



**BURNET**

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# AGENCY RELATIONSHIPS IN REAL ESTATE TRANSACTIONS

1. Page 1

2. **MINNESOTA LAW REQUIRES** that early in any relationship, real estate brokers or salespersons discuss with  
 3. consumers what type of agency representation or relationship they desire.<sup>(1)</sup> The available options are listed below. This  
 4. is **not** a contract. **This is an agency disclosure form only. If you desire representation you must enter into a**  
 5. **written contract, according to state law** (a listing contract or a buyer/tenant representation contract). Until such time  
 6. as you choose to enter into a written contract for representation, you will be treated as a customer and will not receive  
 7. any representation from the broker or salesperson. The broker or salesperson will be acting as a Facilitator (see  
 8. paragraph V on page two (2)), unless the broker or salesperson is representing another party, as described below.

9. **ACKNOWLEDGMENT: I/We acknowledge that I/we have been presented with the below-described options.**  
 10. **I/We understand that until I/we have signed a representation contract, I/we am/are not represented by the**  
 11. **broker/salesperson. I/We understand that written consent is required for a dual agency relationship.**

12. **THIS IS A DISCLOSURE ONLY, NOT A CONTRACT FOR REPRESENTATION.**

13. \_\_\_\_\_  
 (Signature) (Date) (Signature) (Date)

14. I. **Seller's/Landlord's Broker:** A broker who lists a property, or a salesperson who is licensed to the listing broker,  
 15. represents the Seller/Landlord and acts on behalf of the Seller/Landlord. A Seller's/Landlord's broker owes to  
 16. the Seller/Landlord the fiduciary duties described on page two (2).<sup>(2)</sup> The broker must also disclose to the Buyer  
 17. material facts as defined in MN Statute 82.68, Subd. 3, of which the broker is aware that could adversely and  
 18. significantly affect the Buyer's use or enjoyment of the property. (MN Statute 82.68, Subd. 3 does not apply to  
 19. rental/lease transactions.) If a broker or salesperson working with a Buyer/Tenant as a customer is representing the  
 20. Seller/Landlord, he or she must act in the Seller's/Landlord's best interest and must tell the Seller/Landlord any  
 21. information disclosed to him or her, except confidential information acquired in a facilitator relationship (see paragraph  
 22. V on page two (2)). In that case, the Buyer/Tenant will not be represented and will not receive advice and counsel  
 23. from the broker or salesperson.

24. II. **Subagent:** A broker or salesperson who is working with a Buyer/Tenant but represents the Seller/Landlord. In this  
 25. case, the Buyer/Tenant is the broker's customer and is not represented by that broker. If a broker or salesperson  
 26. working with a Buyer/Tenant as a customer is representing the Seller/Landlord, he or she must act in the  
 27. Seller's/Landlord's best interest and must tell the Seller/Landlord any information that is disclosed to him or her.  
 28. In that case, the Buyer/Tenant will not be represented and will not receive advice and counsel from the broker or  
 29. salesperson.

30. III. **Buyer's/Tenant's Broker:** A Buyer/Tenant may enter into an agreement for the broker or salesperson to represent  
 31. and act on behalf of the Buyer/Tenant. The broker may represent the Buyer/Tenant only, and not the Seller/Landlord,  
 32. even if he or she is being paid in whole or in part by the Seller/Landlord. A Buyer's/Tenant's broker owes to the  
 33. Buyer/Tenant the fiduciary duties described on page two (2).<sup>(2)</sup> The broker must disclose to the Buyer material facts  
 34. as defined in MN Statute 82.68, Subd. 3, of which the broker is aware that could adversely and significantly affect  
 35. the Buyer's use or enjoyment of the property. (MN Statute 82.68, Subd. 3 does not apply to rental/lease transactions.)  
 36. If a broker or salesperson working with a Seller/Landlord as a customer is representing the Buyer/Tenant, he or  
 37. she must act in the Buyer's/Tenant's best interest and must tell the Buyer/Tenant any information disclosed to him  
 38. or her, except confidential information acquired in a facilitator relationship (see paragraph V on page two (2)). In  
 39. that case, the Seller/Landlord will not be represented and will not receive advice and counsel from the broker or  
 40. salesperson.

41. \_\_\_\_\_ I have had the opportunity to review the "Notice Regarding Predatory Offender Information" on  
 (initial) (initial)  
 42. page two. (2)



44. **IV. Dual Agency - Broker Representing both Seller/Landlord and Buyer/Tenant:** Dual agency occurs when one  
45. broker or salesperson represents both parties to a transaction, or when two salespersons licensed to the same  
46. broker each represent a party to the transaction. Dual agency requires the informed consent of all parties, and  
47. means that the broker and salesperson owe the same duties to the Seller/Landlord and the Buyer/Tenant. This  
48. role limits the level of representation the broker and salesperson can provide, and prohibits them from acting  
49. exclusively for either party. In a dual agency, confidential information about price, terms and motivation for pursuing  
50. a transaction will be kept confidential unless one party instructs the broker or salesperson in writing to disclose  
51. specific information about him or her. Other information will be shared. Dual agents may not advocate for one party  
52. to the detriment of the other.<sup>(3)</sup>
53. Within the limitations described above, dual agents owe to both Seller/Landlord and Buyer/Tenant the fiduciary  
54. duties described below.<sup>(2)</sup> Dual agents must disclose to Buyers material facts as defined in MN Statute 82.68, Subd.  
55. 3, of which the broker is aware that could adversely and significantly affect the Buyer's use or enjoyment of the  
56. property. (MN Statute 82.68, Subd. 3 does not apply to rental/lease transactions.)
57. **V. Facilitator:** A broker or salesperson who performs services for a Buyer/Tenant, a Seller/Landlord or both but  
58. does not represent either in a fiduciary capacity as a Buyer's/Tenant's Broker, Seller's/Landlord's Broker or Dual  
59. Agent. **THE FACILITATOR BROKER OR SALESPERSON DOES NOT OWE ANY PARTY ANY OF THE FIDUCIARY  
60. DUTIES LISTED BELOW, EXCEPT CONFIDENTIALITY, UNLESS THOSE DUTIES ARE INCLUDED IN A  
61. WRITTEN FACILITATOR SERVICES AGREEMENT.** The facilitator broker or salesperson owes the duty of  
62. confidentiality to the party but owes no other duty to the party except those duties required by law or contained in  
63. a written facilitator services agreement, if any. In the event a facilitator broker or salesperson working with a Buyer/  
64. Tenant shows a property listed by the facilitator broker or salesperson, then the facilitator broker or salesperson  
65. must act as a Seller's/Landlord's Broker (see paragraph I on page one (1)). In the event a facilitator broker or  
66. salesperson, working with a Seller/Landlord, accepts a showing of the property by a Buyer/Tenant being represented  
67. by the facilitator broker or salesperson, then the facilitator broker or salesperson must act as a Buyer's/Tenant's  
68. Broker (see paragraph III on page one (1)).

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69. <sup>(1)</sup> This disclosure is required by law in any transaction involving property occupied or intended to be occupied by  
70. one to four families as their residence.
71. <sup>(2)</sup> The fiduciary duties mentioned above are listed below and have the following meanings:  
72. Loyalty - broker/salesperson will act only in client(s)' best interest.  
73. Obedience - broker/salesperson will carry out all client(s)' lawful instructions.  
74. Disclosure - broker/salesperson will disclose to client(s) all material facts of which broker/salesperson has knowledge  
75. which might reasonably affect the client(s)' use and enjoyment of the property.  
76. Confidentiality - broker/salesperson will keep client(s)' confidences unless required by law to disclose specific  
77. information (such as disclosure of material facts to Buyers).  
78. Reasonable Care - broker/salesperson will use reasonable care in performing duties as an agent.  
79. Accounting - broker/salesperson will account to client(s) for all client(s)' money and property received as agent.
80. <sup>(3)</sup> If Seller(s)/Landlord(s) decide(s) not to agree to a dual agency relationship, Seller(s)/Landlord(s) may give up the  
81. opportunity to sell/lease the property to Buyer(s)/Tenant(s) represented by the broker/salesperson. If Buyer(s)/  
82. Tenant(s) decide(s) not to agree to a dual agency relationship, Buyer(s)/Tenant(s) may give up the opportunity to  
83. purchase/lease properties listed by the broker.

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84. **NOTICE REGARDING PREDATORY OFFENDER INFORMATION:** Information regarding the predatory offender  
85. registry and persons registered with the predatory offender registry under MN Statute 243.166 may be  
86. obtained by contacting the local law enforcement offices in the community where the property is located,  
87. or the Minnesota Department of Corrections at (651) 361-7200, or from the Department of Corrections Web site at  
88. [www.corr.state.mn.us](http://www.corr.state.mn.us).