

EXCLUSIVE RIGHT TO SELL LISTING AGREEMENT & AGENCY DISCLOSURE



(PART A)

**THIS IS A LEGALLY BINDING CONTRACT. – READ CAREFULLY BEFORE SIGNING.
DESIGNATED AGENCY BROKERAGE**

THIS AGREEMENT is entered into effective the _____ day of _____, _____, by and between _____ (the "Company") and _____ (the "Seller")

1. TERM OF LISTING. The Seller hereby grants to the Company, including _____ (the "Seller's Agent") as the authorized agent for the Company, for the period of _____ months starting on the date listed above, and ending at 5:00 P.M. (MST) on the _____ day of _____, _____ (the "Listing Period"), the Exclusive Right to Sell, Lease, or Exchange real property owned by the Seller, described as: _____ (the "Property"), at the listing price and terms stated on the attached property data form (the "Data Form"), or at such other price and terms to which the Seller may agree in writing.

2. BROKERAGE FEE. If, during the Listing Period, the Company, the Seller's Agent, the Seller, another real estate agent, or anyone else locates a party who is ready, willing and able to buy, lease, or exchange (collectively "acquire") the Property, or any part thereof, at the listing price and terms stated on the Data Form, or any other price and terms to which the Seller may agree in writing, the Seller agrees to pay to the Company a brokerage fee in the amount of \$_____ or _____% of such acquisition price. The brokerage fee, unless otherwise agreed in writing by the Seller and the Company, shall be due and payable from the Seller's proceeds on: (a) if a purchase, the date of recording of the closing documents for the acquisition of the Property; (b) if a lease, the effective date of the lease; or (c) if an option, the date the option agreement is signed. If within the Listing Period, or any extension of the Listing Period, the Property is withdrawn from sale, transferred, conveyed, leased, rented, or made unmarketable by a voluntary act of Seller, without the written consent of the Company; or if the sale is prevented by default of the Seller, the brokerage fee shall be immediately due and payable to the Company. The Company is authorized to share the brokerage fee with another brokerage participating in any transaction arising out of this Listing Agreement.

3. PROTECTION PERIOD. If within _____ months after the termination or expiration of this Listing Agreement, the Property is acquired by any party to whom the Property was offered or shown by the Company, the Seller's Agent, the Seller, or another real estate agent during the Listing Period, or any extension of the Listing Period, the Seller agrees to pay to the Company the brokerage fee stated in Section 2, unless the Seller is obligated to pay a brokerage fee on such acquisition to another brokerage based on another valid listing agreement entered into after the expiration or termination date of this Listing Agreement.

4. SELLER WARRANTIES/DISCLOSURES. The Seller warrants to the Company that the individuals or entity listed above as the "Seller" represents all of the record owners of the Property. The Seller warrants that it has marketable title and an established right to sell, lease, or exchange the Property. The Seller agrees to execute the necessary documents of conveyance. The Seller agrees to furnish buyer with good and marketable title, and to pay at Settlement, for a standard coverage owner's policy of title insurance for the buyer in the amount of the purchase price. The Seller agrees to fully inform the Seller's Agent regarding the Seller's knowledge of the condition of the Property. Upon signing of this Listing Agreement, the Seller agrees to personally complete and sign a Seller's Property Condition Disclosure form. The Seller agrees to indemnify and hold harmless the Seller's Agent and the Company against any claims that may arise from: (i) the Seller providing incorrect or inaccurate information regarding the Property; (ii) the Seller failing to disclose material information regarding the Property, including, but not limited to, the condition of all appliances; the condition of heating, plumbing, and electrical fixtures and equipment; sewer problems; moisture or other problems in the roof or foundation; the availability and location of utilities; and the location of property lines; and (iii) any injuries resulting from any unsafe conditions within the Property.

5. AGENCY RELATIONSHIPS. By signing this Listing Agreement, the Seller designates the Seller's Agent and the Principal/Branch Broker for the Company (the "Broker"), as agents for the Seller to locate a buyer for the Property. The Seller authorizes the Seller's Agent or the Broker to appoint another agent in the Company to also represent the Seller in the event the Seller's Agent or the Broker will be unavailable to service the Property. As agents for the Seller, they have fiduciary duties to the Seller that include loyalty, full disclosure, confidentiality, and reasonable care. The Seller understands, however, that the Seller's Agent and the Broker may now, or in the future, be agents for a buyer who may wish to negotiate a purchase of the Property. Then the Seller's Agent and the Broker would be acting as Limited Agents – representing both the Seller and buyer at the same time. A Limited Agent has fiduciary duties to both the Seller and the buyer. However, those duties are "limited" because the agent cannot provide to both parties undivided loyalty, full confidentiality and full disclosure of all information known to the agent. For this reason, the Limited Agent is bound by a further duty of neutrality. Being neutral, the Limited Agent may not disclose to either party information likely to weaken the bargaining position of the other – for example, the highest price the buyer will offer, or the lowest price the Seller will accept. **THE SELLER IS ADVISED THAT NEITHER THE SELLER NOR THE BUYER IS REQUIRED TO ACCEPT A LIMITED AGENCY SITUATION IN THE COMPANY, AND EACH PARTY IS ENTITLED TO BE REPRESENTED BY ITS OWN AGENT.** If Limited Agency is agreed to below; (a) the Seller authorizes the Seller's Agent and the Broker to represent both the Buyer and the Seller as Limited Agents when the Seller's Agent and the Broker also represent the Buyer of the Property that the Seller owns; (b) the Seller further agrees that when another agent in the Company represents the Buyer, that agent will exclusively represent the Buyer, the Seller's Agent will exclusively represent the Seller, and the Broker will act as a Limited

Broker. **IN EITHER EVENT, IF LIMITED AGENCY IS AGREED TO BELOW, THE BUYER AND THE SELLER WILL BE REQUIRED TO SIGN A SEPARATE LIMITED AGENCY CONSENT AGREEMENT AT THE TIME THE LIMITED AGENCY SITUATION ARISES. INITIAL APPLICABLE BOX: [] I AGREE TO LIMITED AGENCY; OR [] I DO NOT AGREE TO LIMITED AGENCY.**

6. PROFESSIONAL ADVICE. The Company and the Seller's Agent are trained in the marketing of real estate. Neither the Company nor its agents are trained or licensed to provide the Seller or any prospective buyer with legal or tax advice, or with technical advice regarding the physical condition of the Property. **SELLER IS ADVISED NOT TO RELY ON THE COMPANY, OR ON ANY AGENTS OF THE COMPANY, FOR A DETERMINATION REGARDING THE PHYSICAL OR LEGAL CONDITION OF THE PROPERTY.** If the Seller desires advice regarding: (i) past or present compliance with zoning and building code requirements; (ii) legal or tax matters; (iii) the physical condition of the Property; (iv) this Listing Agreement; or (v) any transaction for the acquisition of the Property, the Seller's Agent and the Company **STRONGLY RECOMMEND THAT THE SELLER OBTAIN SUCH INDEPENDENT ADVICE. IF THE SELLER FAILS TO DO SO, THE SELLER IS ACTING CONTRARY TO THE ADVICE OF THE COMPANY.**

7. DISPUTE RESOLUTION. The parties agree that any dispute, arising prior to or after a closing, related to this Listing Agreement shall first be submitted to mediation through a mediation provider mutually agreed upon by the Seller and the Company. If the parties cannot agree upon a mediation provider, the dispute shall be submitted to the American Arbitration Association. Each party agrees to bear its own costs of mediation. If mediation fails, the other remedies available under this Listing Agreement shall apply.

8. ATTORNEY FEES. Except as provided in Section 7, in case of the employment of an attorney in any matter arising out of this Listing Agreement, the prevailing party shall be entitled to receive from the other party all costs and attorney fees, whether the matter is resolved through court action or otherwise. If, through no fault of the Company, any litigation arises out of the Seller's employment of the Company under this Listing Agreement (whether before or after a closing), the Seller agrees to indemnify the Company and the Seller's Agent from all costs and attorney fees incurred by the Company and/or the Seller's Agent in pursuing and/or defending such action.

9. SELLER AUTHORIZATIONS. Seller authorizes the Company and/or Seller's Agent as follows (**check applicable boxes**):
[] Advertise the Property through each MLS in which the Company participates, advertise via the internet, and disclose to the MLS after Closing, the final terms and sales price, consistent with the requirements of the MLS; [] Communicate with Seller for the purpose of soliciting real estate-related goods and services during and after the term of this Listing Agreement, at the following numbers or email address: _____ hm: _____ wk: _____ cell: _____ fax: _____; [] Obtain financial information from any mortgagee or other party holding a lien or interest on the Property; [] Have keys to the Property; [] Have a key-box installed on the Property; [] Hold Open-Houses at the Property; [] Place a for sale sign(s) on the Property (i.e., the only for sale sign(s) on the Property shall be that of the Company); [] Order a Preliminary Title Report; on the Property, [] In any transaction for the acquisition of the Property, Seller agrees that the Earnest Money Deposit may be placed in an interest-bearing trust account with interest paid to the Utah Association of Realtors Housing Opportunity Fund (UARHOF) to assist in creating affordable housing throughout the state; [] Order a Home Warranty Plan. Seller acknowledges that the Company has discussed with Seller the safeguarding of personal property and valuables located within the Property. Seller acknowledges that the Company is not an insurer against the loss of or damage to personal property. Seller agrees to hold the Company harmless from any loss or damage that might result from any authorizations given in this Section 9. [] **Seller's Initials**

10. ATTACHMENT. The Data Form is incorporated into this Listing Agreement by this reference. In addition to the Data Form, there [] **ARE** [] **ARE NOT** additional terms contained in an Addendum attached to this Listing Agreement. If an Addendum is attached, the terms of that Addendum are incorporated into this Listing Agreement by this reference.

11. EQUAL HOUSING OPPORTUNITY. The Seller and the Company shall comply with Federal, State, and local fair housing laws.

12. FAXES. Facsimile (fax) transmission of a signed copy of this Listing Agreement, and retransmission of a signed fax, shall be the same as delivery of an original. If this transaction involves multiple owners this Listing Agreement may be executed in counterparts.

13. ENTIRE AGREEMENT. This Listing Agreement, including the Seller's Property Condition Disclosure form and the Data Form, contain the entire agreement between the parties relating to the subject matter of this Listing Agreement. This Listing Agreement may not be modified or amended except in writing signed by the parties hereto.

THE UNDERSIGNED Seller does hereby agree to the terms of this Listing Agreement.

(Seller's Signature)

(Address/Phone)

(Date)

(Seller's Signature)

(Address/Phone)

(Date)

ACCEPTED BY The Company

By: _____
(Authorized Seller's Agent)

(Date)

By: _____
(Principal/Branch Broker)

(Date)

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