

EXCLUSIVE RIGHT-TO-SELL OR LEASE LISTING AGREEMENT (Commercial)

In consideration of the services to be rendered by the Broker named below, the undersigned, as a seller or landlord ("Seller"), hereby exclusively lists the property as described in Paragraph 3 below ("Property") for the purpose and on the terms herein stated:

1. **Effect of Listing Agreement.** By appointing Broker as exclusive broker, Seller agrees to work through Broker for the sale, lease, option or exchange (collectively "Sale") of the Property and to refer to Broker all inquiries received in any form from real estate brokers, sales persons, prospective buyers or tenants, or any other source during the time this Listing Agreement is in effect. In addition, any compensation which is conditioned upon the Sale of Property shall be earned by Broker as set forth herein without any discount or allowance for any efforts made by Seller or by any representative of Seller in connection with the sale of the Property.

2. **Sale.** "Sale of Property" or "Sale" means the voluntary transfer or exchange of any interest in the Property or the voluntary creation of any right to acquire any interest in the Property (including, without limitation, a contract, lease, option, exchange or sale).

3. **Property.** The Property is described as Lot(s) _____, Block(s) _____, _____ Addition to _____, _____

County, Oklahoma, which street address is _____, _____ (zip code) together with all Seller's right, title, interest and estate in and to oil, gas and other minerals in and under such real estate, if any.

4. **Listing Price.** Seller lists the Property for \$ _____ (the "Sales Listing Price") and agrees to sell the Property for the Sales Listing Price or any other price and terms acceptable to Seller. Seller understands that certain expenses will be incurred in the sale.

The "Lease Listing Price" is \$ _____, and Seller agrees to lease the Property for the Lease Listing Price or for any other price and terms acceptable to Seller.

5. **Term.** This Listing Agreement shall commence on _____, 20 _____ and shall continue until the earlier of the following:

- (a) the completion of the Sale of the Property by Seller;
- (b) Midnight _____, 20 _____ except for the provisions in Paragraph 7(d) below;
- (c) at the sole option of Broker, the inability of Broker to obtain consent from a buyer to change the brokerage relationship if the Single-Party Broker Disclosure and Consent Addendum is attached; or
- (d) the mutual written consent of the parties to terminate the Listing Agreement.

6. **Broker's Services.** Broker shall perform the services described in the attached Addendum which is part hereof: **(check one)**

- (a) as a Single-Party Broker in accordance with the Single-Party Broker Disclosure and Consent Addendum to Brokerage Agreement; or
- (b) as a Transaction Broker in accordance with the Transaction Broker Disclosure Addendum to Brokerage Agreement.

7. **Compensation to Broker.**

(a) **Compensation.** In consideration of the services to be performed by Broker, Seller shall pay Broker as follows:

- (i) Sale Compensation: (1) _____ % of the gross sales price of the Property; **OR**
(2) \$ _____
- (ii) Lease Compensation: (1) _____ % of the gross rental payments under the lease of the Property including extensions and renewals; **OR**
(2) \$ _____

(b) **When Earned.** Such compensation shall be earned when any one of the following occurs during the term of this Listing Agreement:

- (i) any Sale of the Property by Seller to anyone at any price on any terms;
- (ii) Broker, or in cooperation with another broker, finds a buyer who is ready, willing and able to buy, lease, option or exchange the Property at the Sales Listing Price or the Lease Listing Price or for any other price and terms acceptable to Seller; or
- (iii) Seller breaches this Listing Agreement, including, without limitation, the removal or withdrawal of the Property or any portion of the Property from the market and then contributes, conveys or transfers the Property or any interest therein to a partnership or other entity during the term of this Listing Agreement.

(c) **Payable.** When the compensation is earned, the compensation is payable, either during the term of this Listing Agreement or after its expiration or termination, at the earlier of:

- (i) the closing of any Sale of the Property;
- (ii) the execution of a lease or rental agreement for the Property by Seller and any tenant and with respect to any extension or renewal of a lease or rental agreement upon the commencement thereof;
- (iii) Seller's refusal to sell or lease the Property after the Sale Compensation or Lease Compensation has been earned;
- (iv) Seller's breach of this Listing Agreement; or
- (v) at such time as otherwise set forth in this Listing Agreement.

(d) **Extension Period.** If, within _____ days after the term of this Listing Agreement (the "Extension Period"), Seller enters into a contract for the Sale of the Property to a Registered Buyer, Seller shall pay Broker an amount equal to the Sale Compensation or Lease Compensation, whichever is applicable. A "Registered Buyer" is a buyer or tenant to whom the Broker has shown the Property, who has been informed of the Sales Listing Price or Lease Listing Price or with whom Broker has negotiated concerning the Property, and whose name has been submitted to Seller in writing prior to or within _____ days after the termination or expiration of this Listing Agreement.

(e) If a buyer or tenant with whom Seller has entered into a contract for the Sale of the Property during the term of this Listing Agreement breaches such a contract, and Seller receives earnest money or a portion thereof as liquidated damages, Seller will pay Broker the lesser of one-half of such amount or the Sale Compensation or Lease Compensation, whichever is applicable. Any amount paid under this subparagraph is in addition to any amount the Broker may be entitled to receive from any subsequent Sale of the Property.

8. **Disclosures Required by Seller.**

(a) Seller will deliver to Broker the disclosures and notices as required by law including, without limitation, that the Property has been damaged or affected by water or flooding, the presence and location of asbestos, PCB transformers, other toxic, hazardous or contaminated substances and underground storage tanks. Seller must complete the required disclosures or notices to the best of Seller's knowledge and belief. Seller authorizes Broker to furnish prospective buyers and other brokers with copies of all required disclosures or notices.

(b) Seller shall promptly amend the applicable disclosures and notices (i) which become out-dated or inaccurate, and (ii) if Seller becomes aware of any defect.

(c) *Seller will protect, defend, indemnify and hold Broker and Broker's associated associates and other brokers and their associated associates harmless from any and all damages, costs, attorneys fees or expenses arising from Seller's failure to disclose any defects of which Seller has actual knowledge or information as required by law or communication of any incorrect information to Broker or Broker's associated associates or other brokers or their associated associates or prospective buyers.*

9. **Broker Defined.** The term "Broker" includes any broker associate, sales associate or provisional sales associate who is authorized to sign this Agreement on behalf of the broker.

10. **Listing of the Property.**

(a) Broker is a member of the Multiple Listing Service of the _____ (the "MLS"). Broker is authorized to file listing information about the Property with the MLS for processing and dissemination.

(b) Seller authorizes Broker to place information about the Property on the Internet either directly or through a program of the MLS or other listing service.

Seller's Initials _____

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11. **Access to the Property.** Authorizing access to the Property means giving permission to another person to enter the Property, disclosing any security codes affecting the Property to such person and lending a key to the Property to such person. To facilitate the showing and Sale of the Property, Seller authorizes Broker to:

- access the Property at any reasonable hour; and
- authorize other brokers, inspectors, appraisers and repair persons to access the Property at any reasonable hour.

12. **Broker's Authority.** Broker is not authorized to execute any document in the name of or on behalf of Seller with respect to the Property. Seller authorizes Broker to:

- (a) advertise the Property by means and methods as Broker determines;
- (b) make and use photographs or other electronic images of the Property;
- (c) place a "For Sale" or "For Lease", if applicable, sign on the Property;
- (d) remove from the Property all other signs offering the Property for sale or lease;
- (e) at Seller's expense, turn on or leave on until closing or termination of this Listing Agreement all utilities or have service persons do so in order to show the Property or to permit inspection of the Property;
- (f) furnish sales information about other properties to any prospective buyer;
- (g) disseminate the information about the Property to seek assistance from and offer compensation to other brokers providing services to the buyer as a single-party or a transaction broker;
- (h) have access to the Property at any reasonable hour to show the Property to any prospective buyer;
- (i) obtain all information pertaining to any present mortgage on the Property from any holder of any note secured by a lien on the Property or any mortgage service company and to furnish information pertaining to the Property to any prospective buyer or lender;
- (j) upon the closing of a Sale of the Property, to submit information about the Property, sales price of the Property and contract terms to the named MLS for publication to subscribers for market evaluation or appraisal purposes (any information or data, including information about a Sale, becomes the property of the named MLS for all purposes);
- (k) upon closing of the Sale of the Property, disclose the sales price and terms of sale to other brokers, appraisers or other real estate professionals; and
- (l) accept earnest money and deposit the earnest money in trust in accordance with the terms of a contract for the Sale of the Property.

13. **Seller's Representations.** Except as set forth in Paragraph 17 below, Seller represents that:

- (a) Seller has fee simple title to and possession of the Property and all its improvements and fixtures thereon, unless rented, and the legal capacity to convey the Property.
- (b) Seller is not now a party to a listing agreement with another broker for the sale, exchange or lease of the Property.
- (c) No person or entity has any right to purchase, lease or acquire the Property by virtue of an option, right of first refusal or other agreement.
- (d) The Property (**check one**) is **not** subject to a special assessment, or is subject to a special assessment of which \$ _____ is unpaid.
- (e) There are no delinquencies or defaults under any mortgage or other encumbrance on the Property.
- (f) The Property is not subject to probate proceedings, foreclosure, bankruptcy, divorce proceedings or the jurisdiction of any court.
- (g) All information relating to the Property provided herewith or which may be provided to Broker by Seller is true and correct, and Seller will notify Broker in the event of any changes to these representations.

14. **Seller's Additional Promises.** Seller agrees to:

- (a) cooperate fully in good faith with Broker to facilitate the showing and marketing of the Property;
- (b) not negotiate with any prospective buyer who may contact Seller directly; and
- (c) provide Broker with copies of all leases or rental agreements, if any, pertaining to the Property and advise Broker of any tenants moving in or out of the Property.

15. **Limitation of Liability.** If the Property is or becomes vacant during the term of this Agreement, Seller should notify Seller's casualty insurance company and request a "Vacancy Clause" to cover the Property. Broker is not responsible for managing the Property, the security of the Property nor for inspecting the Property. **Broker is not responsible or liable in any manner for personal injury to any person or for loss or damage to any person's real or personal property resulting from: (i) acts of third parties; (ii) vandalism; (iii) theft; (iv) freezing water pipes; (v) a dangerous condition on the Property; (vi) the Property's non-compliance with any law or ordinance; and (vii) any act or omission not caused by Broker's negligence. Seller agrees to protect, defend, indemnify and hold Broker harmless from any liability for which Broker is not responsible under this Agreement.**

16. **Special Information.** _____

17. **Default.** If Seller breaches this Listing Agreement (including but not limited to Sale of the Property without Broker's knowledge and consent), Seller is in default and will be liable to Broker for the amount of the compensation specified in Paragraph 7 above. If Broker breaches this Listing Agreement, Broker is in default and Seller may exercise any remedy at law.

18. **Attorneys' Fees.** If Seller or Broker is a prevailing party in any legal proceeding brought as a result of a dispute under this Listing Agreement, such party will be entitled to recover from the non-prevailing party all costs of such proceeding and reasonable attorneys' fees.

19. **Agreement of Parties.**

- (a) **Addenda.** Addenda and other related documents which are part of this Listing Agreement are:
 - (i) the Addendum identified in Paragraph 6 above;
 - (ii) those disclosures or notices referred to in Paragraph 8 above;
 - (iii) Seller's Estimate of Expenses, of which Seller acknowledges receipt.
- (b) **Entire Agreement.** This Listing Agreement and the Addenda contain the entire agreement between the parties and may not be changed except by written agreement. Seller acknowledges receipt of a copy of this Listing Agreement and the Addenda identified in Paragraph 19 (a) above.
- (c) **Assignability.** This Listing Agreement may not be assigned by either party without the written approval of the other party.
- (d) **Binding Effect.** This Listing Agreement is binding upon and inure to the benefit of the parties hereto, their respective personal representatives, heirs, successors and permitted assigns.
- (e) **Joint and Several.** All Sellers executing this Listing Agreement are jointly and severally liable for the performance of all its terms.
- (f) **Governing Law.** The laws of the State of Oklahoma govern the interpretation, validity, performance and enforcement of this Agreement.
- (g) **Severability.** If any clause in this Listing Agreement is found to be invalid or unenforceable by a court of law, the remainder of this Listing Agreement will not be affected and all other provisions of this Agreement will remain valid and enforceable.

20. **Counterparts.** If more than one person is named as Seller herein, this Listing Agreement may be executed by each Seller individually, and when so executed, such copies taken together shall be deemed to be a full and complete agreement between the parties.

21. **Additional Notices.**

- (a) Compensation or the sharing of fees between brokers is not fixed, controlled, recommended, suggested or maintained by the Oklahoma City Metropolitan Association of REALTORS, MLS, or any listing service. Compensation is determined by individual brokerage firms.
- (b) The law requires that the Property be shown and made available for sale to all persons without regard to age, race, color, religion, sex, handicap, familial status or national origin.

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(c) Seller agrees that upon acceptance of a contract by Seller, Broker shall have no duty thereafter to submit subsequent written bonafide offers for the purchase of the Property unless such contract specifically provides otherwise or the transaction described in such contract does not close.

(d) Broker cannot give legal advice. This is intended to be a legally binding agreement. READ IT CAREFULLY. If you do not understand the effect of this Listing Agreement, consult your attorney BEFORE signing.

Executed by Seller this _____ day of _____, 20 _____

Seller's Telephone (Home) _____ (Work) _____

Seller's Address (if other than Property) _____

Company/Firm _____

Seller (Print) SS or Tax ID _____

Seller/Corporate Officer (Signature)

Seller (Print) SS or Tax ID _____

Seller (Signature)

Executed by Broker this _____ day of _____, 20 _____

Broker (Company)
Telephone: _____

By: _____
Broker or Associate (Signature)
Telephone: _____