



EXCLUSIVE DESIGNATED BUYER / TENANT AGENCY AGREEMENT

This Exclusive Designated Buyer Agency Agreement ("**Agreement**") is made and entered into by and between _____ and _____ as Buyer(s) / Tenant(s) (collectively the "**Buyer**"), and Johnstone and Johnstone ("**Broker**")

Buyer wishes to purchase, lease or otherwise acquire certain real property and Buyer wishes to engage Broker in the purchase, lease or other acquisition of certain real property. Broker is willing to help identify properties, negotiate and otherwise assist in the purchase, lease or other acquisition of real property.

Broker and Buyer agree as follows:

1. **DESIGNATED AGENCY:** Broker's licensee(s), Gino Tozzi will serve as Buyer's Designated Agent for the term of this Agreement. Buyer shall have an agency relationship with the Designated Agent(s) named above and the following Supervisory Broker(s): Suzanne O'Brien only. If a seller is represented by a Designated Agent within the Real Estate One Family of Companies, other than the Designated Agent(s) named above, each Designated Agent will continue to represent his or her respective clients. All Supervisory Broker(s) within the affected offices, as well as Dan Elsea, President, Brokerage Services shall automatically be deemed disclosed consensual dual agents.

As requested by Buyer, the Designated Agent will:

- A. Meet with Buyer to discuss property objectives, requirements, possession time schedule, financial capability, acquisition strategies and other purchasing factors.
- B. Assist Buyer in locating and viewing property available for purchase or lease by Buyer such property as is listed in any multiple listing service(s) of which Designated Agent is a member.
- C. Assist the Buyer in determining financing alternatives.
- D. Assist the Buyer in obtaining available information, of a material nature, relative to desired properties.
- E. Assist the Buyer in the process of identifying, negotiating, contracting, leasing or otherwise acquiring property and in monitoring closing and processing time deadlines.

2. **TERM OF AGENCY:** Buyer grants the Broker the exclusive right and authority to negotiate for the purchase, lease or other acquisition of real property identified during the term of this Agreement, which shall begin on _____ and shall continue until midnight on _____.

3. **INDEPENDENT CONTRACTOR:** It is understood and agreed by the parties that the Broker and Designated Agent are Independent Contractors and Buyer shall have a limited right to control them in the conduct of their activities in the performance of this Agreement.

4. **BUYER'S ROLE:** Buyer acknowledges and agrees that the purchase of real property encompasses many professional disciplines, and, while the Designated Agent possesses considerable general knowledge, Designated Agent is not expert in matters of law, tax, financing, surveying, appraisal, structural conditions, hazardous materials, engineering, and other pertinent topics. Throughout your real property transaction you may receive more than one disclosure form. Each time a disclosure is presented to you, read its contents and consider the relationship between you and the agent in your specific transaction. Buyer acknowledges that he has been advised by Designated Agent to seek professional expert assistance and advice in these and other areas of professional expertise at Buyer's expense and relieves Broker and Designated Agent from any liability in such areas. In the event that Designated Agent provides Buyer with names or sources for such advice and assistance, Buyer acknowledges and agrees that Designated Agent does not warrant or guarantee the services and/or products.

Buyer's Initials _____/_____

Buyer agrees to:

A. Work exclusively with Designated Agent to:

- (1) view or preview any property only with Designated Agent and not with another real estate broker, salesperson or owner.
- (2) identify, negotiate and/or assist Buyer.
- (3) refer all inquiries to Designated Agent received in any form from any other real estate broker, salespersons, prospective seller, or any other source during the time this Agreement is in effect.
- (4) hold the Broker and any of the Real Estate One Family of Companies, as well as the Designated Agent harmless from liability resulting from incomplete/inaccurate information provided to Designated Agent by Buyer, including indemnification from all claims, damages, losses, expenses or liability arising from the handling of earnest money by anyone other than the Designated Agent.

B. Assist Designated Agent in the process of identifying, negotiating and contracting to purchase, lease or otherwise acquire property by:

- (1) providing Designated Agent with reliable information (including financial information and written authorization to obtain verification of funds) that Designated Agent deems necessary for the performance of this Agreement.
- (2) making reasonable time available to meet with Designated Agent to view properties, in order that the Designated Agent will be able to perform the covenants of this Agreement.

C. Provide the following information to Designated Agent:

- (1) general nature, location, and requirements of desired property.
- (2) price range, and other terms and conditions relating to desired property.

5. **HOME PROTECTION PLAN:** Buyer declines or agrees to purchase a Real Estate One Home Warranty Plan at the time of closing at the cost of \$_____. Buyer is aware Home Warranty Plan does not cover known preexisting conditions and does not preclude the advisability of a professional home inspection.
6. **AUTHORIZATION:** Buyer hereby authorizes Designated Agent to negotiate with the owners of property or persons working on behalf of said owners. Buyer specifically authorizes Designated Agent to negotiate for full or partial payment of Broker's real estate commission by the owner of the property.
7. **RETAINER FEE:** Buyer has paid a retainer fee of \$_____, which shall be deposited in Broker's non-interest bearing trust account. Buyer understands and acknowledges that disbursement of the retainer fee shall only occur:
 - A. as a credit to Buyer on date of the closing of a property purchased pursuant to this Agreement.
 - B. as a credit to Buyer upon date of commencement of lease of a property pursuant to this Agreement.
 - C. as a payment to Broker pursuant to paragraph 8 herein or in the event the agreement expires or is terminated prior to the purchase, lease or other acquisition of certain real property by the Buyer.
8. **BUYER'S INTEREST:** Buyer agrees that Designated Agent can share confidential information if that information is deemed necessary to further Buyer's interests. Buyer also acknowledges that the Designated Agent works for a large company with many affiliated licensees who, currently or in the future, may work with parties with adverse interests.
9. **EARLY TERMINATION:** Buyer may terminate this Agreement at any time by giving Designated Agent ten days written notice to Broker.
10. **POSSIBLE DUAL AGENCY:** Real estate licensees can legally be the agent of both the seller and the Buyer in a transaction, but only with the knowledge and consent of both the seller and the Buyer. Dual Agency is created when a Designated Agent is named Designated Agent for a Seller and a Buyer in the purchase of a property. In this event, no confidential information furnished by seller or Buyer will be disclosed without express written permission.

Buyer's Initials _____ / _____

In a Dual agency situation, the Designated Agent has the following affirmative obligations to both the seller and the Buyer:

- A. duty of reasonable care, integrity, and honesty and provide services to complete the transaction in a mutually beneficial manner.
- B. Other duties to the seller and the Buyer as stated above or in their respective agreements.

In representing both seller and Buyer, the Agent may not, without the express permission of the respective party, disclose to the other party that the seller will accept a price less than the listing price or that the Buyer will pay a price greater than the price offered.

- 11. **OTHER POTENTIAL BUYERS:** Buyer understands that other potential Buyers may consider, make offers on, or purchase through Designated Agent, the same or similar properties as Buyer is seeking to acquire. Buyer consents to Broker's and Designated Agent's representation of such other potential Buyers before, during and after the expiration of this Agreement.
- 12. **COMPENSATION TO BROKER:** Buyer shall pay Broker a commission of:
 - A. 3 % of the gross sale price of each property purchased by the Buyer or \$ _____ whichever is greater.
 - B. ~~_____ % of the total rent due to Landlord under the terms of any lease by Buyer, or \$ _____, whichever is greater.~~

Any commissions paid to Broker by seller or listing broker shall be credited against the commission due from Buyer. Buyer shall pay Broker said commission at the time Buyer closes any purchase of property or at the time of lease execution by Buyer. The party closing the purchase or lease of property by Buyer is authorized to collect for and to pay Broker the compensation described in this paragraph, and to require Buyer to bring this compensation to closing as part of the proceeds to be collected. In the event that during the 180 day period following termination of this Agreement, Buyer purchases or leases any property identified to Buyer during the term of this Agreement, Buyer shall pay Broker a commission as stated in this paragraph. If the transaction does not close because of any fault on the part of the Buyer, the commission shall NOT be waived and shall become due and payable.

- C. A Broker administrative fee in the amount of \$250 to be paid at closing.

- 13. **SUCCESSORS AND ASSIGNS:** This Agreement shall inure to the benefit of, and be binding upon, the parties hereto, their heirs, successors, administrators, executors and assigns.
- 14. **TRANSFER OR ASSIGNMENT:** This Agreement shall not be transferred or assigned without the written consent of all parties to this Agreement, and any assignee shall fulfill all of the terms and conditions of this Agreement. Buyer agrees to cooperate with Broker and Designated Agent to add a new Designated Agent.
- 15. **TERMINOLOGY AND CAPTIONS:** All pronouns, singular or plural, masculine, feminine or neuter, shall mean and include the person, entity, firm or corporation to which they relate as the context may require. Whenever the context may require, the singular shall mean and include the plural and the plural shall mean and include the singular. The captions and paragraph headings hereof are for reference and convenience only and do not enter into or become a part of the context.
- 16. **BUYER'S RESPONSIBILITY:** Buyer is responsible for protecting its own interests and should read carefully all agreements to assure that they adequately express his understanding of the transaction. Buyer should seek competent legal and financial advice as part of any transaction to protect their interests.
- 17. **ENTIRE AGREEMENT:** This Agreement constitutes the sole and entire agreement between the parties as to this subject matter and shall be construed under the laws of Michigan. No modification of this Agreement shall be binding unless signed by all parties to this Agreement. No representation, promise, or inducement not included in this Agreement shall be binding upon any party hereto. In the event that any portion of this Agreement is found to be unenforceable, said clause shall be severed from the Agreement and the remainder of the Agreement shall remain in full force and effect.

Buyer's Initials _____/_____

18. **DEPOSIT:** Please note that Board of Real Estate Brokers and Salespersons Administrative Rule 313(6). 2002 AACRS, R339.22313(6) provides that any deposit for which both Buyer and seller have made claim shall remain in Broker's trust until 1) Buyer and seller have agreed, in writing, to the disposition of the deposit; 2) a civil action has determined to whom the deposit must be paid; or 3) Broker has been allowed to interplead the deposit with the proper court. Rule 313(6) supersedes any inconsistent provision in a purchase agreement.
19. **LIMITED LIABILITY:** Under this Agreement, the liability of Broker and its licensees shall be limited to an amount equal to the retainer fee paid pursuant to paragraph 6, or \$500, whichever is higher, and said sum shall serve as full liquidated damages.
20. **DISCRIMINATION PROHIBITED:** In any real estate transaction, discrimination by any party because of religion, race, color, national origin, age, sex, sexual orientation, disability, familial status, or marital status, is prohibited by law.
21. **OTHER:**

RECEIPT AND ACCEPTANCE. RECEIPT OF A COPY OF THIS AGREEMENT IS HEREBY ACKNOWLEDGED BY BUYER. The above proposition is hereby accepted, _____ o'clock ____M. on the _____ day of _____.

Buyer

Dated: _____

By Gino Tozzi
Licensee

Dated: _____

Buyer

Dated: _____

Buyer Contact Information

Phone/Mobile: _____

Phone/Home: _____

Primary Email: _____

Additional Contact: _____