

EXCLUSIVE RIGHT TO SELL LISTING AGREEMENT – VACANT LOT/LAND

This Agreement is between \_\_\_\_\_ (“Seller”) and \_\_\_\_\_ (“Firm”).

- 1. Services Provided: Seller hires Firm as an exclusive agent to help Seller sell the Property, defined below. Seller agrees to cooperate with Firm and agrees that all leads, prospective buyers, marketing (as defined below), offers, negotiations, contracts, inspections, appointments, and any other activities (the “Services”) in connection with selling the Property will be facilitated by and through Firm only. Firm will act in the best interest of Seller. Firm may assign other agents in Firm to provide the Services at any time.
2. Term of Agreement: Unless the box below is checked, this Agreement will be effective when signed by Seller and Firm. It will expire at 11:59 p.m. on \_\_\_\_\_ (“Expiration Date”).

Existing Agency: The Property is currently listed for sale exclusively with another firm. The listing agreement expires on \_\_\_\_\_. This Agreement will become effective immediately when current listing agreement ends.

- 3. Property: Street Address: \_\_\_\_\_
City: \_\_\_\_\_ Zip: \_\_\_\_\_ County: \_\_\_\_\_, NC
Lot/Unit \_\_\_\_\_, Block/Section \_\_\_\_\_, Subdivision/Condominium \_\_\_\_\_
Plat Book/Slide \_\_\_\_\_ at Page(s) \_\_\_\_\_ PIN/PID: \_\_\_\_\_
Other description: \_\_\_\_\_
Some or all of the Property may be described in Deed Book \_\_\_\_\_ at Page \_\_\_\_\_
The Property shall include all the above real estate described together with all appurtenances thereto including the improvements located thereon, if any. If Seller wishes to sell less than an entire tract of land, then the assistance of a real estate attorney is strongly advised to ensure compliance with N.C.G.S. § 160D-807.

Additional Parcels: If additional parcels are part of this Agreement, they are described in an attached exhibit(s), and the term “Property” will include all the additional parcel(s) in the exhibit(s). Form 2A10-T may be used.

- 4. Listing Price: Seller agrees to list the Property for \$ \_\_\_\_\_. Seller will accept payment from a buyer on the following terms (check all that apply): Cash FHA VA USDA Conventional Loan Assumption Seller Financing Other: \_\_\_\_\_. Seller agrees to sell the Property for the listing price or any other price or terms Seller may accept.

- 5. Marketing: Firm will use its best efforts to find a ready, able, and willing buyer. Unless otherwise directed below, Firm will begin marketing on (insert date) \_\_\_\_\_ (“Marketing Date”).

Seller authorizes Firm to (initial only one option): to market the Property as follows. Seller will provide any requested information to and sign any document required by a listing service to permit the marketing chosen below.

Initial only one marketing option. Marketing may be changed at any time by amending this Agreement.

Public Marketing (Most Publication): Firm will submit the Property to listing services and market the Property to the general public. Seller authorizes Firm to provide any information a listing service may request to the listing service. Seller in particular authorizes:

- Coming Soon Advertising. Firm will advertise the Property as “coming soon” in accordance with any rules applicable to such marketing. The status of the Property will change to “active” on \_\_\_\_\_.
Signs. Firm will place yard signs and other signage on or near the Property and remove them when the Services are complete.
Open Houses. Firm will conduct open houses and coordinate dates and times with Seller.
General Advertising. Unless otherwise agreed herein, Firm will advertise the Property on the internet and in other media as Firm, in its sole discretion and expertise, will direct. Seller gives Firm authorization to use, license, or sell information about the Property to others in order to provide the Services. Seller understands that the Property’s address will be visible to the public, and that Firm may not be able to limit automated valuations, distribution, or commentary concerning the Property.

Limited Distribution or Exposure (Medium Publication): The Property will be marketed to clients of Firm and brokers who participate in listing services. The Property will not be publicly marketed, such as through



listing service IDX and syndication. This publication option may expire as required by listing service rule, if any. In addition to clients of Firm and brokers participating in listing services, Seller permits Firm to market the Property as follows: \_\_\_\_\_

\_\_\_\_\_ Office Exclusive (Least Publication): Firm will only market the Property as an office exclusive listing, which means Firm will only market the Property to clients of Firm and other individual brokers as allowed by listing service rules. to buyer prospects who are clients of Firm. Seller authorizes Firm to will notify any the listing service of this office exclusive designation. provided that the Property will not be advertised in the listing service. Seller agrees to sign any document required by the listing service to permit the Property to be marketed as office exclusive.

- b. **Disclosure and Confirmation for Office Exclusive and Limited Distribution or Exposure:** Seller understands that some listing service benefits will be waived or delayed if Seller chooses Office Exclusive or Limited Distribution or Exposure. These benefits include, but may not be limited to, broad and immediate exposure of their listing through a listing service. If Seller opts for Office Exclusive or Limited Distribution or Exposure, either in this Agreement or by a later amendment, Seller confirms that their listing will not: (i) be publicly marketed and disseminated by the listing service to other listing service participants and subscribers as an Office Exclusive listing; and (ii) have immediate public marketing through IDX, syndication, or other public-facing distribution channels as a Limited Distribution or Exposure listing.
- c. **Lock Boxes:** Seller  does  does not agree to allow Firm to place a lock box on the Property for keys.
- d. **Marketing Risks:** While marketing is a critical element to allowing Firm provide the Services, it does have some risks, which include, but are not limited to: unauthorized use of keys; inability to control visitors to the Property, including the taking of photos or video; and incorrect information about the Property being published or information about the Property being misused by others. Seller understands that Firm cannot control these and other risks, and that Firm may not have control of information that may be published about the Property. Such information will therefore not be removed. Seller agrees to secure all valuables, medications, and other personal property during the term of this Agreement, and to release and discharge Firm from any liability not caused by Firm's gross negligence arising out of marketing the Property.
- e. **Surveillance Devices:** Seller agrees to disable any and all audio devices whenever the Property is being shown, during inspections, and any other time Firm directs.

6. **Fees and Costs for the Services:**

- a. **Negotiable Fee:** SELLER UNDERSTANDS THAT THE AMOUNT, FORMAT, OR RATE OF REAL ESTATE COMPENSATION IS NOT FIXED BY LAW BUT IS SET BY EACH BROKER OR FIRM INDIVIDUALLY AND IS FULLY NEGOTIABLE.
- b. **"Firm's Fee":** Seller agrees to pay Firm as follows for the Services (check all that apply):
  - A non-refundable retainer of \$ \_\_\_\_\_ which will be credited toward Firm's Fee at closing
  - \_\_\_\_\_ % of the Property's gross sales price
  - \_\_\_\_\_ % of the Property's gross sales price if the buyer is unrepresented
  - A flat fee of \$ \_\_\_\_\_
  - Other Fee(s) (specify name and amount): \_\_\_\_\_
- Firm's Fee schedule attached

**Cooperative Compensation to Other Agents:** Seller has no duty to offer compensation to an agent working with a buyer, which is commonly referred to as cooperative compensation. Firm has provided Seller with Firm's best advice on the advantages and disadvantages of offering, or not offering, cooperative compensation. Seller accordingly  does  does not agree to offer cooperative compensation. If Seller *does* agree, check one of the following:

- Firm is authorized to offer \_\_\_\_\_ % of the Property's gross sales price or a flat amount of \$ \_\_\_\_\_ to a cooperating agent, such as a seller subagent or a buyer's agent. This will not be deducted from Firm's Fee. See 6(c)(i) below.
- Seller may offer \_\_\_\_\_ % of the Property's gross sales price or a flat amount of \$ \_\_\_\_\_ to a cooperating agent, such as a seller subagent or a buyer's agent, directly through a separate document (such as Standard Form 220).

Firm will offer cooperative compensation as explained in Firm's attached policy.

~~i. If Seller authorizes Firm to offer cooperative compensation, Seller agrees that: (a) Firm may advertise and negotiate cooperative compensation on Seller's behalf; (b) any negotiated cooperative compensation must be paid by Seller to Firm at closing in addition to Firm's Fee; and (c) the negotiated cooperative compensation will be disbursed to the cooperating agent by Firm.~~

~~ii. If Seller offers cooperative compensation directly, Seller authorizes Firm to advertise the cooperative compensation. Seller agrees to pay cooperative compensation at closing in compliance with any executed cooperative compensation agreement (such as Standard Form 220).~~

~~iii. Nothing in this section will prohibit Seller from later offering to pay buyer's expenses in a purchase contract or later offering cooperative compensation directly to a cooperating agent in a separate document~~

c. **Buyer Agent Compensation:** Seller has no duty to offer compensation to an agent who is working with a buyer. Firm has provided Seller with Firm's best advice on the advantages and disadvantages of offering, or not offering, buyer agent compensation. Seller accordingly  does  does not agree to offer compensation to a buyer's agent. *If Seller does agree, check one of the following:*

Seller authorizes Firm to advertise \_\_\_\_\_ % of the Property's gross sales price or a flat amount of \$ \_\_\_\_\_ as a credit to a buyer to cover the fee paid to the buyer's agent. The final amount of any credit for a buyer agent fee will be negotiated and included as part of the purchase contract.

Firm is authorized to offer compensation to cover buyer's agent expenses as explained in Firm's attached policy.

i. If Seller authorizes Firm to advertise a credit to cover a buyer's agent fee, Seller agrees to pay the credit at closing in compliance with the purchase contract.

d. Nothing in this section will prohibit Seller from later offering to pay other concessions to a buyer in a purchase contract or later offering compensation to a buyer's agent in a separate document

e. **Total Cost (optional):** \_\_\_\_\_

f. **Firm's Fee Earned:** Except for any non-refundable retainer, Firm's Fee will be earned:

i. If a ready, able, and willing buyer is procured by Firm or a cooperating agent substantially satisfying the price and terms agreed to by Seller in this Agreement.

ii. Seller enters into a written contract ("Contract") during the term of this Agreement to sell, option, or convey the Property to a buyer.

iii. **Protection Period:** The fee will also be deemed earned if, within \_\_\_\_\_ days after this Agreement expires, Seller either directly or indirectly agrees to sell, option, or convey the Property to any party procured by Firm while this Agreement was in effect. Within 15 days after the Expiration Date, Firm will deliver to Seller a list of the names of parties procured by Firm to which this protection period will apply. However, if Seller signs a valid listing agreement with another real estate broker before Seller agrees to sell, option, or convey the Property, then this protection period will not apply.

g. **Due and Payable:** Any Firm's Fee earned will be due and payable to Firm at closing of a Contract, Seller's default on a Contract, Seller's unreasonable modification or cancellation of a Contract, or Seller's default of this Agreement (including Seller's refusal to sign an offer to purchase substantially satisfying the price and terms agreed to by Seller in this Agreement).

h. **Transfer of Interest in Business Entity:** If Seller is a partnership, corporation, or other business entity, and an interest in the partnership, corporation, or other business entity is transferred, whether by merger, outright purchase, or otherwise in lieu of a sale of the Property, and applicable law does not prohibit the payment of a fee or other compensation in connection with such sale or transfer, Firm's Fee shall be calculated on the fair market value of the Property, rather than the gross sales price, multiplied by the percentage of interest so transferred, and shall be paid by Seller at the time of the transfer.

## 7. **Earnest Money Deposit and Due Diligence Fee:**

a. Firm  does  does not have a trust account to hold earnest monies.

b. If a buyer defaults on a purchase contract, Seller  does  does not agree to equally split any earnest money forfeited by the buyer, provided that Firm's portion will not exceed the fee agreed to in this Agreement.

c. Any due diligence fee will be paid to either  Seller or  (insert other party or parties): \_\_\_\_\_  
\_\_\_\_\_. Firm agrees to direct any potential buyer accordingly.

d. Seller authorizes Firm to provide any escrow agent with Seller's mailing address.

8. **Dual Agency:** Dual agency occurs when a real estate firm represents both the seller and the buyer in a transaction. Designated dual agency is a specific type of dual agency where a firm will appoint one agent to represent only the interests of the seller and a different agent to represent only the interests of the buyer. Designated dual agency permits a firm to fully advise and advocate for

both a buyer and a seller as if the appointed agents were not both affiliated with the same firm. Not every real estate firm offers dual agency or designated dual agency. Authorizations available below may vary.

- a. **Terms of Dual Agency:** If dual agency is permitted, Seller understands and agrees to the following:
  - i. Firm will act as Seller’s exclusive agent up until dual agency occurs. However, in its separate representation of Seller and a buyer, Firm may obtain information which, if disclosed, could harm Seller’s bargaining position.
  - ii. Seller will have to make their own decisions as to what terms will be agreed to as part of an offer to purchase unless designated dual agency is directed by Seller below.
  - iii. Unless required by law, Firm will not disclose to a buyer: that Seller may agree to a price or contract terms different than what Seller has offered; Seller’s motivation for wanting to sell a property; and any other information that Seller has told Firm is confidential. Firm will similarly not reveal to Seller the same kind of information as it relates to a buyer.
  - iv. Firm will represent Seller and the buyer in a balanced and fair manner, and Firm will assist both parties in their communications regarding the transaction. However, Firm will be limited in its ability to advocate for Seller, like an exclusive agent would, unless designated dual agency is directed below.
  - v. If designated dual agency is directed, an agent in Firm will not be designated to represent Seller or the buyer if that agent has received confidential information concerning the other party.
  - vi. Seller has determined that the advantages of dual agency outweigh the disadvantages.

b. **Authorizations:** Initial only as applicable below.

\_\_\_\_\_ Firm may NOT act as a dual agent in a transaction involving Seller.

\_\_\_\_\_ Firm may act as a dual agent in a transaction involving Seller.

*If Firm **may** act as a dual agent, then initial only one line below:*

\_\_\_\_\_ Seller does authorize the same agent to represent both Seller and a buyer in dual agency.

\_\_\_\_\_ Seller does NOT authorize the same agent to represent both Seller and a buyer in dual agency.

\_\_\_\_\_ Seller does NOT authorize the same agent to represent both a buyer and Seller in dual agency and directs Firm to practice designated dual agency. If Seller directs Firm to practice designated dual agency, then Firm will practice designated dual agency unless: (i) it is not allowed under North Carolina law; or (ii) Seller authorizes Firm in writing to practice dual agency only.

- c. **Material Facts:** Regardless of whether dual agency is authorized, Firm must disclose any material facts to all parties in a transaction. This duty applies whether Firm is Seller’s exclusive agent or a dual agent, including designated dual agency.
- d. **Waiver:** Should Firm become a dual agent, Seller waives all claims, damages, losses, expenses, and liabilities, other than for violations of the NC Real Estate License Law and intentional wrongful acts arising from Firm’s role as a dual agent.

9. **Home Warranty:** Seller  does  does not agree to purchase a home warranty for the Property. If Seller does agree, the vendor, cost, sales tax, and Firm’s compensation from vendor, if any, will not exceed: \_\_\_\_\_

10. **Personal Property:** The following personal property present on the Property on the date of the offer, if any, shall also be transferred to a buyer at no value at closing: \_\_\_\_\_

11. **Pre-Marketing Property Inspection:** Seller  does  does not agree to obtain and pay for a pre-marketing inspection for the Property.

12. **Disclosures and Representations:** Seller agrees to update the following immediately if any changes occur. All disclosures and representations are to the best of Seller’s knowledge.

- a. Seller  is  is not working with a relocation company.
- b. Seller  has  has not received sample copies of the purchase contract and professional services disclosure form.
- c. Seller  has  has not owned the Property for at least one year.
- d. Seller  does  does not own the Property. If Seller does not own the Property, Seller will provide Firm information about Seller’s purchase, including a copy of any contract. Seller agrees to promptly update Firm as the purchase progresses.
- e. Seller affirms that the Property has legal access to a public right of way. If access is by other means, such as a private road or an easement, there  is  is not an agreement regarding maintenance of the access. Seller will promptly give Firm any documents regarding access, if any.



u. Other Seller Disclosures or Representations: \_\_\_\_\_

13. **Seller's Duties:** Seller agrees to fully cooperate with Firm; provide and further provide reasonable access to the Property; provide Firm with information and documents upon request; allow Firm to provide documents to other parties as necessary to facilitate a purchase; deliver a general warranty deed at closing; and comply with any purchase contract. **Seller must provide valid identification at any time upon request and affirms that their identification is current. Seller affirms they have the legal right to sell the Property.**

14. **Surveillance; Photographs; and Video:**

- a. Federal and state laws prohibit the recording of oral communications without consent. However, video surveillance without consent may be permitted. Seller may not intrude on a buyer's reasonable expectation of privacy. Seller should only video spaces in plain view. If Seller were to intrude on a buyer's privacy, then Seller may be subject to liability. Firm may not have control of pictures or videos of a property, and accordingly, such information will not be removed from public display.
- b. Firm is specifically authorized to use, for any purposes whatsoever, any and all photographs, drawings, video, advertising copy or other information obtained by or provided to Firm pursuant to this Agreement (including but not limited to any information concerning the price and terms of the sale of the Property, the description of the Property and the length of time the Property is on the market) ("Materials"), both before and after the sale or, in the event there is not a sale, after this Agreement has expired or terminated. Seller shall not have or acquire any rights to use any of the Materials created by, on behalf of, or at the direction of Firm or an agent of Firm either during or after the Term of this Agreement without Firm's written consent. If Seller provides any Materials to Firm ("Seller Materials"), Seller represents that Seller owns the Seller Materials or otherwise has the legal right to provide the Seller Materials to Firm, and Seller grants to Firm and any listing service in which Firm or its agents participate a nonexclusive, perpetual license to use the Seller Materials, including the rights to display, reproduce, distribute or make derivative works from the Seller Materials. Seller agrees to indemnify and hold Firm and its agents harmless from any and all claims resulting from use of the Seller Materials under the terms of this license.

15. **Other Professional Advice:** Seller is advised to seek other professional advice regarding law, taxes, financing, insurance, surveying, wood destroying insects, structural soundness, engineering, building construction, and other matters related to purchasing real estate. Seller also should consider seeking legal advice regarding this Agreement. Firm may provide recommendations for these other services, but Firm cannot guarantee the quality or level of expertise. Seller agrees to hold Firm harmless regarding Seller's use of other professional services. Seller also agrees to fully indemnify Firm if a claim is brought against Firm stemming from Seller's use of other professionals or Seller's election not to use other professionals.

16. **Seller Inspection Costs:** If Seller orders or directs Firm to order inspections, a survey, or other professional services as part of selling the Property, Seller, and not Firm, must pay for all such inspection costs and other professional services unless otherwise agreed. Buyer-incurred inspection costs are not addressed this section and may be negotiated later as part of a purchase contract.

17. **Confidentiality:** Firm will not disclose the price or other terms of an offer by any buyer to a competing party without the express consent of that buyer. However, Seller may elect not to treat a buyer's offer as confidential. Seller may also elect not to disclose other offers and instruct Firm to keep that information confidential.

18. **WIRE FRAUD WARNING:** Before sending any wire, Seller should verify the recipient's phone number independently, and call the recipient to verify the wiring instructions. If Seller receives wiring instructions for a different bank, branch location, or account name or number, they should be presumed fraudulent. If fraud is at all suspected, do not send any funds, contact the recipient immediately, and presume that any phone number received in an email from the closing attorney, Firm, another real estate agent, or anyone else is fraudulent. Seller understands that there are risks associated with wire transfers that are not within the reasonable control of Firm. Seller agrees to release and discharge Firm and Firm's agents from all claims not caused by gross negligence relating to a wire transfer associated with the Services.

19. **FinCEN Disclosure:** FinCEN, the Financial Crimes Enforcement Network, is a bureau of the Department of the Treasury. It investigates and prosecutes financial crimes, and it collects and analyzes transaction data for this purpose, among others. FinCEN's Residential Real Estate Rule requires certain professionals involved in residential real estate closings, including closing attorneys, to submit reports to FinCEN regarding certain transfers to legal entities or trusts. The rule aims to increase transparency and combat money laundering and terrorism financing, however, it may also increase closing costs.

20. **Additional Terms:** \_\_\_\_\_

\_\_\_\_\_. If there is a conflict between the terms in this section and any other part of this Agreement, the terms in this section will control. Firm and Seller may also insert "see attached" and add additional terms with a separate addendum.

21. **Merger; Termination; Modification; Assignment; Enforcement; Attorney's Fees; and Governing Law:** This Agreement represents the entire agreement of the parties hereto. All prior understandings and agreements are merged into this document. This Agreement may only be terminated or modified by a written document signed by all parties, and it may not be assigned except by written consent of all parties. In the event of termination, Firm may require reimbursement of fees, costs, and expenses, in addition to other remedies. If this Subject to statutory limitations, if legal proceedings are instituted to enforce any provision of this agreement, the prevailing party in the proceeding shall be entitled to recover from the non-prevailing party reasonable attorney's fees and court costs incurred in connection with the proceeding. This agreement is governed by North Carolina law.
22. **NONDISCRIMINATION:** FIRM SHALL CONDUCT ALL BROKERAGE ACTIVITIES IN REGARD TO THIS AGREEMENT WITHOUT RESPECT TO THE RACE, COLOR, RELIGION, SEX, NATIONAL ORIGIN, HANDICAP, OR FAMILIAL STATUS OF ANY PARTY OR PROSPECTIVE PARTY. FURTHER, REALTORS® HAVE AN ETHICAL DUTY TO CONDUCT SUCH ACTIVITIES WITHOUT RESPECT TO THE SEXUAL ORIENTATION OR GENDER IDENTITY OF ANY PARTY OR PROSPECTIVE PARTY.

NC REALTORS® MAKES NO REPRESENTATION AS TO THE LEGAL VALIDITY OR ADEQUACY OF ANY PROVISION OF THIS FORM IN ANY TRANSACTION.

**Seller:** (Name) \_\_\_\_\_ (Signature) \_\_\_\_\_ (Date) \_\_\_\_\_

Contact: (Phone and Email) \_\_\_\_\_

Mailing Address: \_\_\_\_\_

**Seller:** (Name) \_\_\_\_\_ (Signature) \_\_\_\_\_ (Date) \_\_\_\_\_

Contact: (Phone and Email) \_\_\_\_\_

Mailing Address: \_\_\_\_\_

**Entity Seller:** (Name of LLC, Corp., Trust, etc.) \_\_\_\_\_

By: (Name & Title) \_\_\_\_\_ (Signature) \_\_\_\_\_ (Date) \_\_\_\_\_

Contact: (Phone and Email) \_\_\_\_\_

Mailing Address: \_\_\_\_\_

**Firm:** (Name) \_\_\_\_\_ (License Num.) \_\_\_\_\_ (Phone) \_\_\_\_\_

By: (Agent Signature) \_\_\_\_\_ (License Num.) \_\_\_\_\_ (Date) \_\_\_\_\_

Office Address: \_\_\_\_\_

Agent Contact: (Phone, Fax, and Email) \_\_\_\_\_