same level of service previously provided (client level).
4. Relatives
Come on! Even the in-laws deserve client level service!
5. Business associates
Client level service is expected and more comfortable for everybody.
6. Friends
Same as business associates.

C. Need representation

1. First time buyers

While you are not required to represent first time buyers, this is a group that across the board needs help. They roundly do not have the experience, knowledge or education to represent themselves in a transaction as complex as a real estate purchase and a mistake could be financially devastating.

2. Relocating buyers

While the relocating buyer may be experienced in real estate transactions, they have very little, if any, actual knowledge of the local market place. Real estate markets are dynamic; ever changing, not static. Knowledge from market to market does not easily transfer.

D. Should not represent

1. Unmotivated buyers

Motivation should be checked during the first counseling session. Ask probing questions which will help uncover their commitment to purchase in a timely manner.

2. Unrealistic buyers

Buyers with unrealistic expectations are something that can be often controlled by the agent. Unfortunately, the unrealistic expectations are often originated by the agent. Be part of the solution, not the problem!

3. Buyers who expect you to do something unethical or illegal. This should be a no brainer! If this isn't obvious to you, please hand in your workbook and quietly exit the room at the first opportunity!

E. Client level service vs. customer level service

1. Loyalty

Do what is best for the client, not the customer.

2. Disclosure

Full disclosure to the client; limited disclosure to the customer.

3. Confidentiality
The client can speak without concern of their words being used against them. The customer does not have this luxury.
4. Alternatives
Always be thinking about alternative solutions to improve the negotiating position of the client.
5. "Best" property
Focus on the needs of the client. "Best" refers to what is best for the client, not the customer.
6. "Best" terms
Again, focus on the needs of the client. Take into consideration what is need for the client and negotiate to that end.
7. Duty to educate
People gain their power through knowledge. It is our duty to educate the client so they have the power to make the best decision for themselves.
8. Duty to perform due diligence
Due diligence is required for the client, not the customer.
9. Negotiating
Do what is best for the client. Negotiate so the client is in the strongest position possible.
10. After contract follow-through
No one is served if the contract falls through. Be diligent so the client's interest is best served.

F. Decision to offer representation

1. Identify needs and wants
Are they motivated? Are they realistic? Would accepting the responsibility and liability of representing this person, ultimately be good or bad for your business?

2. Identify and verify financial abilities
Have them make an appointment with a lender and get pre-approved for a loan. This will improve their negotiating position, increase your conversion ration (buyer to closing) and is simply the professional thing to do.
3. Current/past relationships with other agents
If they are currently working with an agent, we want to know now!! If they have worked with agents in the past, find out what you can about those relationships.

G. Negotiating brokerage engagement agreement

1. Informed consent
Provisions of the brokerage engagement agreement should be fully explained so the potential client is not only signing, but understanding their obligations and rights.
2. Benefits to buyer client
 - a. Educate the buyer
It becomes your duty to educate the buyer client, thus empowering them to make the best decision for them, their family and their economy.
 - b. Inspections
Explain and give recommendations to client about various inspections.
 - c. Protective clauses
There are many clauses that can go into a contract. The key is to have enough appropriate clauses to protect the client but not so many that people do not want to negotiate with them.
 - d. CMA
Definitely a client level service. A competitive market analysis should be done on any property before making an offer.

Buyer Representation: What your Mama & 'em don't tell you

- e. Refer names of contractors
Use Vendor Form to protect from liability.
- f. Provide property info to client
Provide due diligence.

3. Compensation

- a. Contingent or non-contingent
While historically compensation is contingent on a sale taking place, a viable option is for the fee to be guaranteed up front.
- b. Percentage of selling price
This is the most common form of compensation. However, this came from the days of seller representation. The more the seller gets for the property, the better the broker is compensated. Does that same idea create conflict when representing a buyer?
- c. Flat fee
A negotiated flat fee would eliminate the conflict of accepting a fee from the listing broker which has not been negotiated. It also would eliminate any conflict with reducing your compensation if you are successful in negotiating the price to the buyer's advantage.
- d. Hourly fee
This might be a viable alternative when the buyer wants only limited service.
- e. Acceptance of bonus'
This must be disclosed and approved by the buyer client.
- f. Paid by buyer
While not common, why not?
- g. Paid by seller
This is currently the most common practice. According to BRRETA, this is not a conflict.

- h. Paid by third party
This could be an alternative when representing a corporate client.
- i. Financing the fee
Lenders are starting to understand the broker provides a valuable service and as such, that is part of the value of any real estate transaction. The fee for the buyer's agent may be able to be financed, similar to closing costs.

4. Due diligence

- a. Alternatives
- b. Financing eligibility
- c. Property search
- d. Inspections
- e. Explain:
 - 1) process
 - 2) offer
 - 3) forms
 - 4) negotiations
- f. CMA
- d. Seller's property disclosure form
- e. Stigmatized properties
- f. Verify (as applicable):
 - 1) property taxes
 - 2) well/septic
 - 3) zoning
 - 4) square footage
 - 5) assessments
 - 6) owner's association obligations
 - 7) deed restrictions
 - 8) lot information

- g. Negotiate terms of offer
 - 1) earnest money
 - 2) terms
 - 3) inspections
 - 4) repairs
 - 5) closing date
 - 6) occupancy date
 - 7) contingencies
 - 8) personal property
 - 9) warranties

III. Negotiating for the buyer client

A. Win/Win vs. Win/Lose

In any good negotiations, both parties must feel they have won something. The key is to make sure your client wins more! If a party feels they are losing, deadlock may be on your horizon. Unless you have a unique and extremely strong position, plan to barter and compromise.

B. Consider client strengths and weaknesses

- 1. market conditions
What are interest rates and financing availability? Is it a buyers market or sellers market?
- 2. competing properties
How does the subject property compare with others on the market? What is the supply demand balance?
- 3. financial strength
Has the buyer been pre-approved? Does the buyer need assistance in financing? Does the buyer need assistance in costs?
- 4. other influences
Have the buyer and seller created any bond? Are there any time considerations? What are the parties' motivations?

C. Presentation plan

1. Build Rapport
People will tend to do business with people they like and trust. Ask to be present in the presentation of the offer to the other party so you can humanize your client.
2. Identify Dominant Needs
Ask copious (that means a lot of) questions. Gain information and help the party focus on their needs (particularly those needs you can fulfill!).
3. Relate Benefits
People buy benefits, not features. A definition of value is “the present worth of future benefit”. Sell value!!
4. Close For Decision
Give the party the opportunity to say yes. If you have correctly identified the needs and properly related the benefits, the only logical conclusion is to buy what you are selling.

IV. Marketing the buyers representative

- A. Horizontal marketing
Making the phone ring. Increasing the sphere of influence.
1. Newspaper Ads
Can be expensive and ineffective. Must have a specific goal. Must have a response offer. Measure results.
 2. Open Houses
Can be effective but must be done correctly.
 3. Direct Response Advertising
Can be in newspaper, magazines, flyers or mailers. Go after a specific market and limit the offer. Give value to the offer.
 4. Cold Calling
Purely numbers but will work if you are consistent. Have a specific purpose and use probing questions.

B. Vertical Marketing

Marketing to people within your sphere of influence. Business building.

1. Past Clients

As an industry, we tend to readily spend whatever is asked to get new referrals but hesitate to spend anything to keep what we have. In the long run, this philosophy makes no sense. True wealth building is done with people that we already have a relationship with.

2. Agent Referrals

Have a campaign to build on relationships with other agents. Network at every opportunity.

3. Professional Referrals

Actively promote referrals from attorney's, mortgage people, insurance salespeople, the medical profession and anybody else you can develop a relationship with. Consider joining or starting a network group.

4. Company Orphans

These are the former clients/customers of agents who have retired or left the company. Ask the broker for permission to contact these people and service them on behalf of the company. If possible, get the former agent involved.

5. Sphere Of Influence

Your sphere of influence is those people you know well enough to call and they would know who you are. On a daily basis, you should be methodically trying to convert a few people from outside your sphere to inside.

C. Image building

1. Name

Is there something unique you can do with your name? The ultimate goal is to promote until people think of your name when they think of real estate and they think of real estate when they think of your name.

2. Logo
Does your logo promote the image you want? Is it unique? Is it easily identifiable?
 3. Pictures
Should we use our picture on business cards? How about our advertising pieces? What about our pets, kids and grandchildren?
 4. Being First
The reality is, people typically do business with the first competent real estate agent they meet. While you should constantly strive to be the best you can be and continue to improve, it is typically more important to be first than it is to be best.
- D. Differentiation
How are you different from your competition? If people perceive us to all be the same, they will do business with the least expensive and most convenient. You must be different!
- E. Value Added Service
What do you bring to the table that equates to value for your client? How can you make it tangible? Do you truly believe you have a service that is valuable? Are you able to convince others of the value of that service? **YOU MUST ARTICULATE YOUR VALUE!!!**
- F. Post Transaction Marketing
1. Change Of Address Cards
Use your digital camera and take a picture of the new home. Provide the buyer with change of address cards with their new home picture on the card.
 2. Moving Day Meals
Have a meal brought to the buyer on their moving day. Be creative and thoughtful.

3. Post Closing Signs
Ask buyer for permission to put up a sign "Acquired with the help of.....", "Buyer represented by.....".
4. Handy Man Services
Provide a handy man for 2 or 3 hours after move-in to take care of any odds and ends.
5. Picnics/Parties For Clients
Show your appreciation to your clients. Be careful of alcohol.
6. Cards
Be creative.
 - a) birthdays
 - b) holidays
 - c) anniversaries

EXCLUSIVE BUYER BROKERAGE AGREEMENT



2020 Printing

State law prohibits Broker from representing Buyer as a client without first entering into a written agreement with Buyer under O.C.G.A. § 10-6A-1 et. seq.

A. KEY TERMS AND CONDITIONS

1. Exclusive Agreement. For and in consideration of the mutual promises contained herein and other good and valuable consideration; _____ as buyer (hereinafter referred to as "Buyer"), and _____ as broker and its affiliated licensees (hereinafter collectively referred to as "Broker") do hereby enter into this Agreement ("Agreement"), this date of _____.	
2. Term. The term of this Agreement shall begin on the date of _____ ("Starting Date") and shall continue through the date of _____ ("Ending Date").	
3. Independent Contractor Relationship. <i>[Select all which apply. Any section not selected shall not be part of this Agreement]</i> If there is an affiliated licensee of Broker directly assisting Broker in marketing and selling the Property, said licensee shall be an ☐ Independent contractor OR ☐ Employee of Broker.	
4. Agency and Brokerage. The following are types of agency relationship(s) NOT offered by Broker: ☐ seller agency ☐ buyer agency ☐ designated agency ☐ dual agency ☐ sub-agency ☐ tenant agency ☐ landlord agency	
5. Commission. A. Buyer agrees that Broker shall be entitled to the following commission at the closing of the transaction ("Commission"): <i>[Select one or more of the following sections below. The sections not marked shall not be part of this Agreement]</i> ☐ _____ percent (%) of the sales price; ☐ \$ _____; ☐ (other) _____.	B. In the event Seller does not pay the Broker the full amount of the Commission, ☐ Buyer shall OR ☐ shall not pay Broker the difference at closing between Broker's Commission and the commission actually paid to Broker.
6. Separate Commission on Lease. If Buyer leases property or enters into a lease/purchase contract during this Agreement, Buyer shall also pay Broker a separate leasing commission (except where the commission is paid by the Landlord) in the amount of \$ _____ and as follows: _____.	
7. Protected Period: The length of the protected period shall be _____ days ("Protected Period").	

B. CORRESPONDING PARAGRAPHS FOR SECTION A.

1. **Exclusive Agreement.** The undersigned buyer ("Buyer" or "Client") hereby agrees to hire the undersigned Broker to act as Buyer's exclusive real estate broker to assist Buyer in locating, and to the extent authorized elsewhere herein, negotiating the purchase or exchange of real property on behalf of Buyer. Buyer warrants that Buyer is not a party to any other current exclusive buyer brokerage engagement agreement and that all previous exclusive buyer brokerage engagement agreements entered into between Buyer and any other real estate brokerage have either been terminated or have expired and not been renewed.

Buyer represents that Buyer has the full authority to enter into this Agreement. This Agreement constitutes the sole and entire agreement between the parties. No representation, promise or inducement not included in this Agreement shall be binding upon any party hereto. This Agreement and the terms and conditions herein may not be amended, modified or waived except by the written agreement of Broker and Buyer. Any agreement to terminate this Agreement or any other subsequent agreement of the parties relating to this Agreement must be in writing and signed by the parties. The failure of the parties to adhere strictly to the terms and conditions of this Agreement shall not constitute a waiver of the right of the parties later to insist on such strict adherence.

2. Term.

- a. The referenced Term shall be the term of this Agreement, and it shall begin on the referenced Starting Date and shall continue through the referenced Ending Date. If the Property is under contract during the term of this Agreement, but the term expires prior to the closing, then the term shall be automatically extended through the closing of the contract.
- b. **Extension:** If during the term of this Agreement, Buyer and a prospective seller enter into a real estate sales contract or option to purchase contract which is not consummated for any reason whatsoever, then the original expiration date of this Agreement may be extended for the number of days that Buyer was under contract by providing written notice of the same to the Buyer prior to the referenced Ending Date set forth herein. If the Ending Date is modified in any amendment hereto, such amendment shall control. If such written notice is not given by the Ending Date, this Agreement shall terminate and be of no further force or effect.

3. Independent Contractor Relationship. This Agreement shall create an independent contractor relationship between Broker and Buyer. Broker shall at no time be considered an employee of Buyer.

4. Agency and Brokerage.

- a. Unless Broker indicates that Broker is not offering a specific agency relationship, the types of agency relationships offered by Broker are: seller agency, buyer agency, designated agency, dual agency, sub-agency, landlord agency, and tenant agency.
- b. **Dual Agency Disclosure.** *[Applicable only if Broker's agency policy is to practice dual agency]* If Buyer and a prospective seller are both being represented by the same Broker, Buyer is aware that Broker will be acting as a dual agent in that transaction and consents to the same. Buyer has been advised that:
 - (1) In serving as a dual agent, Broker is representing two clients whose interests are or at times could be different or even adverse;
 - (2) Broker will disclose all adverse, material facts relevant to the transaction and actually known to the dual agent to all parties in the transaction except for information made confidential by request or instructions from either client which is not otherwise required to be disclosed by law;
 - (3) Buyer does not have to consent to dual agency and, the consent of Buyer to dual agency has been given voluntarily and Buyer has read and understands the brokerage engagement agreement.
 - (4) Notwithstanding any provision to the contrary contained herein, Buyer hereby directs Broker, while acting as a dual agent, to keep confidential and not reveal to the other party any information which could materially and adversely affect Buyer's negotiating position.
 - (5) Broker or Broker's affiliated licensees will timely disclose to each client the nature of any material relationship with other clients other than that incidental to the transaction. A material relationship shall mean any actually known personal, familial, or business relationship between Broker and a client which would impair the ability of Broker to exercise fair and independent judgment relative to another client. The other party whom Broker may represent in the event of dual agency may or may not be identified at the time Buyer enters into this Agreement. If any party is identified after the Agreement and has a material relationship with Broker, then Broker shall timely provide to Buyer a disclosure of the nature of such relationship.
 - (6) Upon signing this brokerage engagement with the dual agency disclosures contained herein, Client's consent to dual agency is conclusively deemed to have been given and informed in accordance with state law.
- c. **Designated Agency Disclosure.** *[Applicable only if Broker's agency policy is to practice designated agency.]* Buyer does hereby consent to Broker acting in a designated agency capacity in transactions in which Broker is representing Buyer and a prospective seller. With designated agency, the Broker assigns one or more of its affiliated licensees exclusively to represent a prospective seller and one or more of its other affiliated licensees exclusively to represent Buyer.

5. Commission.

- a. **Broker's Entitlement to Commission:** If during the term of this Agreement (or during the Protected Period after the termination or expiration of this Agreement) Buyer enters into a contract for the purchase and sale (including a Lease/Purchase Contract), option (including a Lease/Option Contract), or exchange of real property, with the seller thereof, Buyer agrees that Broker shall be entitled to the commission as agreed in section "A" at the closing of the transaction ("Commission"). There may be properties shown to Buyer by Broker where a bonus is being offered to Broker for finding a buyer to purchase the property. Buyer consents to Broker receiving such bonus in addition to the commission referenced herein.
- b. While not required, the custom in Georgia is for the seller to pay the commissions of the real estate brokers. This obligation is usually created in a listing agreement between the seller and the listing broker. Generally, these agreements require the listing broker to share the commission it receives with the selling broker working with or representing the buyer in the transaction. In the event Seller does not pay the Broker the full amount of the Commission, Commission will be paid by the Buyer as agreed in section "A".
- c. **Commission on Property Sold For Sale By Owner ("FSBO"):** In the event Buyer purchases property that is being sold by owner ("FSBO") without a broker and the owner is unwilling to pay Broker its Commission at or before the closing, Buyer agrees to pay Broker its Commission at or before the closing.
- d. **Buyer Default:** Notwithstanding any provision to the contrary herein, Buyer agrees to immediately pay Broker its Commission in the event any of the following occur:
 - (1) Buyer defaults under a contract to purchase (or exchange) real property under which Broker would have been paid a commission had the transaction closed;
 - (2) Without the prior consent of Broker, Buyer agrees with a seller to mutually terminate a contract to purchase or exchange real property under which Broker would have been paid a commission had the transaction closed; or
 - (3) Buyer defaults under this Agreement resulting in Broker not being paid a commission to which Broker would otherwise have been entitled.

6. **Separate Commission on Lease.** Notwithstanding the above, if Buyer leases property or enters into a lease/purchase contract during this Agreement, Buyer shall also pay Broker a separate leasing commission (except where the commission is paid by the Landlord) in the amount as indicated in section "A". Notwithstanding any provision to the contrary contained herein, the payment of a leasing commission (including in lease purchase transactions) shall not relieve either Seller or Buyer from paying any sales commission they may owe in a purchase and sale transaction.

7. **Protected Period.** In the event that during the Protected Period, as that term is defined below, following termination or expiration of this Brokerage Agreement, Buyer purchases, options or contracts to purchase or exchange, or contracts to purchase ownership interest in a legal entity which owns, leases or lease purchases any property which during the term of this Agreement was submitted to, identified or shown to Buyer by Broker or for which Broker provided information about to Buyer, then notwithstanding any provision to the contrary contained herein, Buyer shall pay Broker at closing or the commencement of any lease, if applicable, the commission or commissions set forth above. The term "Protected Period" shall refer to the period following the earlier of either: (a) the expiration of this Agreement; or (b) the date that the Agreement is terminated upon the mutual, written consent of the Broker and Buyer. In addition, if this Agreement is terminated by Buyer without the express, written consent of Broker, the Protected Period shall be the time period referenced above plus the number of days remaining on the term of the Agreement at the time it was terminated early without the express written consent of Broker. In such event, the Protected Period shall commence from the date this Agreement was terminated early without the express, written consent of Broker. For the purposes of this paragraph, the term "Buyer" shall include Buyer, all members of the Buyer's immediate family, any legal entity in which Buyer or any member of Buyer's immediate family owns or controls, directly or indirectly, more than ten percent (10%) of the shares or interests therein, and any third party who is acting under the direction or control of any of the above parties. Rights and obligations set forth herein shall survive the termination or expiration of this Agreement.

C. OTHER TERMS AND CONDITIONS

1. **Broker's Duties to Buyer.** Broker's sole duties to Buyer shall be to:

- a. make all disclosures required by law;
- b. attempt to locate property suitable to Buyer for purchase;
- c. comply with all applicable laws in performing its duties hereunder including the Brokerage Relationships in Real Estate Transactions Act, O.C.G.A. § 10-6A-1 et. seq; and
- d. assist, to the extent requested by Buyer, in negotiating the terms of and filling out a pre-printed real estate purchase and sale agreement.

2. **Buyer's Duties.** Buyer agrees to:

- a. be reasonably available to see property with Broker or property for which Broker has arranged Buyer to see;
- b. timely respond to communications from Broker;
- c. provide Broker with accurate and complete information;
- d. inspect and become familiar with any potentially adverse conditions and conditions of special concern to Buyer relating to the physical condition of any property in which Buyer becomes interested, any improvements located thereon and the neighborhood surrounding such property;
- e. become familiar with the terms of any purchase agreement and other documents which Buyer may sign and comply with the duties and deadlines contained therein;
- f. work exclusively with Broker (and not with any other real estate broker or licensee) in identifying, previewing and seeing property for purchase by Buyer (since if Buyer identifies, previews or sees property with another broker or fails to disclose to the listing broker that Buyer is working with Broker) a commission will likely not be paid to Broker by the listing broker and Buyer shall be responsible for the same;
- g. disclose to Broker at the commencement of this Agreement whether Buyer previously worked with any other real estate broker and the addresses of the properties, if any, Buyer made an offer to purchase or for which Buyer may owe a commission to another broker if Buyer now purchases; and
- h. not contact or see a property listed For Sale By Owner ("FSBO") without first giving Broker a reasonable opportunity to contact the owner and attempt to enter into an agreement with the owner to pay Broker a commission should Buyer purchase the owner's property.

3. **Fair Housing Disclosure.** Buyer acknowledges that Broker is committed to providing equal housing opportunities to all persons. While Broker may show Buyer properties of a type or in any specific geographical area requested by Buyer, Broker may not steer buyers to or away from particular areas based upon race, color, religion, national origin, sex, familial status, disability, sexual orientation or gender identity.

4. Limits on Broker's Authority and Responsibility. Buyer acknowledges and agrees that Broker:

- a. may show property in which Buyer is interested to other prospective buyers;
- b. shall have no duty to inspect the Property or advise Buyer or Seller on any matter relating to the Property which could have been revealed through a survey, appraisal, title search, Official Georgia Wood Infestation Report, utility bill review, septic system inspection, well water test, tests for radon, asbestos, mold, and lead-based paint; inspection of the Property by a licensed home inspector, construction expert, structural engineer, or environmental engineer; review of this Agreement and transaction by an attorney, financial planner, mortgage consultant, or tax consultant; and consulting appropriate governmental officials to determine, among other things and without limitation, the zoning of the Property, whether any condemnation action is pending or has been filed or other nearby governmental improvements are planned. Buyer acknowledges that Broker does not perform or have expertise in any of the above tests, inspections, and reviews or in any of the matters handled by the professionals referenced above. Buyer should seek independent expert advice regarding any matter of concern to Buyer relative to the Property and this Agreement. Buyer acknowledges that Broker shall not be responsible to monitor or supervise or inspect any portion of any construction or repairs to Property and that such tasks fall outside the scope of real estate brokerages services;
- c. shall owe no duties to Buyer nor have any authority on behalf of Buyer other than what is set forth in this Agreement;
- d. shall not be responsible for ensuring that Buyer complies with the duties and deadlines contained in any purchase agreement entered into by Buyer and that Buyer shall be solely responsible for the same; and
- e. shall be held harmless by Buyer from any and all claims, causes of action, or damages arising out of or relating to:
 - (1) inaccurate and/or incomplete information provided by Buyer to Broker;
 - (2) earnest money handled by anyone other than Broker; or
 - (3) any injury to persons and/or loss of or damage to property.
- f. shall have no authority to bind Buyer to any contract or agreement.

5. LIMIT ON BROKER'S LIABILITY. BUYER ACKNOWLEDGES THAT BROKER:

- a. **SHALL, UNDER NO CIRCUMSTANCES, HAVE ANY LIABILITY GREATER THAN THE AMOUNT OF THE REAL ESTATE COMMISSION PAID HEREUNDER TO BROKER (EXCLUDING ANY COMMISSION AMOUNT PAID TO A COOPERATING REAL ESTATE BROKER, IF ANY) OR, IF NO REAL ESTATE COMMISSION IS PAID TO BROKER, THAN A SUM NOT TO EXCEED \$100; AND**
- b. **NOTWITHSTANDING THE ABOVE, SHALL HAVE NO LIABILITY IN EXCESS OF \$100 FOR ANY LOSS OF FUNDS AS THE RESULT OF WIRE OR CYBER FRAUD.**

6. Disclosures.

- a. Broker agrees to keep confidential all information which Buyer asks to be kept confidential by express request or instruction unless the Buyer permits such disclosure by subsequent word or conduct or such disclosure is required by law. Buyer acknowledges, however, that Seller and Seller's broker may possibly not treat any offer made by Buyer (including its existence, terms and conditions) as confidential unless those parties have entered into a Confidentiality Agreement with Buyer.
- b. Broker may not knowingly give false information.
- c. In the event of a conflict between Broker's duty not to give false information and the duty to keep the confidences of Buyer, the duty not to give false information shall prevail.
- d. Unless specified below, Broker has no other known agency relationships with other parties that would conflict with any interests of Buyer (except that Broker may represent other buyers, sellers, tenants and landlords in buying, selling or leasing property.)

7. Disclosure of Potentially Fraudulent Activities.

- a. To help prevent fraud in real estate transactions, Buyer does hereby give Broker permission to report any suspicious, unusual and/or potentially illegal or fraudulent activity (including but not limited to mortgage fraud) to:
 - (1) Governmental officials, agencies and/or authorities and/or
 - (2) Any mortgage lender, mortgage insurer, mortgage investor and/or title insurance company (and/or their agents and representatives) could potentially be harmed if the activity was in fact fraudulent or illegal.
- b. Buyer acknowledges that Broker does not have special expertise with respect to detecting fraud in real estate transactions. Therefore, Buyer acknowledges that:
 - (1) Activities which are fraudulent or illegal may be undetected by Broker; and
 - (2) Activities which are lawful and/or routine may be reported by Broker as being suspicious, unusual or potentially illegal or fraudulent.

8. **Arbitration.** All claims arising out of or relating to this Agreement and the alleged acts or omissions of any or all the parties hereunder shall be resolved by arbitration in accordance with the Federal Arbitration Act 9 U.S.C. § 1 et. seq. and the rules and procedures of the arbitration company selected to administer the arbitration. Upon making or receiving a demand for arbitration, the parties shall work together in good faith to select a mutually acceptable arbitration company with offices in Georgia to administer and conduct the arbitration. If the parties cannot mutually agree on an arbitration company, the company shall be selected as follows. Each party shall simultaneously exchange with the other party a list of three arbitration companies with offices in Georgia acceptable to that party to administer and conduct the arbitration. If there is only one (1) arbitration company that is common to both lists, that company shall administer and conduct the arbitration. If there is more than one arbitration company that is common to both lists, the parties shall either mutually agree on which arbitration company shall be selected or flip a coin to select the arbitration company. If there is not initially a common arbitration company on the lists, the parties shall repeat the process by expanding their lists by two each time until there is a common name on the lists selected by the parties. The decision of the arbitrator shall be final and the arbitrator shall have authority to award attorneys' fees and allocate the costs of arbitration as part of any final award. All claims shall be brought by a party in his or her individual capacity and not as a plaintiff or class member in any purported class or representative proceeding. The arbitrator may not consolidate more than one person's claims, and may not otherwise preside over any form of a representative or class proceeding. Notwithstanding anything to the contrary contained herein, this agreement to arbitrate shall not apply to: (1) any claim regarding the handling and disbursement of earnest money; and (2) any claim of Broker regarding the entitlement to or the non-payment of a real estate commission hereunder.
9. **Referrals.** Should Buyer seek to purchase real property in an area with which Broker is unfamiliar or for the sale of Buyer's property, Buyer hereby authorizes Broker to refer Buyer to another broker or licensee for brokerage or relocation services. Buyer acknowledges and agrees that Broker may receive a valuable consideration for the referral.
10. **No Imputed Knowledge.** Buyer acknowledges and agrees that with regard to any property in which Buyer develops an interest, there shall be no knowledge imputed between Broker and Broker's licensees or between the different licensees of Broker. Broker and each of Broker's licensees shall be deemed to have only actual knowledge of such properties.
11. **Governing Law.** This Agreement may be signed in multiple counterparts and shall be governed by and interpreted pursuant to the laws of the State of Georgia.
12. **Statute of Limitations.** All claims of any nature whatsoever against Broker and/or their affiliated licensees, whether asserted in litigation or arbitration and sounding in breach of contract and/or tort, must be brought within two (2) years from the date any claim or cause of action arises. Such actions shall thereafter be time-barred.
13. **Survival.** The commission rights of Broker and the commission obligations of Buyer set forth herein shall survive termination or expiration of this Agreement.
14. **Entire Agreement.** This Agreement constitutes the sole and entire agreement between the parties. No representation, promise or inducement not included in this Agreement shall be binding upon any party hereto. This Agreement and the terms and conditions herein may not be amended, modified or waived except by the written agreement of Buyer. The failure of the parties to adhere strictly to the terms and conditions of this Agreement shall not constitute a waiver of the right of the parties later to insist on such strict adherence.
15. **GAR Forms.** The Georgia Association of REALTORS®, Inc. ("GAR") makes certain standard real estate forms available to its members. These GAR forms are frequently provided to the parties in real estate transactions by the REALTORS® with whom they are working. No party is required to use any GAR form. Since these forms are generic and written with the interests of multiple parties in mind, they may need to be modified to meet the specific needs of the parties using them. If any party has any questions about his or her rights and obligations under any GAR form he or she should consult an attorney. The parties hereto agree that the GAR forms may only be used in accordance with the licensing agreement of GAR. While GAR forms may be modified by the parties, no GAR form may be reproduced with sections removed, altered or modified unless the changes are visible on the form itself or in a stipulation, addendum, exhibit or amendment thereto.
16. **Notices.**
- Communications Regarding Real Estate Transactions: Client acknowledges that many communications and notices in real estate transactions are of a time sensitive nature and that the failure to be available to receive such notices and communications can have adverse legal, business and financial consequences. During the term of this Agreement, Client agrees to remain reasonably available to receive communications from Broker.
 - Notices between Broker and Client Regarding this Agreement: Client and Broker agree that communications and notices between them regarding the terms of this Agreement shall be in writing, signed by the party giving the notice, and may be delivered in person or to any address, e-mail address and/or facsimile number to the person to whom the communication or notice is being given specifically set forth in this Agreement. It is the intent of the parties that those means of transmitting notices for which a party has not provided an address or number shall not be used for receiving notices and communications. For example, if a party has not provided an e-mail address in this Agreement, it shall mean that the party is not accepting notices or communications sent by this means.
17. **Time of Essence.** Time is of the essence of this Agreement.

18. WARNING TO BUYERS AND SELLERS: BEWARE OF CYBER-FRAUD. Fraudulent e-mails attempting to get the buyer and/or seller to wire money to criminal computer hackers are increasingly common in real estate transactions. Specifically, criminals are impersonating the online identity of the actual mortgage lender, closing attorney, real estate broker or other person or companies involved in the real estate transaction. In that role, the criminals send fake wiring instructions attempting to trick buyers and/or sellers into wiring them money related to the real estate transaction, including, for example, the buyer's earnest money, the cash needed for the buyer to close, and/or the seller's proceeds from the closing. These instructions, if followed, will result in the money being wired to the criminals. In many cases, the fraudulent email is believable because it is sent from what appears to be the email address/domain of the legitimate company or person responsible for sending the buyer or seller wiring instructions. The buyer and/or seller should verify wiring instructions sent by email by independently looking up and calling the telephone number of the company or person purporting to have sent them. Buyers and sellers should never call the telephone number provided with wiring instructions sent by email since they may end up receiving a fake verification from the criminals. Buyer and sellers should be on special alert for: 1) emails directing the buyer and/or seller to wire money to a bank or bank account in a state other than Georgia; and 2) emails from a person or company involved in the real estate transaction that are slightly different (often by one letter, number, or character) from the actual email address of the person or company.

19. Brochures. Brochures referenced herein are prepared courtesy of the Georgia Association of REALTORS®. The recommendations are general in nature and are not intended to be exhaustive. Some of the recommendations may not apply to specific properties. Buyers are encouraged to consult with experts and professionals of their own choosing to ensure that they are protected.

The following Brochures and/or Exhibits have been received by the Buyer(s):

- ☐ GAR CB01 – The ABC's of Agency
- ☐ GAR CB04 – Lead Based Paint Pamphlet
- ☐ GAR CB07 – Mold Pamphlet
- ☐ GAR CB08 – EPA Home Buyer's and Seller's Guide to Radon Pamphlet
- ☐ GAR CB13 – Protect Yourself When Buying a Home
- ☐ GAR CB16 – What to Consider When Buying a Home in a Community with a Homeowners Association (HOA)
- ☐ GAR CB19 – What to Consider When Buying a Home in a Condominium
- ☐ GAR CB22 – Protect Yourself When Buying a Home to be Constructed
- ☐ GAR CB25 – What Buyers Should Know About Flood Hazard Areas and Flood Insurance
- ☐ GAR CB28 – What Buyers and Sellers Should Know About Short Sales and Distressed Properties
- ☐ GAR F149 – Retainer Fee Exhibit

SPECIAL STIPULATIONS: The following Special Stipulations, if conflicting with any exhibit, addendum, or preceding paragraph, shall control:

☐ **Additional Special Stipulations are attached.**

BY SIGNING THIS AGREEMENT, BUYER ACKNOWLEDGES THAT: (1) BUYER HAS READ ALL PROVISIONS AND DISCLOSURES MADE HEREIN; (2) BUYER UNDERSTANDS ALL SUCH PROVISIONS AND DISCLOSURES AND HAS ENTERED INTO THIS AGREEMENT VOLUNTARILY; AND (3) BUYER IS NOT SUBJECT TO A CURRENT BUYER BROKERAGE AGREEMENT WITH ANY OTHER BROKER.

BUYER'S ACCEPTANCE AND CONTACT INFORMATION

1 Buyer's Signature

Print or Type Name

Date

Buyer's Address for Receiving Notice

Buyer's Phone Number: ☐ Cell ☐ Home ☐ Work

Buyer's E-mail Address

2 Buyer's Signature

Print or Type Name

Date

Buyer's Address for Receiving Notice

Buyer's Phone Number: ☐ Cell ☐ Home ☐ Work

Buyer's E-mail Address

☐ Additional Signature Page (F146) is attached.

BROKER / BROKER'S AFFILIATED LICENSEE CONTACT INFORMATION

Selling Broker

MLS Office Code

Brokerage Firm License Number

Broker/Affiliated Licensee Signature

Broker's Phone Number

Fax Number

Print or Type Name

Date

Broker's Address

Licensee's Phone Number

Fax Number

Licensee's E-mail Address

GA Real Estate License Number

REALTOR® Membership

RECEIPT OF A COPY OF THIS AGREEMENT IS HEREBY ACKNOWLEDGED BY BUYER.

The above Agreement is hereby accepted, _____ o'clock _____ .m., on the date of _____.

Georgia Association REALTORS® - Partners in Education

Student Course / Instructor Evaluation

Course Name _____

Instructor _____

Date _____

FOR IN-CLASSROOM ONLY. Livestream classes will be sent electronic evaluation link.

PLEASE FILL IN THE BUBBLES COMPLETELY SO ANSWERS ARE SCANABLE.

Please do NOT use check marks, x's or any other type of mark.

The instructor encouraged my participation through questions and answers or exercises.

- ☐ Strongly Disagree
- ☐ Disagree
- ☐ Neutral
- ☐ Agree
- ☐ Strongly Agree

The instructor presented ideas clearly and made the subject matter interesting.

- ☐ Strongly Disagree
- ☐ Disagree
- ☐ Neutral
- ☐ Agree
- ☐ Strongly Agree

The use of the outline / handouts for study and / or reference was helpful.

- ☐ Strongly Disagree
- ☐ Disagree
- ☐ Neutral
- ☐ Agree
- ☐ Strongly Agree

The topic is relevant / helpful to my real estate activities.

- ☐ Strongly Disagree
- ☐ Disagree
- ☐ Neutral
- ☐ Agree
- ☐ Strongly Agree

I would want this instructor back.

- ☐ Strongly Disagree
- ☐ Disagree
- ☐ Neutral
- ☐ Agree
- ☐ Strongly Agree

Additional Comments:

Thank you for your input. (Revised 5-2017)