

Exclusive Right of Sale Listing Agreement For Commercial Property

FLORIDA ASSOCIATION OF REALTORS®



This is a legal and binding contract on all parties hereto, including their heirs, legal representatives, successors and assigns and if it is not fully understood, OWNER should seek competent legal advice.

1 **1.** This contract made and entered into by and between:
2* _____ (“OWNER” which term shall include singular and plural)
3* and _____ (“BROKER”)

4* OWNER hereby gives BROKER for a period of time commencing the ____ day of _____, and terminating the ____
5* day of _____, or any renewal hereof (“Termination Date”) THE EXCLUSIVE RIGHT AND AUTHORITY to find a pur-
6* chaser of the real property and/or inventory or assets, arrange a merger, lease, lease with option to purchase, rent or
7* exchange for the herein described property and personalty described in Paragraph 1(A). Upon full execution of a contract for
8* sale and purchase of the Property, all rights and obligations of the Agreement will automatically extend through the date of
9* the actual closing of the sales contract.

10 **A.** Description of real property:
11* Street address: _____

12* Legal Description:
13*
14*
15*
16*

17 **B.** Description of personal property (including machinery, inventory, supplies and equipment): Upon the following price
18* and terms:
19*
20*
21*
22*

23* Price: \$ _____
24* Terms: (include special financing terms here)
25*

26* **C.** Mortgage Information: existing mortgage with \$ _____ Balance; _____%, Payable \$ _____, Per Month
27* P.I. \$ _____ Approximately _____ years to run.

28 **D.** Interest on encumbrances, taxes, insurance premiums and rents shall be adjusted pro rata at the date of closing.
29 Improvement liens, if any, will be discharged by the OWNER. The usual and customary time to be allowed for examination
30 of title and closing of the transaction. Personal property to be included in the purchase price shall include all fixed equip-
31* ment, and plants and shrubbery now installed on said property. It is understood that the sale is to include: the good-
32* will and name as a going concern; furniture, fixtures and equipment as per attached inventory; advertising; con-
33* tract rights; leases; licenses; rights under any agreement for interests except as stated herein. Seller shall
34 convey title to personal property assets by Bill of Sale Absolute giving good marketable title unless the sale is a secured
35 transaction, in which case a Security agreement will be required by the purchaser. The OWNER agrees at its expense to
36* provide (a) preparation of and delivery to the Purchaser of a warranty deed or other _____ conveying a mar-
37 ketable title free and clear of all liens except encumbrances of record assumed by the Purchaser as part of the purchase
38 price (**public utility easements**); (b) abstract of title or binder for marketable title insurance policy; (c) documentary
39 stamps for the deed; (d) Seller’s attorney fees; (e) recording fee for satisfaction of existing mortgage is paid off.

40 **2. BROKER agrees:**

- 41 **A.** To process Property through Multiple Listing Services.
42 **B.** To inspect and become familiar with the Property and promote its sale;
43 **C.** To present all offers and counter-offers in a timely manner regardless of whether the Property is subject to a contract
44 for sale;
45 **D.** To advertise the Property as Broker deems advisable including advertising the Property on the Internet unless limited
46 in 2(d)(i) or 2(d)(ii) below.
47 **(Seller opt-out)(Check one if applicable)**
48* (i) Display the Property on the Internet except the street address of the Property shall not be displayed on the
49 Internet.

50* **Seller** (____) (____) and **Broker/Sales Associate** (____) (____) acknowledge receipt of a copy of this page, which is Page 1 of 4 Pages.

51* (ii) **Seller** does not authorize **Broker** to display the Property on the Internet.
52 **Seller** understands and acknowledges that if **Seller** selects option (ii), consumers who conduct searches for listings
53 on the Internet will not see information about the listed property in response to their search.

54* _____ / _____ **Initials of Seller.**

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

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

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

64 **F.** To the extent not in conflict with BROKER'S duties under paragraph 6 below, to furnish information requested by
65 another agent or licensed real estate broker and to assist cooperating broker in closing transaction on the Property
66 when requested.

67 **G.** To take all reasonable precautions to prevent damage in the process of showing Property or permitting others to
68 show Property, but BROKER accepts no responsibility for loss or damage; and

69* **H.** To utilize not utilize the name of the OWNER in connection with marketing or advertising of the Property
70 either before or after sale;

71 **I.** To represent the OWNER, and thereby is authorized to accept, receipt for and hold all monies paid or deposited as a
72 binder or deposit on the purchase of the Property, and the duties of the BROKER relative thereto shall be in accordance
73 with the laws of the State of Florida and regulations of the Florida Real Estate Commission; and

74 **3. OWNER agrees:**

75 **A.** To pay the BROKER compensation in accordance with the terms of this Agreement set forth in paragraph 4 below;

76* **B.** To give BROKER permission to pay cooperating brokers, except when not in OWNER'S best interest: and to offer
77* compensation in the amount of _____% of the purchase price or \$_____ to buyer's agents, who represent
78* the interest of the buyers, and not the interest of OWNER in a transaction; and to offer compensation in the amount of
79* _____% of the purchase price or \$_____ to a broker who has no brokerage relationship with the buyer or
80* OWNER; and to offer compensation in the amount of _____% of the purchase price or \$_____ to trans-
81* action brokers for the buyer; None of the above (if this is checked, the Property cannot be placed in the MLS.)

82 **C.** In the event of an exchange, to permit BROKER to represent all parties and collect compensation or commissions from
83 them. BROKER is authorized to pay other brokers such compensation or commissions in any manner acceptable to brokers.

84 **D.** To pay compensation due BROKER if Property, or any interests therein is sold, leased or contracted to be sold or
85* leased or otherwise transferred within _____ days after Termination Date to anyone to whom the Property was submit-
86 ted by or through the efforts of any BROKER or the OWNER before the Termination Date. However, the obligation to
87 pay such compensation to BROKER shall cease if a bona fide Exclusive Right of Sale Contract is entered into after
88 Termination Date with another licensed BROKER and a sale, lease, exchange or contract therefor, of the Property is
89 made during the term thereof;

90 **E.** To notify the BROKER in writing before leasing, mortgaging or otherwise encumbering the Property and to provide
91 details of any such encumbrances;

92 **F.** To refer immediately to BROKER all inquiries relative to the purchase or leasing of the Property.

93 **G.** To warrant accuracy of information set forth herein and on the data sheets, exhibits and addenda attached hereto and
94 to indemnify and save harmless BROKER and those relying thereon for damages resulting from errors contained therein;

95 **H.** To furnish BROKER with keys to the Property and make the Property available for BROKER to show during reasonable hours;

96 **I.** To pay any applicable sales tax when due;

97 **J.** To obtain any information relating to the present mortgage or mortgages on the Property including existing balance,
98 interest rate, monthly payment, balance in escrow and payoff amount;

99 **K.** To authorize BROKER to place "For Sale", "Under Contract" OR "Sale Pending" signs upon the Property and to
100 remove the signs upon termination of this Agreement or sale of the Property; and

101 **L.** To otherwise cooperate with the BROKER in carrying out the purpose of this Contract.

102 **M.** Provide all reasonable financial information, including but not limited to balance sheet, etc.

103 **4. Compensation:** OWNER agrees to pay BROKER as follows, including paying all taxes, if any, on BROKER'S services, if
104 BROKER, any agent of BROKER or a Buyer's Broker procures a buyer who is ready, willing, and able to purchase, lease, or
105 exchange the property, and/or inventory of the OWNER, and/or assets of the business whichever is applicable, on the terms
106 of this Contract or any other terms acceptable to OWNER. The stated compensation shall be paid to the BROKER in the
107 event of a sale, exchange, or transfer of any interest including stocks or shares in the Property during the term of this con-
108 tract, whether such transaction, sale or exchange be accomplished by the BROKER or any other person or entity including
109 OWNER: (complete whichever fee arrangements apply):

110* **Seller** (____) (____) and **Broker/Sales Associate** (____) (____) acknowledge receipt of a copy of this page, which is Page 2 of 4 Pages.

111* **A. (CHECK ONE):** _____% of gross sales price, or _____% of gross sales price plus \$_____, or \$_____ including
112 fees BROKER may pay to cooperating brokers. OWNER shall pay this fee at the time, and from the proceeds, of closing. If
113* OWNER transfers the Property for nominal consideration, OWNER shall pay \$_____ on the date OWNER transfers title.

114 **B.** In the event the Property is leased during the term of this Agreement, OWNER shall pay to BROKER a leasing fee of
115* \$_____ or _____% of gross lease amounts. The fee shall be paid to BROKER when BROKER, OWNER or anyone
116 working by or through BROKER produces a tenant acceptable to OWNER. If the tenant purchases the Property at any
117 time, even if such a purchase is subsequent to the expiration date of this Agreement, BROKER shall be paid the stated
118 compensation set forth in Paragraph 4A at the time of closing.

119* **C.** In the event that deposit(s) be retained, _____ % thereof, but not exceeding the compensation provided above, shall
120 be paid to the BROKER as full consideration for BROKER(s) services, including costs expended by BROKER, and the
121 balance shall be paid to OWNER. If the transaction shall not be closed because of refusal or failure of OWNER to per-
122 form, the OWNER shall pay the said compensation in full to BROKER upon demand.

123 **5. OWNER understands** that this Contract does not guarantee the sale of the Property but that it does assure OWNER
124 that BROKER will make earnest and continued effort to sell the Property until this Contract is terminated.

125* **6. (CHECK ONE) OWNER** **DESIRES** **DOES NOT DESIRE UTILIZATION OF A LOCKBOX SYSTEM. IN THIS**
126 **REGARD, OWNER HAS BEEN INFORMED THAT THROUGH THE USE OF A LOCKBOX SYSTEM, THE PROPERTY**
127 **MAY BE MORE READILY SHOWN TO PROSPECTIVE BUYERS, BUT THAT PERSONAL PROPERTY OF OWNER,**
128 **MAY, THEREFORE, BE MORE SUSCEPTIBLE TO THEFT OR DAMAGE. OWNER AGREES THAT THE LOCKBOX, IF**
129 **UTILIZED, WILL BE FOR THE BENEFIT OF OWNER AND RELEASES BROKER AND THOSE WORKING BY OR**
130 **THROUGH BROKER, AND THE BROKER(S) LOCAL BOARD(S) AND/OR ASSOCIATIONS OF REALTORS FROM ANY**
131 **LIABILITY AND RESPONSIBILITY IN CONNECTION WITH ANY LOSS THAT MAY OCCUR. THE BROKER ADVISES**
132 **AND REQUESTS THE OWNER TO SAFEGUARD OR REMOVE ANY VALUABLES NOW LOCATED ON THE PROPER-**
133 **TY AND TO VERIFY THE EXISTENCE OF OR OBTAIN PROPER PROPERTY INSURANCE. SHOULD A TENANT BE IN**
134 **THE PROPERTY, THE SELLER SHOULD NOTIFY THE TENANT IN WRITING OF THE USE OF A LOCKBOX.**

135 **7. OWNER authorizes BROKER,** upon execution of a contract for sale and purchase, to notify the Multiple Listing Service
136 of the pending sale and after closing of the sale to disclose sale information including the sales price to the Multiple Listing
137 Service, other REALTORS and appraisers.

138 **8.** In the event any litigation arises out of this Contract, the prevailing party shall be entitled to recover reasonable attorney
139 fees and costs.

140 **9. TERMINATION:** This Contract shall terminate as of the Termination date unless sooner terminated as provided below:
141 **A.** If OWNER decides, because of a bona fide change in circumstances, not to sell the Property, this Contract shall be
142 conditionally terminated as of the date OWNER executes a Withdrawal Agreement and pays BROKER a cancellation fee
143* of \$_____. If OWNER contracts for sale to anyone after the agreed early termination date but on or before the original
144 Termination Date, then the early termination provided by this paragraph shall be voidable by BROKER and OWNER shall
145 pay BROKER the compensation stated in paragraph 4, less the cancellation fee paid pursuant to this paragraph.

146 **B.** If at any time during the term of this Contract, BROKER determines that the proceeds from the sale of the Property
147 which OWNER would reasonably expect to receive will not be sufficient to pay the compensation due BROKER, then
148 this Contract may be terminated by BROKER upon three days written notice to OWNER.

149 **10. MANDATORY ARBITRATION: ATTORNEYS' FEES:** All claims, disputes, and other matters in question between the parties
150 arising out of or relating to this Contract, or any addendum or addition, SHALL BE DECIDED BY MANDATORY BINDING ARBITRA-
151 TION in accordance with the Florida Arbitration Code, Chapter 682, Florida Statutes. Each party shall select any arbitrator and the
152 two arbitrators so chosen shall choose a third arbitrator. The three arbitrators so chosen shall hear and determine the matter. THIS
153 AGREEMENT TO ARBITRATE SHALL BE SPECIFICALLY ENFORCEABLE UNDER THE FLORIDA ARBITRATION CODE, and judg-
154 ment upon the award rendered by the ARBITRATORS may be entered by the Court having jurisdiction thereof. In connection with
155 any such arbitration or litigation, the prevailing party shall be entitled to recover all fees and costs incurred including reasonable attor-
156 neys' fees. OWNER has been advised and consents to permit BROKER to file a lien against the Property, if applicable, for unpaid
157 real estate commissions, pursuant to Section 475.42(1)(j), Florida Statutes, which lien shall be released only at such time as the full
158 commission and all other sums due under this Agreement, including interest, attorneys fees and costs, have been paid in full.

159 **11. COMMERCIAL LIEN ACT DISCLOSURE:** The Florida Commercial Real Estate Sales Commission Lien Act provides that
160 when a BROKER has earned a commission by performing licensed services under a brokerage agreement with you, the BROKER
161 may claim a lien against your net sales proceeds for the BROKER'S commission. The BROKER'S lien rights under the act cannot be
162 waived before the commission is earned.

163 **12. MISCELLANEOUS:** This Agreement is binding on BROKER's and OWNER's heirs, personal representatives, administrators,
164 successors and assigns. BROKER may assign this Contract to another listing office. This Contract is the entire agreement between
165 BROKER and OWNER. No prior or present agreements or representations shall be binding on BROKER or OWNER unless included

166* **Seller** (____) (____) and **Broker/Sales Associate** (____) (____) acknowledge receipt of a copy of this page, which is Page 3 of 4 Pages.

167 in this Contract. Signatures, initials and modifications communicated by facsimile will be considered as originals. The term "buyer" as
168 used in this Contract includes buyers, tenants, exchangors, optionees and other categories of potential or actual transferees.

169* **13. ADDITIONAL TERMS**

170*

171*

172*

173*

174*

175*

176* Date: _____ **Seller:** _____ Tax ID No: ____ - ____ - _____
(print name)

177* Telephone #'s: Home _____ Work _____ Cell _____ Fax: _____

178* Address: _____ E-mail: _____

179* Date: _____ **Seller:** _____ Tax ID No: ____ - ____ - _____
(print name)

180* Telephone #'s: Home _____ Work _____ Cell _____ Fax: _____

181* Address: _____ E-mail: _____

182* Date: _____ **Authorized Listing Associate or Broker:** _____
(print name)

183* Brokerage Firm Name: _____ Telephone: _____

184* Address: _____

185* _____
186 Signature of **Seller**

Signature of **Seller**

187* _____
188 Signature of Associate or Broker

189* Copy returned to **Seller** on the ____ day of _____, _____ by: personal delivery mail e-mail fax.

190* **Seller** (____) (____) and **Broker/Sales Associate** (____) (____) acknowledge receipt of a copy of this page, which is Page 4 of 4 Pages.