

# Exclusive Right of Sale Listing Agreement

FLORIDA ASSOCIATION OF REALTORS®



1 This Exclusive Right of Sale Listing Agreement (“Agreement”) is between  
2 \_\_\_\_\_ (“Seller”) and

3 \_\_\_\_\_ (“Broker”).

4 **1. AUTHORITY TO SELL PROPERTY:** Seller gives Broker the EXCLUSIVE RIGHT TO SELL the real and personal property  
5 (collectively “Property”) described below, at the price and terms described below, beginning the \_\_\_\_ day of \_\_\_\_\_,  
6 \_\_\_\_\_, and terminating at 11:59 p.m. the \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_ (“Termination Date”). Upon full execution of a  
7 contract for sale and purchase of the Property, all rights and obligations of this Agreement will automatically extend through  
8 the date of the actual closing of the sales contract. Seller and Broker acknowledge that this Agreement does not guarantee  
9 a sale. This Property will be offered to any person without regard to race, color, religion, sex, handicap, familial status, national  
10 origin or any other factor protected by federal, state or local law. Seller certifies and represents that he/she/it is legally entitled  
11 to convey the Property and all improvements.

## 12 **2. DESCRIPTION OF PROPERTY:**

13\* (a) Real Property Street Address: \_\_\_\_\_

14\* \_\_\_\_\_

15\* Legal Description: \_\_\_\_\_

16\* \_\_\_\_\_  See Attachment \_\_\_\_\_

17\* (b) Personal Property, including appliances: \_\_\_\_\_

18\* \_\_\_\_\_

19\* \_\_\_\_\_  See Attachment \_\_\_\_\_

20\* (c) Occupancy: Property  is  is not currently occupied by a tenant. If occupied, the lease term expires \_\_\_\_\_.

21 **3. PRICE AND TERMS:** The property is offered for sale on the following terms, or on other terms acceptable to Seller:

22\* (a) Price: \_\_\_\_\_

23\* (b) Financing Terms:  Cash  Conventional  VA  FHA  Other \_\_\_\_\_

24\*  Seller Financing: Seller will hold a purchase money mortgage in the amount of \$\_\_\_\_\_ with the  
25\* following terms: \_\_\_\_\_

26\*  Assumption of Existing Mortgage: Buyer may assume existing mortgage for \$\_\_\_\_\_ plus an  
27\* assumption fee of \$\_\_\_\_\_. The mortgage is for a term of \_\_\_\_\_ years beginning in \_\_\_\_\_,

28\* at an interest rate of \_\_\_\_\_%  fixed  variable (describe) \_\_\_\_\_

29\* Lender approval of assumption  is required  is not required  unknown. Notice to Seller: You may remain liable for an  
30 assumed mortgage for a number of years after the Property is sold. Check with your lender to determine the extent of your  
31 liability. Seller will ensure that all mortgage payments and required escrow deposits are current at the time of closing and  
32 will convey the escrow deposit to the buyer at closing.

33\* (c) Seller Expenses: Seller will pay mortgage discount or other closing costs not to exceed \_\_\_\_\_% of the  
34 purchase price; and any other expenses Seller agrees to pay in connection with a transaction.

35 **4. BROKER OBLIGATIONS AND AUTHORITY:** Broker agrees to make diligent and continued efforts to sell the Property  
36 until a sales contract is pending on the Property. Seller authorizes Broker to:

37 (a) Advertise the Property as Broker deems advisable including advertising the Property on the Internet unless limited in  
38 (4)(a)(i) or (4)(a)(ii) below.

39 (Seller opt-out)(Check one if applicable)

40\*  (i) Display the Property on the Internet except the street address of the Property shall not be displayed on the Internet.

41\*  (ii) Seller does not authorize Broker to display the Property on the Internet.

42 Seller understands and acknowledges that if Seller selects option (ii), consumers who conduct searches for listings  
43 on the Internet will not see information about the listed property in response to their search.

44\* \_\_\_\_\_/\_\_\_\_\_ Initials of Seller.

45 (b) Place appropriate transaction signs on the Property, including “For Sale” signs and “Sold” signs (once Seller signs a  
46 sales contract) and use Seller’s name in connection with marketing or advertising the Property.

47 (c) Obtain information relating to the present mortgage(s) on the Property.

48 (d) Place the property in a multiple listing service(s) (MLS). Seller authorizes Broker to report to the MLS/Association of  
49 Realtors® this listing information and price, terms and financing information on any resulting sale. Seller authorizes Broker,  
50 the MLS and/or Association of Realtors® to use, license or sell the active listing and sold data.

51 (e) Provide objective comparative market analysis information to potential buyers; and

52\* (f) (Check if applicable)  Use a lock box system to show and access the Property. A lock box does not ensure the Property’s

53\* Seller (\_\_\_\_) (\_\_\_\_) and Broker/Sales Associate (\_\_\_\_) (\_\_\_\_) acknowledge receipt of a copy of this page, which is Page 1 of 5 Pages.

54 security; **Seller** is advised to secure or remove valuables. **Seller** agrees that the lock box is for **Seller's** benefit and releases  
55 **Broker**, persons working through **Broker** and **Broker's** local Realtor Board / Association from all liability and responsibility in  
56\* connection with any loss that occurs.  Withhold verbal offers.  Withhold all offers once **Seller** accepts a sales contract for  
57 the Property.

58 (g) Act as a single agent of **Seller** with consent to transition to transaction broker.

59 (h) **Virtual Office Websites:** Some real estate brokerages offer real estate brokerage services online. These websites are  
60 referred to as Virtual Office Websites ("VOW"). An automated estimate of market value or reviews and comments about a  
61 property may be displayed in conjunction with a property on some VOWs. Anyone who registers on a Virtual Office Web  
62 site may gain access to such automated valuations or comments and reviews about any property displayed on a VOW.  
63 Unless limited below, a VOW may display automated valuations or comments/reviews (blogs) about this Property.

64\*  **Seller** does not authorize an automated estimate of the market value of the listing (or hyperlink to such estimate) to be  
65 displayed in immediate conjunction with the listing of this Property.

66\*  **Seller** does not authorize third parties to write comments or reviews about the listing of the Property (or display a  
67 hyperlink to such comments or reviews) in immediate conjunction with the listing of this Property.

68 **5. SELLER OBLIGATIONS:** In consideration of **Broker's** obligations, **Seller** agrees to:

69 (a) Cooperate with **Broker** in carrying out the purpose of this Agreement, including referring immediately to **Broker** all  
70 inquiries regarding the Property's transfer, whether by purchase or any other means of transfer.

71 (b) Provide **Broker** with keys to the Property and make the Property available for **Broker** to show during reasonable times.

72 (c) Inform **Broker** prior to leasing, mortgaging or otherwise encumbering the Property.

73 (d) Indemnify **Broker** and hold **Broker** harmless from losses, damages, costs and expenses of any nature, including  
74 attorney's fees, and from liability to any person, that **Broker** incurs because of (1) **Seller's** negligence, representations,  
75 misrepresentations, actions or inactions, (2) the use of a lock box, (3) the existence of undisclosed material facts about the  
76 Property, or (4) a court or arbitration decision that a broker who was not compensated in connection with a transaction is  
77 entitled to compensation from **Broker**. This clause will survive **Broker's** performance and the transfer of title.

78 (e) To perform any act reasonably necessary to comply with FIRPTA (Internal Revenue Code Section 1445).

79 (f) Make all legally required disclosures, including all facts that materially affect the Property's value and are not readily  
80 observable or known by the buyer. **Seller** represents there are no material facts (building code violations, pending code  
81\* citations, unobservable defects, etc.) other than the following: \_\_\_\_\_  
82\*

83 **Seller** will immediately inform **Broker** of any material facts that arise after signing this Agreement.

84 (g) Consult appropriate professionals for related legal, tax, property condition, environmental, foreign reporting  
85 requirements and other specialized advice.

86 **6. COMPENSATION:** **Seller** will compensate **Broker** as specified below for procuring a buyer who is ready, willing and able  
87 to purchase the Property or any interest in the Property on the terms of this Agreement or on any other terms acceptable to  
88 **Seller**. **Seller** will pay **Broker** as follows (plus applicable sales tax):

89\* (a) \_\_\_\_\_% of the total purchase price plus \$ \_\_\_\_\_ OR \$ \_\_\_\_\_, no later than the  
90 date of closing specified in the sales contract. However, closing is not a prerequisite for **Broker's** fee being earned.

91\* (b) \_\_\_\_\_ (\$ or %) of the consideration paid for an option, at the time an option is created. If the option is  
92 exercised, **Seller** will pay **Broker** the paragraph 6(a) fee, less the amount **Broker** received under this subparagraph.

93\* (c) \_\_\_\_\_ (\$ or %) of gross lease value as a leasing fee, on the date **Seller** enters into a lease or agreement to  
94 lease, whichever is soonest. This fee is not due if the Property is or becomes the subject of a contract granting an  
95 exclusive right to lease the Property.

96 (d) **Broker's** fee is due in the following circumstances: (1) If any interest in the Property is transferred, whether by sale, lease,  
97 exchange, governmental action, bankruptcy or any other means of transfer, regardless of whether the buyer is secured by  
98 **Broker**, **Seller** or any other person. (2) If **Seller** refuses or fails to sign an offer at the price and terms stated in this Agreement,  
99\* defaults on an executed sales contract or agrees with a buyer to cancel an executed sales contract. (3) If, within \_\_\_\_\_ days  
100 after Termination Date ("Protection Period"), **Seller** transfers or contracts to transfer the Property or any interest in the Property  
101 to any prospects with whom **Seller**, **Broker** or any real estate licensee communicated regarding the Property prior to Termination  
102 Date. However, no fee will be due **Broker** if the Property is relisted after Termination Date and sold through another broker.

103\* (e) Retained Deposits: As consideration for **Broker's** services, **Broker** is entitled to receive \_\_\_\_\_% of all deposits that  
104 **Seller** retains as liquidated damages for a buyer's default in a transaction, not to exceed the paragraph 6(a) fee.

105 **7. COOPERATION AND COMPENSATION WITH OTHER BROKERS:** **Broker's** office policy is to cooperate with all other  
106\* brokers except when not in **Seller's** best interest:  and to offer compensation in the amount of \_\_\_\_\_% of the  
107\* purchase price or \$ \_\_\_\_\_ to **Buyer's** agents, who represent the interest of the buyers, and not the interest of **Seller**  
108\* in a transaction;  and to offer compensation in the amount of \_\_\_\_\_% of the purchase price or \$ \_\_\_\_\_  
109\* to a broker who has no brokerage relationship with the **Buyer** or **Seller**;  and to offer compensation in the amount of  
110\* \_\_\_\_\_% of the purchase price or \$ \_\_\_\_\_ to Transaction brokers for the **Buyer**;  None of the above (if this  
111 is checked, the Property cannot be placed in the MLS.)

112\* **Seller** (\_\_\_\_) (\_\_\_\_) and **Broker/Sales Associate** (\_\_\_\_) (\_\_\_\_) acknowledge receipt of a copy of this page, which is Page 2 of 5 Pages.

113 **8. BROKERAGE RELATIONSHIP:**

114 **SINGLE AGENT NOTICE**

115 **FLORIDA LAW REQUIRES THAT REAL ESTATE LICENSEES OPERATING AS SINGLE AGENTS DISCLOSE TO**  
116 **BUYERS AND SELLERS THEIR DUTIES.**

117\* As a single agent, \_\_\_\_\_  
118 and its associates owe to you the following duties:

- 119 1. Dealing honestly and fairly;
- 120 2. Loyalty;
- 121 3. Confidentiality;
- 122 4. Obedience;
- 123 5. Full disclosure;
- 124 6. Accounting for all funds;
- 125 7. Skill, care, and diligence in the transaction;
- 126 8. Presenting all offers and counteroffers in a timely manner, unless a party has previously directed the licensee otherwise in writing; and
- 127 9. Disclosing all known facts that materially affect the value of residential real property and are not readily observable.

129\* \_\_\_\_\_  
130 **Date** **Signature**

131 **CONSENT TO TRANSITION TO TRANSACTION BROKER**

132 **FLORIDA LAW ALLOWS REAL ESTATE LICENSEES WHO REPRESENT A BUYER OR SELLER AS A SINGLE AGENT**  
133 **TO CHANGE FROM A SINGLE AGENT RELATIONSHIP TO A TRANSACTION BROKERAGE RELATIONSHIP IN**  
134 **ORDER FOR THE LICENSEE TO ASSIST BOTH PARTIES IN A REAL ESTATE TRANSACTION BY PROVIDING A**  
135 **LIMITED FORM OF REPRESENTATION TO BOTH THE BUYER AND THE SELLER. THIS CHANGE IN RELATIONSHIP**  
136 **CANNOT OCCUR WITHOUT YOUR PRIOR WRITTEN CONSENT.**

137\* As a transaction broker, \_\_\_\_\_  
138 and its associates, provides to you a limited form of representation that includes the following duties:

- 139 1. Dealing honestly and fairly;
- 140 2. Accounting for all funds;
- 141 3. Using skill, care, and diligence in the transaction;
- 142 4. Disclosing all known facts that materially affect the value of residential real property and are not readily observable to the buyer;
- 143 5. Presenting all offers and counteroffers in a timely manner, unless a party has previously directed the licensee otherwise in writing;
- 144 6. Limited confidentiality, unless waived in writing by a party. This limited confidentiality will prevent disclosure that the seller will accept a price less than the asking or listed price, that the buyer will pay a price greater than the price submitted in a written offer, of the motivation of any party for selling or buying property, that a seller or buyer will agree to financing terms other than those offered, or of any other information requested by a party to remain confidential; and
- 148 7. Any additional duties that are entered into by this or by separate written agreement.

149 Limited representation means that a buyer or seller is not responsible for the acts of the licensee. Additionally, parties are giving up  
150 their rights to the undivided loyalty of the licensee. This aspect of limited representation allows a licensee to facilitate a real estate  
151 transaction by assisting both the buyer and the seller, but a licensee will not work to represent one party to the detriment of the other  
152 party when acting as a transaction broker to both parties.

153\* \_\_\_\_\_ I agree that my agent may assume the role and duties of a transaction broker. (must be initialed or signed)

154\* \_\_\_\_\_  
155 **Date** **Signature** **Signature**

156 **TRANSACTION BROKER NOTICE**

157\* As a transaction broker, \_\_\_\_\_  
158 and its associates, provides to you a limited form of representation that includes the following duties:

- 159 1. Dealing honestly and fairly;
- 160 2. Accounting for all funds;
- 161 3. Using skill, care, and diligence in the transaction;

162\* **Seller** (\_\_\_\_) (\_\_\_\_) and **Broker/Sales Associate** (\_\_\_\_) (\_\_\_\_) acknowledge receipt of a copy of this page, which is Page 3 of 5 Pages.

- 163 4. Disclosing all known facts that materially affect the value of residential real property and are not readily observable to the buyer;
- 164 5. Presenting all offers and counteroffers in a timely manner, unless a party has previously directed the licensee otherwise in writing;
- 165 6. Limited confidentiality, unless waived in writing by a party. This limited confidentiality will prevent disclosure that the seller
- 166 will accept a price less than the asking or listed price, that the buyer will pay a price greater than the price submitted in a
- 167 written offer, of the motivation of any party for selling or buying property, that a seller or buyer will agree to financing terms
- 168 other than those offered, or of any other information requested by a party to remain confidential; and
- 169 7. Any additional duties that are entered into by this or by separate written agreement.

170 Limited representation means that a buyer or seller is not responsible for the acts of the licensee. Additionally, parties are giving up  
 171 their rights to the undivided loyalty of the licensee. This aspect of limited representation allows a licensee to facilitate a real estate  
 172 transaction by assisting both the buyer and the seller, but a licensee will not work to represent one party to the detriment of the other  
 173 party when acting as a transaction broker to both parties.

174\* \_\_\_\_\_  
 175 **Date** **Signature** **Signature**

176 **9. CONDITIONAL TERMINATION:** At **Seller's** request, **Broker** may agree to conditionally terminate this Agreement. If  
 177 **Broker** agrees to conditional termination, **Seller** must sign a withdrawal agreement, reimburse **Broker** for all direct expenses  
 178\* incurred in marketing the Property and pay a cancellation fee of \$ \_\_\_\_\_ plus applicable sales tax. **Broker** may  
 179 void the conditional termination and **Seller** will pay the fee stated in paragraph 6(a) less the cancellation fee if **Seller** transfers  
 180 or contracts to transfer the Property or any interest in the Property during the time period from the date of conditional  
 181 termination to Termination Date and Protection Period, if applicable.

182 **10. DISPUTE RESOLUTION:** This Agreement will be construed under Florida law. All controversies, claims and other  
 183 matters in question between the parties arising out of or relating to this Agreement or the breach thereof will be settled by first  
 184 attempting mediation under the rules of the American Arbitration Association or other mediator agreed upon by the parties. If  
 185 litigation arises out of this Agreement, the prevailing party will be entitled to recover reasonable attorney's fees and costs,  
 186 unless the parties agree that disputes will be settled by arbitration as follows: **Arbitration:** By initialing in the space provided,  
 187\* **Seller** (\_\_\_\_) (\_\_\_\_), Listing Associate (\_\_\_\_) and Listing Broker (\_\_\_\_) agree that disputes not resolved by mediation will  
 188 be settled by neutral binding arbitration in the county in which the Property is located in accordance with the rules of the  
 189 American Arbitration Association or other arbitrator agreed upon by the parties. Each party to any arbitration (or litigation to  
 190 enforce the arbitration provision of this Agreement or an arbitration award) will pay its own fees, costs and expenses,  
 191 including attorney's fees, and will equally split the arbitrators' fees and administrative fees of arbitration.

192 **11. MISCELLANEOUS:** This Agreement is binding on **Broker's** and **Seller's** heirs, personal representatives, administrators,  
 193 successors and assigns. **Broker** may assign this Agreement to another listing office. This Agreement is the entire agreement  
 194 between **Broker** and **Seller**. No prior or present agreements or representations shall be binding on **Broker** or **Seller** unless  
 195 included in this Agreement. Signatures, initials and modifications communicated by facsimile will be considered as originals.  
 196 The term "buyer" as used in this Agreement includes buyers, tenants, exchangors, optionees and other categories of  
 197 potential or actual transferees.

198\* **12. ADDITIONAL TERMS:** \_\_\_\_\_  
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216\* **Seller** (\_\_\_\_) (\_\_\_\_) and **Broker/Sales Associate** (\_\_\_\_) (\_\_\_\_) acknowledge receipt of a copy of this page, which is Page 4 of 5 Pages.

217\* Date: \_\_\_\_\_ **Seller's Signature:** \_\_\_\_\_ Tax ID No: \_\_\_\_ - \_\_\_\_ - \_\_\_\_\_

218\* Telephone#'s: Home \_\_\_\_\_ Work \_\_\_\_\_ Cell \_\_\_\_\_ Fax: \_\_\_\_\_

219\* Address: \_\_\_\_\_ E-mail: \_\_\_\_\_

220\* Date: \_\_\_\_\_ **Seller's Signature:** \_\_\_\_\_ Tax ID No: \_\_\_\_ - \_\_\_\_ - \_\_\_\_\_

221\* Telephone#'s: Home \_\_\_\_\_ Work \_\_\_\_\_ Cell \_\_\_\_\_ Fax: \_\_\_\_\_

222\* Address: \_\_\_\_\_ E-mail: \_\_\_\_\_

223\* Date: \_\_\_\_\_ **Authorized Listing Associate or Broker:** \_\_\_\_\_

224\* Brokerage Firm Name: \_\_\_\_\_ Telephone: \_\_\_\_\_

225\* Address: \_\_\_\_\_

226\* Copy returned to **Customer** on the \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_ by:  personal delivery  mail  E-mail  facsimile.

The copyright laws of the United States (17 U.S. Code) forbid the unauthorized reproduction of this form by any means including facsimile or computerized forms.

227\* **Seller** (\_\_\_\_) (\_\_\_\_) and **Broker/Sales Associate** (\_\_\_\_) (\_\_\_\_) acknowledge receipt of a copy of this page, which is Page 5 of 5 Pages.