

EXCLUSIVE RIGHT TO SELL UNIMPROVED LAND LISTING AGREEMENT

This Exclusive Right to Sell Unimproved Land Listing Agreement (“Agreement”) is made on _____
_____(Date) by and between _____
(“Seller”) and (Insert Firm Name) _____
_____ (“Broker”).

1. APPOINTMENT OF BROKER. In consideration of the services provided by Broker and described in this Agreement, Seller hereby appoints Broker as Seller’s sole and exclusive listing agent and grants Broker the exclusive right to sell the real property described below (“Property”).

2. PROPERTY.

Street Address _____

City _____, Virginia ZIP Code _____

TAX Map/ID # _____

Historic District Designation _____

Legal Description:

Lot/Block/Subdivision:

Lot(s) _____ Block/Square _____ Section _____ Phase _____

Subdivision or Condominium _____

County/Municipality _____ Deed Book/Page # _____

Metes/Bounds, see attached description or survey.

Approximate Square Footage/Acreage: _____

Owner is aware of the following easements, covenants, variances, and restrictions: _____

3. NOTICES. All notifications and amendments under this Agreement shall be in writing and shall be delivered using the contact information below.

Seller

Mailing Address: _____

City, State, and ZIP Code: _____

Phone: (H) _____ (W) _____ (Cell) _____

Email: _____ Fax: _____

Broker (Firm)

Mailing Address: _____

City, State, and ZIP Code: _____

Phone: (W) _____ (Cell) _____

Email: _____ Fax: _____

4. TERM OF AGREEMENT. This Agreement shall run for the period commencing after signature by all parties and expiring at 11:59 p.m. on _____ (“Listing Period”). If a sales contract for Property is ratified during Listing Period which provides for a settlement date beyond Listing Period, this Agreement shall be extended automatically until final disposition of the sales contract.

5. **LISTING PRICE.** Seller instructs Broker to offer Property for sale at a gross sales price of \$ _____ **OR** \$ _____ per square foot **OR** per acre, or such other price as later agreed upon by Seller, which price includes Broker's compensation. (Note: Broker does not guarantee that Property will appraise or sell at the price stated hereunder, nor does Broker guarantee any net amount Seller might realize from the sale of Property).

6. **UTILITIES.** (Check all that apply, if any)

Water Supply: Public Community Well

Private Well Well Approved by County Yes or No Location: _____

Sewage Disposal: Public Septic Approved by County if so, for _____ Bedrooms

Type of Septic System: Community Conventional Alternative Experimental

Location of Septic System: _____

*Section 32.1-164:1 of the Code of Virginia requires Seller to disclose whether the onsite septic system serving Property is operating under a waiver of repair and/or maintenance requirements imposed by the State Board of Health. If the septic system is operating pursuant to a waiver, then Seller must provide the buyer with the "Disclosure Regarding Validity of Septic System Permit" prior to contract ratification. Such waiver is not transferable to the buyer.

Seller represents that the septic system is **OR** is not operating under a waiver from the State Board of Health.

Electricity: Onsite **OR** Available (Location if known: _____)

Natural Gas: Onsite **OR** Available (Location if known: _____)

Cable: _____ (Location if known: _____)

Fiber optics: _____ (Location if known: _____)

Other: _____ (Location if known: _____)

7. **BROKER DUTIES.** Broker shall perform, and Seller hereby authorizes Broker to perform, the following duties. In performing these duties, Broker shall exercise ordinary care, comply with all applicable laws and regulations and treat all parties honestly.

A. Broker shall protect and promote the interests of Seller and shall provide Seller with services consistent with the standards of practice and competence that are reasonably expected of licensees engaged in the business of real estate brokerage. Seller acknowledges that Broker is bound by the bylaws, policies and procedures, and rules and regulations governing the MLS, the Code of Ethics of the National Association of REALTORS®, the Code of Virginia, and the Regional Rules and Regulations for the electronic lockbox system.

B. Broker shall use reasonable efforts and act diligently to seek buyers for Property at the price and terms stated herein or otherwise acceptable to Seller, to negotiate on behalf of Seller, to establish strategies for accomplishing Seller's objectives, to assist in satisfying Seller's contractual obligations, and to facilitate the consummation of the sale of Property.

C. Broker shall market Property, at Broker's discretion, including without limitation, description, photographs in appropriate advertising media, such as publications, mailings, brochures and internet sites; provided, however, Broker shall not be obligated to continue to market Property after Seller has accepted an offer.

- D. Broker shall present all written offers or counteroffers to and from Seller in a timely manner, even if Property is subject to a ratified contract of sale, unless otherwise instructed by Seller in writing.
- E. Broker shall not continue to market, show and/or permit showings after Property is subject to a ratified contract of sale, unless otherwise instructed by Seller in writing.
- F. Broker shall account, in a timely manner, for all money and property received in trust by Broker, in which Seller has or may have an interest.
- G. Broker shall show Property during reasonable hours to prospective buyers and shall accompany or accommodate, as needed, other real estate licensees, their prospective buyers, inspectors, appraisers, exterminators and other parties necessary for showings and inspections of Property, to facilitate and/or consummate the sale of Property. Broker agrees that the showing instructions to be shared in the MLS with other real estate licensees and their prospective buyers are as follows: _____

Broker shall **OR** shall not install an electronic lockbox on Property to allow access and showings by persons who are authorized to access Property.

- H. Broker shall **OR** shall not install "For Sale" signs on Property, as permitted. Seller is responsible for clearly marking the location of underground utilities, equipment, or other items that may be damaged by the placement of the sign.

8. MARKETING/MLS/INTERNET ADVERTISING.

- A. Broker shall disseminate information regarding Property including listing price(s), final sales price and all terms, and all status updates via the Multiple Listing Service (MLS) during and after the expiration of this Agreement.

Broker shall enter the listing information into the MLS database:

- Within three (3) business days of commencement of the Listing Period **OR** on or before: _____

- B. Seller authorizes **OR** Seller does not authorize Broker to conduct pre-marketing activities. If Seller authorizes Broker to conduct pre-marketing activities, a Pre-Marketing (Coming Soon) Addendum to the Listing Agreement is attached and made part of this Agreement.

- C. The parties agree and understand that internet advertising includes:

- 1) Broker's internet website;
- 2) The internet websites of licensed real estate salespersons or associate real estate brokers affiliated with Broker or other brokers participating in the MLS;
- 3) Any other internet websites (such as syndicated websites) in accordance with applicable MLS rules and regulations;
- 4) Printed media.

- Seller authorizes **OR** Seller does not authorize Broker to market the Property through the MLS to be made available to third-party websites. Seller understands that the listing data may get disseminated to third-party websites through means other than the MLS regardless of the selection above. Seller acknowledges that the accuracy of the listing data is controlled by the third-party websites and is outside of Broker's control.

- D. In the event Seller has opted into marketing the Property in the MLS in C. above, Broker is

hereby authorized by Seller to submit and market Property as follows:

- Seller authorizes **OR** Seller does not authorize the display of Property address on any internet website. In the event Seller does not authorize the display of the property address, only the ZIP code will be displayed.
- Seller authorizes **OR** Seller does not authorize the display of unedited comments or reviews of Property (or display a hyperlink to such comments or reviews) on MLS participants' internet websites. This provision does not control the display of such comments on third party websites such as syndicated websites.
- Seller authorizes **OR** Seller does not authorize the display of an automated estimate of the market value of Property (or a hyperlink to such estimate) on MLS participants' internet websites. This provision does not control the display of such estimated value of the Property on third-party websites such as syndicated websites.

E. During the term of this Agreement, Seller may, by written notice to Broker, authorize Broker to enable or disable use of any feature as described above. Broker agrees to update the MLS database accordingly.

9. TYPES OF REAL ESTATE REPRESENTATION - DISCLOSURE AND INFORMED CONSENT.

Seller representation occurs by virtue of this Agreement with Seller's consent to use Broker's services and may also include any cooperating brokers who act on behalf of Seller as subagent of Broker. (Note: Broker may assist a buyer or prospective buyer by performing ministerial acts that are not inconsistent with Broker's duties as Seller's listing agent under this Agreement.)

Buyer representation occurs when buyers contract to use the services of their own broker (known as a buyer representative) to act on their behalf.

Designated representation occurs when a buyer and seller in one transaction are represented by different sales associate(s) affiliated with the same broker. Each of these sales associates, known as a designated representative, represents fully the interests of a different client in the same transaction. Designated representatives are not dual representatives if each represents only the buyer or only the seller in a specific real estate transaction. In the event of designated representatives, each representative shall be bound by client confidentiality requirements, set forth in the CONFIDENTIAL INFORMATION paragraph. The broker remains a dual representative.

If Seller does not consent to designated representation, then Seller does not allow Property to be shown to a buyer represented by this Broker through another designated representative associated with the firm. Broker will notify other real estate licensees via the MLS whether Seller consents to designated representation.

Seller does not consent to designated representation and Seller does not allow Property to be shown to a buyer represented by this Broker through another designated representative associated with the firm **OR**

Seller consents to designated representation and allows Property to be shown to a buyer by this Broker through another designated representative associated with the firm.

Dual representation occurs when the same broker and the same sales associate(s) represent both the buyer and seller in one transaction. In the event of dual representation, the broker shall be bound by confidentiality requirements for each client, set forth in the CONFIDENTIAL INFORMATION paragraph.

If Seller does not consent to dual representation, then Seller does not allow Property to be shown to a buyer represented by this Broker through the same sales associate(s). Broker will notify other real estate licensees via the MLS of whether Seller consents to dual representation.

Seller does not consent to dual representation and Seller does not allow Property to be shown to a buyer represented by this Broker through the same sale associate **OR**

Seller consents to dual representation and allows Property to be shown to a buyer by this Broker through the same sale associate.

An additional disclosure is required before designated or dual representation is to occur for a specific transaction.

10. BROKER COMPENSATION.

A. Payment. Seller shall pay Broker in cash total compensation of _____ (“Compensation”) if, during the term of this Agreement, anyone produces a buyer ready, willing and able to buy Property.

Compensation is also earned if, within _____ days after the expiration or termination of this Agreement, a contract is ratified with a ready, willing, and able buyer to whom Property had been shown during the term of this Agreement; provided, however, that Compensation need not be paid if a contract is ratified on Property while Property is listed with another real estate company.

B. Cooperating Broker. Broker shall make a blanket unilateral offer of cooperation and compensation to other brokers in any MLS that Broker deems appropriate. To that end, Broker shall offer a portion of Compensation to the cooperating broker as indicated:

Buyer Agency Compensation: _____ **OR**

Other Compensation: _____

Note: Compensation may be shown by a percentage of the gross selling price, a definite dollar amount or “N” for no compensation.

Broker’s compensation and the sharing of compensation between brokers are not fixed, controlled, recommended or suggested by any multiple listing service or association of REALTORS®.

C. Variable Rate Commission. If applicable, the Broker and Seller agree to a variable rate commission to be paid as follows: _____.

D. Retainer Fee. Broker acknowledges receipt of a retainer fee in the amount of _____ which shall **OR** shall not be subtracted from Compensation. The retainer fee is non-refundable and is earned when paid.

E. Early Termination. In the event Seller wishes to terminate this Agreement prior to the end of Listing Period, without good cause, Seller shall pay Broker _____ before Broker’s execution of a written release.

11. CONFIDENTIAL INFORMATION. Broker shall maintain the confidentiality of all personal and financial information and other matters identified as confidential by the client which were obtained by Broker during the brokerage relationship, unless the client consents in writing to the release of such information or as otherwise provided by law. The obligation of Broker to preserve confidential information continues after termination of the brokerage relationship. Information concerning adverse material facts about Property is not considered confidential information.

12. AUTHORIZATION TO DISCLOSE OTHER OFFERS. In response to inquiries from buyers or cooperating brokers, Broker may not disclose, without Seller's authorization, the existence of other written offers on Property. If Seller does give such authorization, Seller acknowledges that Broker and sales associate(s) must disclose whether the offers were obtained by the listing agent, another member of the listing Broker's firm, or by a cooperating broker.

Seller does **OR** does not authorize Broker and sales associate to disclose such information to buyers or cooperating brokers.

13. COMPLIANCE WITH FAIR HOUSING LAWS. Property shall be shown and made available without regard to race, color, religion, sex, handicap, familial status, or national origin as well as all classes protected by the laws of the United States, the Commonwealth of Virginia and applicable local jurisdictions, or by the REALTOR® Code of Ethics.

14. CONDOMINIUM ASSOCIATION. Seller represents that Property is **OR** is not located within a development which is a Condominium or Cooperative. Condominiums or Cooperatives being offered for sale are subject to the receipt by buyers of the required disclosures, and Seller is responsible for payment of appropriate fees and for providing these disclosure documents to prospective buyers as prescribed in the Condominium Act, Section 55-79.39 et seq., and the Cooperative Act, Section 55-424, et seq., of the Code of Virginia.

Seller **OR** Broker shall order the association disclosure documents at Seller's expense

at the time of listing **OR** within 3 days following the date of contract ratification **OR** _____.

The Condominium or Cooperative dues are \$ _____ per _____ (frequency of payment).

Special Assessment \$ _____ for _____

Condominium or Cooperative Association Name: _____

Management Company: _____ Phone #: _____

Seller represents that Seller is **OR** is not current on all condominium association dues and/or special assessments.

15. PROPERTY OWNERS' ASSOCIATION. Seller represents that Property is **OR** is not located within a development(s) which is subject to the Virginia Property Owners' Association Act, Sections 55-508 through 55-516 of the Code of Virginia. If Property is within such a development, Seller is responsible for payment of the appropriate fees and for providing these disclosure documents to the buyers.

Seller **OR** Broker shall order the association disclosure documents at Seller's expense

at the time of listing **OR** within 3 days following the date of contract ratification **OR** _____.

The Property Owners' Association dues are \$ _____ per _____ (frequency of payment).

Special Assessment \$ _____ for _____

Property Owners' Association Name: _____

Management Company: _____ Phone #: _____

Seller represents that Seller is **OR** is not current on all property owners' association dues

and/or special assessments.

16. CURRENT LIENS. Seller represents to Broker that the below information is true and complete to the best of Seller's information, knowledge and belief and Seller understands that any loans identified below will be paid off at Settlement: (check all that are applicable)

A. Property is not encumbered by any mortgage or deed of trust (*if box is checked, skip to item G*).

B. Property is security for a first mortgage or deed of trust loan held by (Lender Name):

_____ with an approximate balance of \$ _____. This loan is a Conventional OR FHA or VA or _____.

C. Property is security for a second mortgage or deed of trust loan held by (Lender Name): _____ with an approximate balance of \$ _____.

D. Property is security for a line of credit or home equity line of credit held by (Lender Name): _____ with an approximate balance of \$ _____.

E. Seller is current on all payments for the loans identified above.

F. Seller is not in default and has not received any notice(s) from the holder(s) of any loan identified above, or from any other lien holder of any kind, regarding a default under any loan, threatened foreclosure, notice of foreclosure, or the filing of foreclosure.

G. There are no liens secured against Property for federal, state, or local income taxes; unpaid real property taxes; or unpaid condominium or homeowners' association fees or special assessments.

H. There are no judgments against Seller (including each owner for jointly held property). Seller has no knowledge of any matter that might result in a judgment that may potentially affect Property.

I. Seller has not filed for bankruptcy protection under federal law and is not contemplating doing so during the term of this Agreement.

In the event Property is encumbered by a loan, Seller further agrees that Seller shall promptly disclose the name and contact information for the lender and account number to the Settlement Agent identified in a contract for the sale of the Property. During the term of this Agreement, should any change occur with respect to answers A. through I. above, Seller shall immediately notify Broker and sales associate/listing agent, in writing, of such change.

17. SELLER FINANCING. Seller does **OR** does not agree to offer seller financing by providing a _____ deed of trust loan in the amount of \$ _____ with further terms to be negotiated.

18. CLOSING COSTS. Fees for the preparation of the deed of conveyance, that portion of the settlement agent's fee billed to Seller, costs of releasing existing encumbrances, Seller's legal fees, Grantor's Tax, and any other proper charges assessed to Seller will be paid by Seller unless provided otherwise in the sales contract.

The "Seller's Estimated Cost of Settlement" form is **OR** is not attached. These estimates are for informational purposes only and will change based upon the terms and conditions of the purchase offer.

Seller's Proceeds: Seller acknowledges that Seller's proceeds may not be available at the time of settlement. The receipt of proceeds may be subject to the **Virginia Wet Settlement Act**, and may be subject to other laws, rules and regulations (e.g. Virginia estate statutes and the **Foreign Investment Real Property Tax Act - FIRPTA**).

Seller is advised to seek legal and/or financial advice concerning these matters.

19. IRS/FIRPTA. Section 1445 of the Internal Revenue Service (IRS) Code may require the settlement agent to report the gross sales price, Seller's federal tax identification number and other required information to the IRS. Seller will provide to the settlement agent such information upon request. In certain situations, the IRS requires a percentage (currently 10%) of the sales price to be withheld from Seller's proceeds if Seller is a foreign person for purposes of U.S. income taxation. A foreign person includes, but is not limited to, non-resident aliens, foreign corporations, foreign partnerships, foreign trusts or foreign estates.

Seller is a U.S. citizen or a Lawful Permanent Resident as defined by the Immigration and Nationality Act (Green Card Holder). Yes **OR** No

20. SELLER DUTIES.

A. Seller Representations and Warranties.

Seller is aware that Seller may be responsible for failing to disclose information and/or misrepresenting the condition of Property. Seller warrants that:

- 1) Seller certifies the accuracy of the information provided to the Listing Broker.
- 2) Seller has capacity to convey good and marketable title to Property by general warranty deed and represents that Property is insurable by a licensed title insurance company with no additional risk premium.
- 3) Seller is not a party to a listing agreement with another broker for the sale, exchange or lease of Property.
- 4) No person or entity has the right to purchase, lease or acquire Property, by virtue of an option, right of first refusal or otherwise.
- 5) Seller is **OR** is not a licensed (active/inactive) real estate agent/broker.
- 6) Seller has **OR** has no knowledge of the existence, removal or abandonment of any underground storage tank on Property.
- 7) Property is **OR** is not tenant-occupied.
- 8) Seller has **OR** does not have a recording system in Property. In the event Seller has a recording system in Property which records audio, Seller understands that recording of audio may result in violation of state and/or federal wiretapping laws. Therefore, Seller hereby releases and holds harmless Broker, Broker's designated agents, sub-agents, sales associates and employees from any liability which may result from the recording of audio in Property.

B. Access to Property. Seller shall provide keys to Broker for access to Property to facilitate Broker's duties under this Agreement.

Seller shall allow Broker's unlicensed assistants in the Property to perform ministerial acts as defined by 18VAC135-20-165.

If Property is currently tenant-occupied, Seller shall provide Broker with any current lease documents and contact information for current tenant and shall use best efforts to obtain the full cooperation of current tenants, in connection with showings and inspections of the Property.

C. Seller Assumption of Risk.

- 1) Seller retains full responsibility for Property, including all utilities, maintenance, physical security and liability until title to Property is transferred to buyer. Seller is advised to take all precautions for safekeeping of valuables and to maintain appropriate property and liability insurance through Seller's own insurance company.

Broker is not responsible for the security of Property or for inspecting Property on any periodic basis. If Property is or becomes vacant during the Listing Period, Seller is advised to notify Seller's homeowner's insurance company and request a "Vacancy Clause" to cover Property.

- 2) In consideration of the use of Broker's services and facilities and of the facilities of any Multiple Listing Service, Seller and Seller's heirs and assigns hereby release Broker, Broker's designated agents, sub-agents, sales associates and employees, any Multiple Listing Service and the Directors, Officers and employees thereof, including officials of any parent association of REALTORS®, except for malfeasance on the part of such parties, from any liability to Seller for vandalism, theft or damage of any nature whatsoever to Property or its contents that occurs during the Listing Period. Seller waives any and all rights, claims and causes of actions against them and holds them harmless for any property damage or personal injury arising from the use or access to Property by any persons during the Listing Period.

21. MISCELLANEOUS PROVISIONS.

- A. Appropriate Professional Advice.** Broker can counsel on real estate matters, but if Seller desires legal advice, Seller is advised to seek legal counsel. Seller is advised further to seek appropriate professional advice concerning, but not limited to, property or tax and insurance matters.
- B. Service Provider Referrals.** Broker or one of Broker's sales associates may refer a service provider to assist Seller in this transaction. This referral is not an endorsement, guarantee or warranty as to the quality, cost and/or timeliness of the services to be provided. Seller is advised to independently investigate all options for service providers and consider whether any service provider will work effectively with Seller. Seller is free to reject any referred service provider for any or no reason.
- C. Subsequent Offers After Contract Acceptance.** After a sales contract has been ratified on Property, Broker recommends Seller obtain the advice of legal counsel prior to acceptance of any subsequent offer.
- D. Governing Law.** The laws of Virginia shall govern the validity, interpretation and enforcement of this Agreement.
- E. Binding Agreement.** This Agreement will be binding upon the parties, and each of their respective heirs, executors, administrators, successors and permitted assigns. The provisions hereof will survive the sale of Property and will not be merged therein. This Agreement, unless amended in writing by the parties, contains the final and entire agreement and the parties will not be bound by any terms, conditions, oral statements, warranties or representations not herein contained.

- 22. ATTORNEYS' FEES.** If any Party breaches this Agreement and a non-breaching Party retains legal counsel to enforce its rights hereunder, the non-breaching Party shall be entitled to recover against the breaching Party, in addition to any other damages recoverable against any breaching Party, all of its reasonable Legal Expenses incurred in enforcing its right under this Agreement,

whether or not suit is filed, and in obtaining, enforcing and/or defending any judgment related thereto. Should any tribunal of competent jurisdiction determine that more than one Party to the dispute has breached this Agreement, then all such breaching Parties shall bear their own costs. However, if the tribunal determines that one or more of the Parties is a "Substantially Prevailing Party," any such Substantially Prevailing Party shall be entitled to recover from any of the breaching Parties, in addition to any other damages recoverable against any breaching Party, all of its reasonable Legal Expenses incurred in enforcing its rights under this Agreement, whether or not suit is filed, and in obtaining, enforcing and/or defending any judgment related thereto. "Party" as used in this paragraph includes any third-party beneficiary identified herein. "Legal Expenses" as used in this paragraph includes attorney fees, court costs, and litigation expenses, if any, including, but not limited to, expert witness fees and court reporter fees.

23. ADDITIONAL TERMS: _____

_____/_____
 Date Seller Date Broker/Sales Manager

_____/_____
 Date Seller

_____/_____
 Date Seller

_____/_____
 Date Seller

Sales Associate Contact Information

Sale Agent (Listing Agent): _____
 Team Name (if applicable): _____
 Phone: (W) _____ (Cell) _____
 Email: _____ Fax: _____

Supervising Broker Contact Information

Broker Name: _____
 Phone: (W) _____ (Cell) _____
 Email: _____ Fax: _____

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