



Boulder Real Estate Services
2541 Spruce St
Boulder, CO 80302
Phone: (303)442-3335 Fax: 1 (866) 891-4769

The printed portions of this form, except differentiated additions, have been approved by the Colorado Real Estate Commission. (BC 17-5-04)

THIS IS A BINDING CONTRACT. THIS FORM HAS IMPORTANT LEGAL CONSEQUENCES AND THE PARTIES SHOULD CONSULT LEGAL AND TAX OR OTHER COUNSEL BEFORE SIGNING.

Compensation charged by real estate brokerage firms is not set by law. Such charges are established by each real estate brokerage firm.

DIFFERENT BROKERAGE RELATIONSHIPS ARE AVAILABLE WHICH INCLUDE BUYER AGENCY, SELLER AGENCY OR TRANSACTION-BROKERAGE.

**EXCLUSIVE RIGHT-TO-BUY CONTRACT
 (RESIDENTIAL)
 (BUYER AGENCY)**

Date: _____

1. AGREEMENT. Buyer and Brokerage Firm enter into this exclusive, irrevocable contract as of the date set forth above.

2. AGENCY RELATIONSHIP.

a. Multiple-Person Firm. If this box is checked, the individual designated by Brokerage Firm to serve as the limited agent of Buyer and to perform the services for Buyer required by this contract is called Broker. If more than one individual is so designated, then references in this contract to Broker shall include all persons so designated, including substitute or additional brokers. The agency relationship exists only with Broker and does not extend to the employing broker, Brokerage Firm or to any other brokers employed or engaged by Brokerage Firm who are not so designated.

b. One-Person Firm. If this box is checked, Broker is a real estate brokerage firm with only one licensed natural person. References in this contract to Broker or Brokerage Firm mean both the licensed natural person and brokerage firm, who serve as the limited agent of Buyer and perform the services for Buyer required by this contract.

3. DEFINED TERMS.

a. Buyer: _____,

and any other person or entity on whose behalf the named party acts, directly or indirectly, to Purchase the Property.

b. Brokerage Firm: Boulder Real Estate Services

c. Broker: _____

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d. Property. Property means real estate that substantially meets the following requirements or similar real estate acceptable to Buyer:

e. Purchase. Purchase means the acquisition of any interest in the Property or the creation of the right to acquire any interest in the Property (including a contract or lease). It also includes an agreement to acquire any ownership interest in an entity that owns the Property.

f. Term. The Term of this contract shall begin on _____, and shall continue through the earlier of (1) completion of the Purchase of the Property or (2) _____. Broker shall continue to assist in the completion of any transaction for which compensation is payable to Brokerage Firm under § 6 of this contract.

g. Applicability of Terms. A check or similar mark in a box means that such provision is applicable. The abbreviation “N/A” means not applicable. The abbreviation “MEC” (mutual execution of this contract) means the latest date upon which both parties have signed this contract.

4. BROKERAGE SERVICES AND DUTIES. Brokerage Firm, acting through Broker, shall provide brokerage services to Buyer. Broker shall exercise reasonable skill and care for Buyer, and make reasonable efforts to locate the Property.

a. Broker, as Buyer’s agent, shall promote the interests of Buyer with the utmost good faith, loyalty, and fidelity, including but not limited to:

- (1) Seeking a price and terms that are acceptable to Buyer, except that Broker shall not be obligated to seek other properties while Buyer is a party to a contract to Purchase the Property;
- (2) Presenting all offers to and from Buyer in a timely manner, regardless of whether Buyer is already a party to a contract to Purchase the Property;
- (3) Disclosing to Buyer adverse material facts actually known by Broker;
- (4) Counseling Buyer as to any material benefits or risks of the transaction that are actually known by Broker;
- (5) Advising Buyer to obtain expert advice as to material matters about which Broker knows but the specifics of which are beyond the expertise of Broker; and
- (6) Accounting in a timely manner for all money and property received.

b. Broker shall not disclose the following information without the informed consent of Buyer:

- (1) That Buyer is willing to pay more than the purchase price offered for the Property;
- (2) What Buyer’s motivating factors are;
- (3) That Buyer will agree to financing terms other than those offered;
- (4) Any material information about Buyer unless disclosure is required by law or failure to disclose such information would constitute fraud or dishonest dealing; or
- (5) Any facts or suspicions regarding circumstances that could psychologically impact or stigmatize the Property.

c. Buyer consents to Broker’s disclosure of Buyer’s confidential information to the supervising broker or designee for the purpose of proper supervision, provided such supervising broker

95 or designee shall not further disclose such information without consent of Buyer, or use such
96 information to the detriment of Buyer.

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98 **d.** Buyer shall not be vicariously liable for the acts of Broker that are not approved, directed
99 or ratified by Buyer.

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101 **e.** Broker has no duty to conduct an independent inspection of the Property for the benefit
102 of Buyer and has no duty to independently verify the accuracy or completeness of statements made by a
103 seller or independent inspectors. Broker has no duty to conduct an independent investigation of Buyer's
104 financial condition or to verify the accuracy or completeness of any statement made by Buyer.

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106 **f.** Broker shall disclose to any prospective seller all adverse material facts actually known
107 by Broker, including but not limited to adverse material facts concerning Buyer's financial ability to
108 perform the terms of the transaction and whether Buyer intends to occupy the Property as a principal
109 residence.

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111 **g. In-Company Transaction - Different Brokers.** When the seller and Buyer in a
112 transaction are working with different brokers, those brokers continue to conduct themselves consistent
113 with the brokerage relationships they have established. Buyer acknowledges that Brokerage Firm is
114 allowed to offer and pay compensation to brokers within Brokerage Firm working with a seller.

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116 **h. In-Company Transaction - One Broker.** If the seller and Buyer are both working with
117 the same broker the following applies:

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119 **Check One Box Only**

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121 **(1) Buyer's Agent.** If this box is checked, Broker shall represent Buyer as Buyer's
122 Agent and shall treat the seller as a customer. A customer is a party to a transaction with whom Broker
123 has no brokerage relationship. Broker shall disclose to such customer Broker's relationship with Buyer.

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125 **(2) Buyer's Agent Unless Brokerage Relationship with Both.** If this box is
126 checked, Broker shall represent Buyer as Buyer's Agent and shall treat the seller as a customer, unless
127 Broker currently has or enters into an agency or Transaction-Brokerage relationship with the seller, in
128 which case Broker shall act as a Transaction-Broker.

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130 **(3) Transaction-Broker.** If this box is checked, Broker shall (if also permitted by
131 seller) act as a Transaction-Broker. When acting as a Transaction-Broker, a broker assists the parties
132 throughout a contemplated real estate transaction with communication, interposition, advisement,
133 negotiation, contract terms and the closing of a transaction without being an agent or advocate for the
134 interests of either party to the transaction. Broker, when acting as a Transaction-Broker, may disclose
135 any information to one party that Broker gains from the other party if the information is relevant to the
136 transaction or party, except Broker shall not disclose the following information without prior consent:

- 137
138 (a) That Buyer is willing to pay more than the purchase price offered for the
139 Property;
140 (b) That seller is willing to accept less than the asking price for the Property;
141 (c) What the motivating factors are for any party buying or selling the Property;
142 (d) That seller or Buyer will agree to financing terms other than those offered;
143 (e) Any material information about the other party unless:
144 (1) the disclosure is required by law,

- 145 (2) the disclosure pertains to adverse material facts about Buyer's financial
146 ability to perform the terms of the transaction,
147 (3) the disclosure pertains to Buyer's intent to occupy the Property as a
148 principal residence, or
149 (4) failure to disclose such information would constitute fraud or dishonest
150 dealing.

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152 **5. BUYER'S OBLIGATION TO BROKER.** Buyer agrees to conduct all negotiations for the
153 Property only through Broker, and to refer to Broker all communications received in any form from real
154 estate brokers, prospective sellers, or any other source during the Term of this contract. Buyer represents
155 that Buyer **Is** **Is Not** currently a party to any agreement with any other broker to represent or
156 assist Buyer in the location or purchase of property.

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158 **6. COMPENSATION TO BROKERAGE FIRM.** In consideration of the services to be
159 performed by Broker, Buyer shall pay Brokerage Firm as set forth in this section, with no discount or
160 allowance for any efforts made by Buyer or any other person.

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162 **a. Success Fee.** Brokerage Firm shall be paid as follows:

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164 (1) A fee equal to _____% of the purchase price, but not less than \$_____,
165 except as provided in § 6a(2).
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167 (2) Other.

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172 (3) Brokerage Firm shall be entitled to receive additional compensation, bonuses, and
173 incentives, paid by seller or listing brokerage firm.

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175 (4) The Success Fee is earned upon the Purchase of the Property and is payable upon
176 closing of the transaction. If any transaction fails to close as a result of the seller's default, with no fault
177 on the part of Buyer, the Success Fee shall be waived. If any transaction fails to close as a result of
178 Buyer's default, in whole or in part, the Success Fee shall not be waived; such fee shall be payable upon
179 Buyer's default, but in any event not later than the date that the closing of the transaction was to have
180 occurred. This fee shall apply to Property contracted for during the Term of this contract or any
181 extensions and shall also apply to Property contracted for within _____ calendar days after this
182 contract expires or is terminated (Holdover Period) if the Property is one on which Broker negotiated
183 and if Broker submitted its address or other description in writing to Buyer during the Term. Provided,
184 however, if a commission is earned by another real estate brokerage firm acting pursuant to an exclusive
185 agreement with Buyer entered into during the Holdover Period, Buyer shall owe no commission to
186 Broker under this subsection.

187 Broker is authorized and instructed to request payment of Brokerage Firm's Fee in any of
188 the following indicated methods:

- 189 **By listing brokerage firm**
190 **By seller from the transaction**
191 **Other:**

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194 **UNLESS BROKERAGE FIRM IS PAID AS SET FORTH ABOVE, BUYER IS**
195 **OBLIGATED TO PAY BROKERAGE FIRM'S FEE.**

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b. Hourly Fee. Buyer shall pay Brokerage Firm at the rate of \$ _____ per hour for time spent by Broker pursuant to this contract, to be paid to Brokerage Firm when billed to Buyer.

c. Retainer Fee. Buyer shall pay Brokerage Firm a nonrefundable retainer fee of \$ _____ due and payable upon signing of this contract. This amount **Shall** **Shall Not** be credited against fees payable to Brokerage Firm under this section.

d. Other Compensation:

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7. LIMITATION ON THIRD-PARTY COMPENSATION. Neither Broker nor Brokerage Firm, except as set forth in § 6, shall accept compensation from any other person or entity in connection with the Property without the written consent of Buyer. Additionally, neither Broker nor Brokerage Firm shall be permitted to assess and receive mark-ups or other compensation for services performed by any third party or affiliated business entity unless Buyer signs a separate written consent for such services.

8. COSTS OF SERVICES OR PRODUCTS OBTAINED FROM OUTSIDE SOURCES. Broker will not obtain or order products or services from outside sources unless Buyer has agreed to pay for them promptly when due (examples: surveys, radon tests, soil tests, title reports, engineering studies, property inspections). Neither Broker nor Brokerage Firm shall be obligated to advance funds for Buyer. Buyer shall reimburse Brokerage Firm for payments made by Brokerage Firm for such products or services authorized by Buyer.

9. SHOWING PROPERTIES. Buyer acknowledges that Broker has explained the possible methods used by listing brokers and sellers to show properties, and the limitations (if any) on Buyer and Broker being able to access properties due to such methods. Broker's limitations on accessing properties are as follows: _____
Broker, through Brokerage Firm, has access to the following multiple listing services and property information services:

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10. DISCLOSURE OF BUYER'S IDENTITY. Broker **Does** **Does Not** have Buyer's permission to disclose Buyer's identity to third parties without prior written consent of Buyer.

11. OTHER BUYERS. Buyer acknowledges that under Colorado law, Broker may show properties in which Buyer is interested to other prospective buyers without breaching any duty or obligation to Buyer.

12. NONDISCRIMINATION. The parties agree not to discriminate unlawfully against any prospective seller because of the race, creed, color, sex, marital status, national origin, familial status, physical or mental handicap, religion or ancestry of such person.

13. RECOMMENDATION OF LEGAL AND TAX COUNSEL. By signing this document, Buyer acknowledges that Buyer has been advised that this document has important legal consequences and has recommended consultation with legal, tax or other counsel before signing this contract.

14. MEDIATION. If a dispute arises relating to this contract, prior to or after closing, and is not resolved, the parties shall first proceed in good faith to submit the matter to mediation. Mediation is a

246 process in which the parties meet with an impartial person who helps to resolve the dispute informally
247 and confidentially. Mediators cannot impose binding decisions. The parties to the dispute must agree
248 before any settlement is binding. The parties will jointly appoint an acceptable mediator and will share
249 equally in the cost of such mediation. The mediation, unless otherwise agreed, shall terminate in the
250 event the entire dispute is not resolved within 30 calendar days of the date written notice requesting
251 mediation is sent by one party to the other at the party's last known address.
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253 **15. ATTORNEY FEES.** In the event of arbitration or litigation concerning this contract,
254 the arbitrator or court shall award to the prevailing party all reasonable costs and expenses,
255 including attorney and legal fees.
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257 **16. ADDITIONAL PROVISIONS.** (The following additional provisions have not been approved
258 by the Colorado Real Estate Commission.
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262 **17. ATTACHMENTS.** The following are a part of this contract:
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266 **18. NOTICE, DELIVERY AND CHOICE OF LAW.**

267 **a. Physical Delivery.** Except for the notice requesting mediation described in § 14, and
268 except as provided in § 18b below, any notice to the other party to this contract must be in writing and is
269 effective upon receipt.
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271 **b. Electronic Delivery.** As an alternative to physical delivery, any signed document and
272 written notice may be delivered in electronic form by the following indicated methods only:
273 **Facsimile** **E-mail** **None.** Documents with original signatures shall be provided upon request
274 of any party.
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276 **c. Choice of Law.** This contract and all disputes arising hereunder shall be governed
277 by and construed in accordance with the laws of the State of Colorado, that would be applicable to
278 Colorado residents who sign a contract in this state for property located in Colorado.
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280 **19. MODIFICATION OF THIS CONTRACT.** No subsequent modification of any of the terms of
281 this contract shall be valid, binding upon the parties, or enforceable unless in writing and signed by the
282 parties.
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284 **20. COUNTERPARTS.** If more than one person is named as a Buyer herein, this contract may be
285 executed by each Buyer, separately, and when so executed, such copies taken together with one
286 executed by Broker on behalf of Brokerage Firm shall be deemed to be a full and complete contract
287 between the parties.
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289 **21. ENTIRE AGREEMENT.** This agreement constitutes the entire contract between the parties
290 and any prior agreements, whether oral or written, have been merged and integrated into this contract.
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292 **22. COPY OF CONTRACT.** Buyer acknowledges receipt of a copy of this contract signed by
293 Broker, including all attachments.
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295 **23. MEGAN'S LAW.** If the presence of a registered sex offender is a matter of concern to Buyer,
296 Buyer understands that Buyer must contact local law enforcement officials regarding obtaining such
297 information.

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299 Brokerage Firm authorizes Broker to execute this contract on behalf of Brokerage Firm.

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Date: _____
Buyer

Date: _____
Buyer

Address: _____

308 Phone No.: _____ Fax No.: _____

309 Email Address: _____

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Date: _____
Broker

311 Broker's Name: _____

312 Address: 2541 Spruce St
Boulder, CO 80302

313 Phone No.: (303) 442-3335 Fax No.: (866) 891-4769

314 Email Address: info@boulder-realestate.com

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317 Brokerage Firm's Name: Boulder Real Estate Services

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