

EXCLUSIVE AGENCY SALE AND LISTING AGREEMENT

This Exclusive Agency Sale and Listing Brokerage Services Agreement (the "Agreement") is made by and between 1

_____, ("Seller") and 2

Seller _____ Seller _____ ("Listing Firm or "Firm") with regard to the real 3

property commonly known as _____, City _____ 4

County _____, WA, Zip _____; and legally described on Exhibit A ("the Property"). 5

1. **DEFINITIONS.** (a) "MLS" means the Northwest Multiple Listing Service; and (b) "sell" includes a contract to sell; an 6
exchange or contract to exchange; or an option to purchase. Firm need not submit to Seller any offers to lease, 7
rent, or enter into any agreement other than for sale of the Property. 8

2. **TERM.** Seller hereby grants to Listing Firm the exclusive right to list and sell the Property from the date of mutual 9
acceptance of this Agreement ("Effective Date") until midnight of _____ ("Listing Term"). If 10
this Agreement expires while Seller is a party to a purchase and sale agreement for the Property, the Listing Term 11
shall automatically extend until the sale is closed or the purchase and sale agreement is terminated. 12

3. **AGENCY.** 13

a. Pamphlet. Seller acknowledges receipt of the pamphlet entitled "Real Estate Brokerage in Washington." 14

b. Listing Broker. Listing Firm appoints _____ 15
to represent Seller ("Listing Broker"). This Agreement creates an agency relationship with Listing Broker and 16
any of Firm's managing brokers who supervise Listing Broker ("Supervising Broker") during the Listing Term. 17
No other brokers affiliated with Firm are agents of Seller. 18

4. **LIMITED DUAL AGENCY.** 19

a. Listing Broker as Limited Dual Agent. If initialed below, Seller consents to Listing Broker and Supervising Broker 20
acting as limited dual agents in the sale of the Property to a buyer that Listing Broker also represents. Seller 21
acknowledges that as a limited dual agent, RCW 18.86.060 prohibits Listing Broker from advocating terms 22
favorable to Seller to the detriment of the buyer and further limits Listing Broker's representation of Seller. 23

Seller's Initials Date Seller's Initials Date 24

b. Firm Limited Dual Agency. If the Property is sold to a buyer represented by one of Firm's brokers other than 25
Listing Broker ("Listing Firm's Buyer's Broker"), Seller consents to any Supervising Broker, who also supervises 26
Listing Firm's Buyer's Broker, acting as a limited dual agent. 27

5. **LIST DATE.** Firm shall submit this listing, including the Property information on the attached Listing Input Sheets and 28
photographs of the Property (collectively "Listing Data"), to be published by MLS on _____ ("List 29
Date"), which date shall not be more than 90 days from the Effective Date. Seller acknowledges that exposure of the 30
Property to the open market through MLS will increase the likelihood that Seller will receive fair market value for the 31
Property. Accordingly, prior to the List Date, Firm and Seller shall not promote or advertise the Property in any manner 32
whatsoever, including, but not limited to yard or other signs, flyers, websites, e-mails, texts, social media, mailers, 33
magazines, newspapers, open houses, previews, showings, or tours. Seller shall not materially interfere with Listing 34
Firm's marketing of the Property. To address any privacy or similar concerns, Seller may instruct Listing Broker to limit 35
marketing by not displaying the Property address or map location on the internet, by eliminating any and all internet 36
advertising, and by imposing specific showing requirements and other similar restrictions. 37

6. **FAIR HOUSING.** Seller acknowledges that local, state, and federal fair housing laws prohibit discrimination based 38
on sex, marital status, sexual orientation, gender identity, race, creed, color, religion, caste, national origin, 39
citizenship or immigration status, families with children status, familial status, honorably discharged veteran or 40
military status, the presence of any sensory, mental, or physical disability, or the use of a support or service animal 41
by a person with a disability. 42

7. **COMPENSATION.** Seller acknowledges that there are no standard compensation rates and the compensation in 43
this Agreement is fully negotiable and not set by law. If during the Listing Term, Seller sells the Property through 44

Seller's Initials Date Seller's Initials Date

EXCLUSIVE AGENCY SALE AND LISTING AGREEMENT

Listing Firm or any other real estate licensee and the sale closes; or the sale fails to close due to Seller's breach of the terms of the purchase and sale agreement, Seller shall pay compensation as follows:

a. Listing Firm Compensation.

- i. _____% of the sales price; \$ _____; other _____; or
- ii. If the buyer is not represented by a buyer brokerage firm, the Listing Firm compensation shall be _____% of the sales price; \$ _____; other _____ (equal to the amount in subsection 7(a)(i) above if not filled in).

b. Buyer Brokerage Firm Compensation. Seller acknowledges that offering compensation to a cooperating member of MLS representing the buyer ("Buyer Brokerage Firm") ("Buyer Brokerage Compensation") is not required.

☐ **Seller's Offer of Compensation.** Seller offers Buyer Brokerage Compensation as follows:

- i. _____% of the sales price; \$ _____; or other _____ to Buyer Brokerage Firm, which includes another broker affiliated with Listing Firm who represents the buyer; or
- ii. If the Listing Broker is a limited dual agent and represents both Seller and the buyer, _____% of the sales price; \$ _____; or other _____ (equal to the amount in subsection 7(b)(i) above if not filled in) to be paid to Listing Firm as Buyer Brokerage Compensation.
- iii. Buyer Brokerage Compensation shall be paid as set forth above, unless modified by the buyer in a mutually accepted purchase and sale agreement. The offered amount may not be withdrawn or reduced with respect to a buyer after that buyer or the Buyer Brokerage Firm has notified the Listing Firm or Seller of that buyer's intent to submit an offer (and for three calendar days thereafter). Buyer Brokerage Firm is an intended third-party beneficiary of this Agreement.
- iv. If checked, ☐ the offer to pay Buyer Brokerage Compensation shall extend to licensed brokerage firms that are not members of MLS.

☐ **Buyer to Request Compensation in Offer.** In lieu of offering a specific compensation amount, Seller invites the buyer to include in the buyer's offer, the amount that the buyer requests Seller to compensate the Buyer Brokerage Firm, which amount must be agreed to by the parties. "Request in Offer" will be displayed in the compensation section of the listing.

☐ **No Offer of Compensation.** Seller declines to offer and does not intend to pay Buyer Brokerage Compensation. Seller acknowledges that a buyer may still submit an offer that includes an amount that the buyer requests Seller to compensate the Buyer Brokerage Firm. "None" will be displayed in the compensation section of the listing.

c. Expiration of the Listing Term. If Seller shall, within _____ days (180 days if not filled in) after the expiration of the Listing Term, sell the Property to any person to whose attention it was brought through the signs, advertising or other action of the Listing Firm, or on information secured directly or indirectly from or through Firm, during the Listing Term, Seller will pay Firm and Buyer Brokerage Firm the above compensation at closing. Provided, that if Seller pays compensation to other licensed brokerage firms in conjunction with a sale, the amount of compensation payable to Firm shall be reduced by the amount paid to such other listing firm and the compensation payable to Buyer Brokerage Firm shall be reduced by the amount paid to such other buyer brokerage firm.

d. Cancellation Without Legal Cause. If Seller cancels this Agreement without legal cause, Seller may be liable for damages incurred by Firm as a result of such cancellation, regardless of whether Seller pays compensation to another licensed brokerage firm.

e. Additional Consent. Seller consents to Firm receiving compensation from more than one party, provided that any terms offered to Firm are disclosed as required by RCW 18.86.030.

8. REFERRAL FEE DISCLOSURE. Listing Firm ☐ is; ☐ is not (is not, if not filled in) obligated to pay a portion of the Listing Firm compensation to a real estate firm ("Referring Firm") that referred Seller to Listing Firm. Seller consents to Listing Firm sharing a portion of the Listing Firm compensation as follows:

- a. Referring Firm: _____;
- b. Referral Fee: _____% of the Listing Firm compensation; or \$ _____.

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- 9. PROPERTY ACCESS AND KEYBOX.** Listing Firm shall install a keybox on the Property that holds a key to the Property which may be opened by an electronic key held by members of MLS, their brokers, and affiliated appraiser members of MLS. Unless otherwise agreed in writing or as set forth in the attached Listing Input Sheets, Firm and other members of MLS shall be entitled to show the Property at all reasonable times.
- a. Property Access for Non-Member Brokers. Listing Firm may be contacted by licensed brokers who are not members of MLS and do not have access to the keybox on the Property. Seller ☐ authorizes; ☐ does not authorize (authorizes if not filled in) Firm to provide access to the Property to licensed brokers who are not members of MLS. If authorized, Listing Firm ☐ shall; ☐ shall not (shall if not filled in) be required to attend any such showing. If authorized, Listing Firm ☐ shall; ☐ shall not (shall if not filled in) require brokers who are not members of MLS to execute an access agreement prior to any showing.
- 10. MULTIPLE LISTING SERVICE.** Seller authorizes Listing Firm and MLS to publish and distribute the Listing Data to other members of MLS and their affiliates and third parties for public display and other purposes, subject to any restrictions imposed by Seller. This authorization shall survive the termination of this Agreement. Firm is authorized to report the sale of the Property (including price and all terms) to MLS and to its members, financial institutions, appraisers, and others related to the sale, provided that any terms reported to MLS before the sale closes shall only be used for aggregated, anonymized reports. Firm may refer this listing to any other cooperating multiple listing service at Firm's discretion or a licensed broker who is not a member of a multiple listing service. Firm shall cooperate with all other members of MLS, members of a multiple listing service to which this listing is referred, and any licensed brokers who are not members of a multiple listing service. MLS is an intended third-party beneficiary of this Agreement and will provide the Listing Data to its members and their affiliates and third parties, without verification and without assuming any responsibility with respect to this Agreement.
- 11. PROPERTY CONDITION AND INSURANCE.** Neither Firm, MLS, nor any members of MLS or of any multiple listing service to which this listing is referred shall be responsible for, and Seller shall indemnify and hold them harmless from, any loss, theft, or damage of any nature or kind whatsoever to the Property, any personal property therein, or any personal injury resulting from the condition of the Property, including entry by the key to the keybox and/or at open houses, except for damage or injury caused by their gross negligence or willful misconduct. Seller is advised to notify Seller's insurance company that the Property is listed for sale and ascertain that the Seller has adequate insurance coverage. If the Property is to be vacant during all or part of the Listing Term, Seller is advised to request that a "vacancy clause" be added to Seller's insurance policy. Seller acknowledges that intercepting or recording conversations of persons in the Property without first obtaining their consent violates RCW 9.73.030, and Seller shall indemnify and hold Firm and other members of MLS harmless from any related claims.
- 12. SELLER'S WARRANTIES AND REPRESENTATIONS.** Seller warrants that Seller has the right to sell the Property on the terms herein. If Seller provides Firm with any photographs, drawings, or sketches of the Property, Seller warrants that Seller has the necessary rights in the photographs, drawings, or sketches to allow Firm to use them as contemplated by this Agreement. Seller shall indemnify and hold Firm and other members of MLS harmless in the event the foregoing warranties are incorrect. Seller represents, to the best of Seller's knowledge, that the Property information on the Listing Input Sheets (attached to and incorporated into this Agreement by this reference) is correct.
- 13. SHORT SALE / NO DISTRESSED HOME CONVEYANCE.** If the proceeds from the sale of the Property are insufficient to cover the Seller's costs at closing, Seller acknowledges that the decision by any beneficiary or mortgagee, or its assignees, to release its interest in the Property, for less than the amount owed, does not automatically relieve Seller of the obligation to pay any debt or costs remaining at closing, including fees such as Firm's compensation. Firm will not represent or assist Seller in a transaction that is a "Distressed Home Conveyance" as defined by Chapter 61.34 RCW unless otherwise agreed in writing. A "Distressed Home Conveyance" is a transaction where a buyer purchases property from a "Distressed Homeowner" (defined by Chapter 61.34 RCW), allows the Distressed Homeowner to continue to occupy the property, and promises to convey the property back to the Distressed Homeowner or promises the Distressed Homeowner an interest in, or portion of, the proceeds from a resale of the property.
- 14. SELLER DISCLOSURE STATEMENT.** Unless Seller is exempt under RCW 64.06, Seller shall provide to Firm as soon as reasonably practicable, a completed "Seller Disclosure Statement" (Form 17 (Residential)), (Form 17C (Unimproved Residential)), or (Form 17 Commercial). Seller shall indemnify, defend, and hold Firm harmless from and against any and all claims that the information Seller provides on Form 17, Form 17C, or Form 17 Commercial is inaccurate.

Seller's Initials

Date

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Date

EXCLUSIVE AGENCY SALE AND LISTING AGREEMENT

15. CLOSING. Seller shall furnish and pay for a buyer's policy of title insurance showing marketable title to the Property. Seller shall pay real estate excise tax and one-half of any escrow fees or such portion of escrow fees and any other fees or charges as provided by law in the case of a FHA, USDA, or VA financed sale. Rent, taxes, interest, reserves, assumed encumbrances, homeowner fees and insurance are to be prorated between Seller and the buyer as of the date of closing. Seller shall prepare and execute a certification (NWMLS Form 22E or equivalent) under the Foreign Investment in Real Property Tax Act ("FIRPTA"), and Firm may provide a copy of the FIRPTA certification to escrow and the buyer. If Seller is a foreign person or entity, and the sale is not otherwise exempt from FIRPTA, Seller acknowledges that a percentage of the amount realized from the sale will be withheld for payment to the Internal Revenue Service, and Seller shall pay any fees, including any fees incurred by the buyer, related to such withholding and payment.

16. DAMAGES IN THE EVENT OF BUYER'S BREACH. In the event Seller retains earnest money as liquidated damages on a buyer's breach, any costs advanced or committed by Firm on Seller's behalf shall be paid therefrom and the balance shall be ☐ retained by Seller; ☐ divided equally between Seller and Firm (retained by Seller if not checked).

17. ATTORNEYS' FEES. In the event either party employs an attorney to enforce any terms of this Agreement and is successful, the other party agrees to pay reasonable attorneys' fees. In the event of trial, the successful party shall be entitled to an award of attorneys' fees and expenses; the amount of the attorneys' fees and expenses shall be fixed by the court. The venue of any suit shall be the county in which the Property is located.

18. OTHER.

Seller's Signature Date

Seller's Signature Date

Seller E-mail Address

Seller Phone Number

Listing Firm

Listing Broker's Signature Date

Listing Firm License Number

Listing Broker License Number

Listing Broker E-mail Address

Listing Broker Phone Number