

**EXCLUSIVE AGENCY LISTING AGREEMENT**

This Exclusive Right to Sell 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 right to sell the real property described below (“Property”).

**2. PROPERTY.**

Street Address \_\_\_\_\_ Unit # \_\_\_\_\_  
City \_\_\_\_\_, Virginia ZIP Code \_\_\_\_\_  
TAX Map/ID # \_\_\_\_\_  
Parking Space # \_\_\_\_\_ Storage Unit # \_\_\_\_\_ Mailbox # \_\_\_\_\_  
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.

MLS Description:

No. of Levels: \_\_\_\_\_ Basement:  Yes  No Basement Entrance Type: \_\_\_\_\_  
Basement Type: \_\_\_\_\_ Attic Type: \_\_\_\_\_  
Architectural Style: \_\_\_\_\_ Type of Exterior: \_\_\_\_\_  
Disability Access:  Yes  No

**3. NOTICES.** All notifications and amendments under this Agreement will be in writing and will 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 will run for the period commencing upon 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 will be extended automatically until final disposition of the sales contract.

5. **LISTING PRICE.** Seller instructs Broker to offer Property for sale at a selling price of \$\_\_\_\_\_, 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 herein, nor does Broker guarantee any net amount Seller might realize from the sale of Property).

6. **CONVEYANCES.**

**A. Personal Property and Fixtures.** Property includes the following personal property and fixtures, if existing: built-in heating and central air conditioning equipment, plumbing and lighting fixtures, sump pump, attic and exhaust fans, storm windows, storm doors, screens, installed wall-to-wall carpeting, window shades, blinds, window treatment hardware, smoke and heat detectors, TV antennas, exterior trees and shrubs. Unless otherwise agreed to in writing, all surface or wall mounted electronic components/devices **DO NOT** convey; however, all related mounts, brackets and hardware **DO** convey. Smart home devices installed, hardwired or attached to personal property or fixtures conveyed pursuant to this paragraph, including but not limited to, smart switches, smart thermostats, smart doorbells, and security cameras ("Smart Devices") **DO** convey unless otherwise agreed to in writing. If more than one of an item conveys, the number of items is noted.

**The items marked YES below are currently installed or offered and will convey:**

Yes # Items	Yes # Items	Yes # Items
<input type="checkbox"/> ___ Alarm System	<input type="checkbox"/> ___ Freezer	<input type="checkbox"/> ___ Satellite Dish
<input type="checkbox"/> ___ Built-in Microwave	<input type="checkbox"/> ___ Furnace Humidifier	<input type="checkbox"/> ___ Storage Shed
<input type="checkbox"/> ___ Ceiling Fan	<input type="checkbox"/> ___ Garage Opener	<input type="checkbox"/> ___ Stove or Range
<input type="checkbox"/> ___ Central Vacuum	<input type="checkbox"/> ___ w/ remote	<input type="checkbox"/> ___ Trash Compactor
<input type="checkbox"/> ___ Clothes Dryer	<input type="checkbox"/> ___ Gas Log	<input type="checkbox"/> ___ Wall Oven
<input type="checkbox"/> ___ Clothes Washer	<input type="checkbox"/> ___ Hot Tub, Equip & Cover	<input type="checkbox"/> ___ Water Treatment System
<input type="checkbox"/> ___ Cooktop	<input type="checkbox"/> ___ Intercom	<input type="checkbox"/> ___ Window A/C Unit
<input type="checkbox"/> ___ Dishwasher	<input type="checkbox"/> ___ Playground Equipment	<input type="checkbox"/> ___ Window Fan
<input type="checkbox"/> ___ Disposer	<input type="checkbox"/> ___ Pool, Equip, & Cover	<input type="checkbox"/> ___ Window Treatments
<input type="checkbox"/> ___ Electronic Air Filter	<input type="checkbox"/> ___ Refrigerator	<input type="checkbox"/> ___ Wood Stove
<input type="checkbox"/> ___ Fireplace Screen/Door	<input type="checkbox"/> ___ w/ ice maker	

Other Conveyances (as-is, no additional value and for Seller convenience): \_\_\_\_\_

Does Not convey: \_\_\_\_\_

**B. As-Is Items.** Seller will not warrant the condition or working order of the following items and/or systems: \_\_\_\_\_

**C. As-Is Marketing.** Seller  does **OR**  does not authorize Broker to offer the entire Property in "As-Is" condition.

**D. Leased Items, Systems, and/or Service Contracts.** Any leased items, systems, or service contracts (including, but not limited to, termite or pest control, home warranty, fuel tanks, water treatment systems, lawn contracts, security system monitoring, and satellite contracts) **DO NOT CONVEY** absent an express written agreement by buyer and Seller. The following is a list of the leased items within Property: \_\_\_\_\_

7. **HOMEOWNER WARRANTY.** Seller has the option to purchase a homeowner warranty, which can be in effect during the Listing Period and will transfer to the buyer upon settlement. Seller should review the scope of coverage, exclusions and limitations.

Cost not to exceed \$ \_\_\_\_\_ Warranty provider to be \_\_\_\_\_

8. **UTILITIES; MAJOR SYSTEMS.** (Check all that apply)

Hot Water:  Oil  Gas  Electric  Other \_\_\_\_\_ Number of Gallons \_\_\_\_\_

Air Conditioning:  Oil  Gas  Electric  Heat Pump  Other \_\_\_\_\_  Zones \_\_\_\_\_

Heating:  Oil  Gas  Electric  Heat Pump  Other \_\_\_\_\_  Zones \_\_\_\_\_

Water Supply:  Public  Private Well  Community Well

Sewage Disposal:  Public  Septic Approved for \_\_\_\_\_ Bedrooms

Type of Septic System:  Community  Conventional  Alternative  Experimental

Section 32.1-164.1:1 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.

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

A. Broker will protect and promote the interests of Seller and will 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 Multiple Listing Service (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 will 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 will market Property, at Broker's discretion, including without limitation, description, interior and exterior photographs in appropriate advertising media, such as publications, mailings, brochures and internet sites; provided, however, Broker will not be obligated to continue to market Property after Seller has accepted an offer.

D. Broker will 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 will 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 will 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 will show Property during reasonable hours to prospective buyers and will 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 with other real estate licensees and their prospective buyers are as follows:** \_\_\_\_\_

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

H. Broker  will **OR**  will 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.

## 10. MARKETING/MLS/INTERNET ADVERTISING.

A.  Seller authorizes **OR**  Seller does not authorize Broker to market Property via the Multiple Listing Service ("MLS").

- 1) **If Seller authorizes Broker to market Property in MLS**, Broker will disseminate, via MLS, information regarding Property, including listing price(s), final sales price, all terms, and all status updates during and after the expiration of this Agreement. Broker will enter the listing information into MLS  within three (3) business days of commencement of the Listing Period **OR**  on or before: \_\_\_\_\_. In either event, Broker will enter the listing information into MLS within one (1) business day of Public Marketing of Property. "Public Marketing" includes, but is not limited to, displaying flyers in windows, yard signs, digital marketing on public facing websites, brokerage website displays (including internet data exchanges and virtual office websites), digital communications marketing (email blasts), multi-brokerage listing sharing networks, and applications available to the general public.
- 2) **If Seller does not authorize Broker to market Property via MLS**, Broker will instead market Property as an Office Exclusive Listing. "Office Exclusive Listing" means any listing Seller has prohibited Broker from Public Marketing. For each Office Exclusive Listing, Seller will sign and deliver concurrently with this Agreement a "Waiver of Broker Submission to MLS" form or other acceptable certification that Seller does not authorize Broker to Publicly Market the listing via MLS or otherwise. Broker will submit such waiver or other certification to MLS within three (3) business days of execution of this Agreement.

B.  Seller authorizes **OR**  Seller does not authorize Broker marketing Property through MLS to also make listing data available to third party websites. Seller understands that the listing data may get disseminated to third party websites through means other than 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. The parties agree and understand that third party websites include: 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 MLS; 3) any other internet websites (such as syndicated websites) in accordance with applicable MLS rules and regulations; and/or 4) printed media.

C. In the event Seller has opted into marketing Property in the MLS in subparagraph A 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 Property on third-party websites such as syndicated websites.

D.  Seller authorizes **OR**  Seller does not authorize Broker to list Property under "coming soon" status in MLS. If Seller authorizes Broker to list Property under "coming soon" status in MLS, Broker will list Property under "coming soon" status in MLS  within three (3) business days of commencement of the Listing Period **OR**  on or before: \_\_\_\_\_. Property may be listed in the MLS under "coming soon" status for no more than 21 days from the date the listing is entered in MLS, except when a longer period is permitted by applicable MLS rules and regulations. Broker may engage in pre-marketing activities prior to the date that Property is entered in MLS under "active" status including, but not limited to: 1) placing a "coming soon" sign on Property; 2) notifying agents with other firms that Property is "coming soon"; and 3) placing advertisements and conduct other marketing activities at Broker's discretion. Broker will not show Property to prospective buyers or tenants and/or their agents while under "coming soon" status.

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 MLS database accordingly.

## 11. 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 will be bound by client confidentiality requirements, set forth in the CONFIDENTIAL INFORMATION paragraph. The broker remains a dual representative.

Seller does not consent to designated representation and 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 represented by this Broker through another designated representative associated with the firm.

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

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 sales associate. **OR**

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

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

Broker will notify other real estate licensees via MLS whether Seller consents to designated or dual representation.

## 12. BROKER COMPENSATION.

**A. Payment.** Seller will pay Broker in cash total compensation of \_\_\_\_\_ (“Compensation”) if, during the term of this Agreement, Broker, or any other broker(s) (or agent(s) thereof) 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 by Broker, or any other broker(s) (or agent(s) thereof) 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 will make a blanket unilateral offer of cooperation and compensation to other brokers in any MLS that Broker deems appropriate. To that end, Broker will 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  will **OR**  will 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 will pay Broker \_\_\_\_\_ before Broker's execution of a written release.

**13. CONFIDENTIAL INFORMATION.** Broker will maintain the confidentiality of all personal and financial information and other matters identified as confidential by Seller which were obtained by Broker during the brokerage relationship, unless Seller 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 latent material defects about Property is not considered confidential information.

**14. 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(s) to disclose such information to buyers or cooperating brokers.

**15. COMPLIANCE WITH FAIR HOUSING LAWS.** Property will 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.

**16. RELOCATION PROGRAM.** Seller is participating in any type of relocation program:

Yes **OR**  No

If "Yes": (a) the program is named: \_\_\_\_\_

Contact Name \_\_\_\_\_ Contact Information \_\_\_\_\_ and

(b) terms of the program are: \_\_\_\_\_

If "No" or if Seller has failed to list a specific employee relocation program, then Broker will have no obligation to cooperate with or compensate any undisclosed program.

**17. 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 55.1-1900, et seq., and the Cooperative Act, Section 55.1-2100, et seq., of the Code of Virginia.

Seller **OR**  Broker will 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.

**18. 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, Section 55.1-1800, et seq., 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 will 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.

**19. PROPERTY CONDITION.** Seller acknowledges that Broker has informed Seller of Seller's rights and obligations under the Virginia Residential Property Disclosure Act. Property  is **OR**  is not exempt from the Act. If not exempt, Seller has completed and provided to Broker a Residential Property Disclosure Statement, or any other applicable disclosures as may be required.

Seller acknowledges Broker may receive, from Seller or otherwise, reports, surveys, plats, home inspection(s), appraisal(s), homeowner or other third-party warranty information or other similar document(s) concerning Property ("Property Report(s)"). Seller acknowledges Broker is required to disclose to prospective buyers all material adverse facts pertaining to the physical condition of Property actually known by Broker, including any such facts contained in Property Reports. Broker will not, however, be obligated to discover latent defects in Property or to advise on property condition matters outside the scope of Broker's real estate license. Seller may authorize Broker to deliver any Property Report(s) to prospective buyer(s). Seller will indemnify, save, and hold Broker harmless from all claims, complaints, disputes, litigation, judgments and attorney's fees arising from any misrepresentation by Seller or authorized delivery of Property Reports.

**20. LEAD-BASED PAINT DISCLOSURE.** Seller represents that the residential dwelling(s) at Property  were **OR**  were not constructed before 1978. If the dwelling(s) were constructed before 1978, Seller is subject to federal law concerning disclosure of the possible presence of lead-based paint at Property, and Seller acknowledges that Broker has informed Seller of Seller's obligations under the law. If the dwelling(s) were constructed before 1978, unless exempt under 42 U.S.C. 4852(d), Seller has completed and provided to Broker the form, "Sale: Disclosure And Acknowledgment Of Information On Lead-Based Paint And/Or Lead-Based Paint Hazards" or equivalent form.

**21. 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 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 will 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 will immediately notify Broker and sales associate/listing agent, in writing, of such change.

**22. 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.

**23. 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:** The Seller acknowledges that Seller's proceeds may not be available at the time of settlement. The receipt of proceeds may be subject to Section 55.1-903 of the Code of Virginia, commonly referred to as the **Virginia Wet Settlement Act**, and may be subject to other laws, rules and regulations (e.g. Virginia estate statutes and the **Foreign Investment in Real Property Tax Act - FIRPTA**).

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

**24. IRS/FIRPTA.** Section 1445 of the Internal Revenue Service (IRS) Code may require a buyer or 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 a buyer or the settlement agent such information upon request. In certain situations, the IRS requires a percentage of the sales price to be withheld from Seller's proceeds if Seller is a Foreign Person as defined by FIRPTA.

Seller  is **OR**  is not a "Foreign Person" as defined by FIRPTA.

## 25. 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 certifies the accuracy of the information provided to the Listing Broker and Seller warrants:

- 1) 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.
- 2) Seller is not a party to a listing agreement with another broker for the sale, exchange, or lease of Property.
- 3) No person or entity has the right to purchase, lease or acquire Property, by virtue of an option, right of first refusal or otherwise.
- 4) Seller  is **OR**  is not a licensed (active/inactive) real estate agent/broker.
- 5) Seller  has **OR**  has no knowledge of the existence, removal or abandonment of any underground storage tank on Property.
- 6) Property  is **OR**  is not tenant-occupied.
- 7) 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 will provide keys to Broker for access to Property to facilitate Broker's duties under this Agreement. Seller will allow Broker's unlicensed assistants in Property to perform ministerial acts as defined by 18VAC135-20-165.

If Property is currently tenant-occupied, Seller will provide Broker with any current lease documents and contact information for current tenant and will use best efforts to obtain the full cooperation of current tenants, in connection with showings and inspections of 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 MLS, Seller and Seller's heirs and assigns hereby release Broker, Broker's designated agents, sub-agents, sales associates and employees, any MLS 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 Listing Period.

## **26. 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, the condition of 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. Wire Fraud.** Seller should never transmit nonpublic personal information, such as credit or debit card, bank account or routing numbers, by email or other unsecured electronic communication. There are numerous e-mail phishing scams that involve fraudulent requests to wire funds in conjunction with a real estate transaction. If Seller receives any electronic communication directing the transfer of funds or to provide nonpublic personal information, even if that electronic communication appears to be from a representative of Broker, do not respond. Such requests, even if they may otherwise appear to be from Broker, could be part of a scheme to defraud Seller by misdirecting the transfer of sale proceeds or using Seller's identity to commit a crime. If Seller should receive wiring instructions via electronic means that appear to be from a legitimate source involved in Seller's real estate transaction, Seller should verify - using contact information other than that provided in the communication - that the instructions were sent by an actual representative of the requesting company. Conversely, if Seller has provided wiring instructions to a third party, it is important to confirm with the representative of said company that the wire instructions are not to be substituted without Seller's verified written consent. When wiring funds, never rely exclusively on an e-mail, fax or text communication.

**D. 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.

**E. Governing Law.** The laws of the Commonwealth of Virginia will govern the validity, interpretation, and enforcement of this Agreement.

**F. 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.

**27. 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 will 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 rights 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 will 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 will 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 attorneys’ fees, court costs, and litigation expenses, if any, including, but not limited to, expert witness fees, and court reporter fees.

**28. ADDITIONAL TERMS.** \_\_\_\_\_  
 \_\_\_\_\_  
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\_\_\_\_\_/\_\_\_\_\_  
 Date Seller Date Broker/Sales Manager

\_\_\_\_\_/\_\_\_\_\_  
 Date Seller

\_\_\_\_\_/\_\_\_\_\_  
 Date Seller

\_\_\_\_\_/\_\_\_\_\_  
 Date Seller

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**Sales Associate Contact Information**

Sales Associate (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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