



**EXCLUSIVE LISTING AGREEMENT
FOR SALE OF COMMERCIAL REAL PROPERTY**

The undersigned _____
(hereinafter referred to as "Seller") of the Property (described below), do hereby grant to _____ (hereinafter referred to as "Broker") the sole and exclusive right to sell, trade, convey, or exchange (to be referred to herein collectively as "sale" or "sell") the Property upon the terms and conditions set forth below and hereby appoints Broker exclusive agent to represent Seller as Client and to market the Property to all potential buyers, including both customers and/or clients of Broker. Broker shall be deemed by law to be the author of all property listings written by Broker or Broker's associates, and Broker is entitled to and shall own all copyright rights therein and all other intellectual or other property rights in or relating thereto. Such right, title, and interest shall exist upon creation of the listing.

The Real Property which is the subject of this Agreement is described as follows:

Street Address _____,
City _____, County _____, State _____ Zip _____.

Legal Description: _____

Description of fixtures, equipment and personal property (including machinery, inventory, supplies and equipment) which are to remain: _____

Mortgage Information:

Existing Mortgage with \$ _____ balance; _____ %, Payable \$ _____ Per Month
P.I. \$ _____ Approximately _____ years to run.

Interest on encumbrances, taxes, insurance premiums and rents shall be adjusted pro rata at the date of closing. Improvement liens, if any, will be discharged by SELLER. Fixtures, equipment and personal property listed above shall be included in the purchase price. It is understood that the sale is also to include: the goodwill and name as a going concern; furniture; advertising; contract rights; leases; licenses; rights under any agreement for interests, except as stated herein.

THE ATTACHED SELLER PROPERTY INFORMATION SHEETS ARE INCORPORATED INTO AND MADE A PART OF THIS AGREEMENT.

IT IS AGAINST THE RULES AND POLICIES OF BIRMINGHAM AREA MULTIPLE LISTING SERVICE ("BAMLS") TO DISCRIMINATE IN THE SALE OR LEASE OF REAL PROPERTY BASED ON RACE, COLOR, RELIGION, SEX, HANDICAP, NATIONAL ORIGIN OR FAMILIAL STATUS.

_____ (initials of Seller)

SELLER AND BROKER HEREBY AGREE TO DEFEND, INDEMNIFY AND HOLD HARMLESS THE BIRMINGHAM AREA MULTIPLE LISTING SERVICE, INC. AND THE BIRMINGHAM ASSOCIATION OF REALTORS®, INC., AGAINST AND FROM ANY CLAIMS, SUITS, DAMAGES, LOSSES OR OTHER COSTS OR EXPENSES (INCLUDING COURT COSTS AND A REASONABLE ATTORNEY'S FEES) RELATING TO, ARISING OUT OF OR IN CONNECTION WITH ANY ACTUAL OR ALLEGED INACCURATE OR INCOMPLETE INFORMATION OR UNLAWFUL RESTRICTIONS OR REMARKS REGARDING THE PROPERTY THAT IS ENTERED INTO THE MLS DATABASE SYSTEM ("MLS SYSTEM") BY BROKER.

_____ (Initials of Seller)

PERIOD OF AGREEMENT: This Agreement shall be effective for a period of time beginning on _____, 20____, and ending on _____, 20____, at 12:00 Midnight, unless the expiration date is extended in writing. In the event that Seller enters into a sales contract while this Agreement is in effect, the term and other time periods set forth in this Agreement shall be automatically extended for the period of time equal to the number of days between the date of execution of said sales contract and the date said sales contract is finally closed or terminated.

TERMS/CONDITIONS ON WHICH PROPERTY IS TO BE OFFERED FOR SALE: Seller and Broker agree that the Property shall be offered for sale on the following terms and conditions, or on such terms and conditions that Seller and Broker may subsequently agree to:

- (a) Purchase Price \$ _____ Payment Terms: _____
- (b) Earnest Money Deposit \$ _____ or _____ % of Purchase Price.
- (c) Seller agrees to maintain and keep in force sufficient hazard insurance until the day of closing the sale of the Property is closed.
- (d) Other terms or conditions off sale: _____

MARKETING THE PROPERTY: Seller does does not request that the Property be advertised and published in the MLS System. Seller does does not authorize Broker to advertise and disseminate Property information to the public through other print and/or electronic media. If the Property Listing is to be entered into the MLS System, Seller hereby grants Broker the right to provide timely notice of status changes to the listing to the MLS and to provide sales information including selling price to the MLS upon the sale of the Property. Seller does does not grant the Broker the right to disseminate the sales information prior to final closing to the BAMLS to publish to its participants. Seller and Broker acknowledge that the MLS is not obligated to, cannot reasonably and does not review this Agreement, the Seller Property Information Sheets, or other such information or data provided by Seller and Broker for input in the MLS System for accuracy or completeness.

_____ (initials of Seller)

COMMISSION. THE BROKERAGE FEE PAYABLE TO THE BROKER IN THIS SALE IS NOT SET BY THE BIRMINGHAM ASSOCIATION OF REALTORS®, INC., BUT IN ALL CASES IS SET BY THE BROKER AND THE SELLER. In this Agreement, Seller agrees to pay Broker a brokerage fee as indicated below.

In consideration of the services to be rendered by Broker to and for the benefit of Seller with respect to the listing for sale and procuring of a purchaser for the Property, Seller agrees to pay Broker a brokerage or real estate commission in an amount equal to _____% of the gross sales price for the Property in the event that during the term of this Agreement:

- (a) Broker individually or in cooperation with any other broker procures a person or business entity ready, able and willing to purchase the Property at the Purchase Price set forth above or a purchase price agreed to by Seller;
- (b) Seller enters into an enforceable contract for the sale of the Property, or any legal or equitable interest in the Property, with any purchaser, without exclusion as to any purchaser, whether by or through the efforts of Broker or any other person, including Seller;
- (c) Seller contributes or conveys the Property to a partnership, limited liability company, joint venture or other business entity; or
- (d) If Seller is a corporation, limited liability company, partnership or other business entity, and an interest in such corporation, partnership or other business entity is transferred, whether by merger, purchase or otherwise, in lieu of a sale of the Property.

Seller also agrees to pay to Broker said real estate commission, if, within ninety (90) days after termination of this Agreement, the Property or any legal or equitable interest in the Property is sold, exchanged or conveyed to any prospective purchaser whose attention was called to the Property by Broker or any cooperating broker during the term of this Agreement. Broker shall deliver to Seller a notice in writing containing a list of such prospective purchasers no later than ten (10) days after the termination of this Agreement. If Seller enters into a listing agreement with another licensed real estate broker with respect to the Property after the termination of this Agreement, Seller shall exclude sales of the Property to any prospective purchaser named in said written notice from said listing agreement for said ninety (90) day period. Prospective purchasers as used in this paragraph shall include such person or entity, their respective family members, and affiliates or other entities over which they may exercise control. Seller shall pay Broker the real estate commission at the time of the consummation of the sale or exchange of the Property in immediately available U.S. funds. Seller hereby expressly authorizes Broker to share the commission with any other licensed real estate broker or brokers in any proportion agreeable to Broker.

BROKER'S AUTHORITY. Seller hereby authorizes Broker to:

- (a) Utilize such marketing techniques and programs as Broker deems appropriate for and advantageous to the sale of the Property, including the placement of a "For Sale" sign or signs on the Property and the removal of any existing signs;
- (b) Enter the Property at reasonable times with cooperating brokers and their salespersons for the purpose of showing the Property to prospective purchasers; and
- (c) Incur reasonable expenses on behalf of Seller to be reimbursed by Seller for marketing the Property, in an amount not to exceed \$_____.

SELLER'S COVENANTS. Seller agrees to cooperate with Broker, its agents or sales associates and any cooperating brokers fully with respect to their efforts to sell the Property. Seller agrees to refer to Broker all inquiries received by Seller relating to the sale of the Property and to conduct all negotiations with prospective purchasers of the Property through Broker. Seller agrees to reimburse Broker for all authorized expenses incurred by Broker in marketing the Property. Seller represents and warrants to Broker that:

- (a) Seller (i) is the sole fee simple title owner to the Property; (ii) is authorized and has the capacity to execute and deliver this Agreement, and (iii) has the right to convey title to the Property to a purchaser by warranty deed.
- (b) There are no actions, suits or proceedings pending or threatened against Seller or the Property affecting any portion of the Property.
- (c) There is no pending or threatened condemnation action and Seller is not aware of any special assessment against the Property.
- (d) There are no foreclosures pending or threatened with respect to the Property, nor has Seller received any notices of any such foreclosure action being contemplated.
- (e) Seller has not received any notice in writing or otherwise from any governmental agency requiring the correction of any violation with respect to the Property or any part thereof.
- (f) The Property has no known significant or material latent defects and none of the improvements on the Property have been constructed with material known to be a potential health hazard to occupants of the Property, except as disclosed in writing by Seller to Broker. Seller hereby authorizes Broker to disclose to prospective purchasers all information with respect to the Property furnished by Seller to Broker. Seller agrees to hold Broker harmless of and from any and all damages, claims, costs and expenses of every kind and character resulting from or relating to Seller's furnishing to Broker any false, incorrect or inaccurate information with respect to the Property or failing to disclose to Broker any material latent defects in the Property.
- (g) The Property shall be offered, shown and made available for sale to or exchange with all persons on a non-discriminatory basis, without regard to race, color, religion, sex, handicap, familial status or national origin.

PHOTOGRAPHIC SERVICES:

- (a) Authorization: Seller hereby authorizes Broker to have interior and exterior photographs of the Property taken (the "Photographic Services") and have such photographs (the "Photographs") digitized, reproduced, published, transmitted, and/or disseminated and displayed in any form or manner, including and without limitation, in and through computerized MLS System, television programs, internet programs, local publications, fact sheets concerning the Property, as well as any other use, media or means to aid in the sale or rental of the Property.
- (b) Waiver: Seller hereby waives, acquits and forever releases Broker, its officer(s), director(s), employee(s), broker(s), agent(s), and representative(s) from any responsibility or liability concerning any Photographic Services, any Photograph, or the use, distribution, or display of any Photographs in any form, media or manner.

EARNEST MONEY & BUYER'S DEFAULT: Seller acknowledges that any Earnest Money Deposit given pursuant to a sales contract will be held in trust by a designated party to be determined by the terms of the sales contract until a sales contract for the Property has been accepted and signed by all parties. Once a sales contract is accepted and signed by all parties, the Earnest Money Deposit will be promptly deposited into an escrow account. In the event an offer or counteroffer is not accepted, the Earnest

Money Deposit shall be returned to the purchaser without a signed release. If the sales contract is accepted and signed by all parties and the sale does not close, a separate mutual release signed by all parties to the sales contract will be required before the Earnest Money Deposit will be disbursed to any party. In the event either purchaser or Seller claims the escrowed funds without the agreement of the other party, any holder of the escrowed funds, as prescribed by Alabama Real Estate License Law Rule 790-X-3-.03(4), (5), must either retain the escrowed funds until there is a written mutual release among the parties or interplead the disputed portion of the funds into the appropriate court, and the holder of the escrowed funds shall be entitled to deduct from the escrowed funds any amounts it incurred for court costs, attorneys' fees, and other expenses relating to the interpleader.

NO OTHER AGREEMENTS: Seller and Broker acknowledge that there are no other agreements, promises or understandings either expressed or implied between them other than as specifically set forth herein. Seller warrants that there are no prior agreements relating to or on this Property (listing, sale or otherwise) that have not been terminated.

NOTICES. All notices required or permitted hereunder shall be in writing and shall be personally delivered, sent by U.S. Certified Mail, return receipt requested, postage prepaid, or sent by a nationally recognized overnight courier with delivery tracking. Delivery shall be accomplished on the date such notice is delivered in person evidenced by a signed delivery receipt, to the party entitled to receive such notice at the respective address of such party hereto set forth on the signature page hereof or at such other address a party hereto shall hereafter designate by written notice in compliance with the terms of this paragraph to the other party hereto.

LIMITATION OF LIABILITY. Seller agrees that Broker and any cooperating brokers shall not be responsible in any manner for personal injury to any person or for any loss or damage to personal or real property due to vandalism, theft, freezing water pipes or any other cause of damage or loss whatsoever with respect to the Property.

LEGAL EXPENSES. In the event it is necessary for Broker to retain an attorney to enforce the provisions hereof, in addition to the real estate commission payable hereunder, Broker shall be entitled to recover from Seller a reasonable attorney's fees and all other costs of collection incurred by Broker in the connection therewith.

SEVERABILITY CLAUSE. If any term, provision or covenant contained herein is found to be invalid or unenforceable by a court of competent jurisdiction, then the parties agree that such invalid term, provision or covenant shall be deemed to be severed and deleted from this Agreement, and the remainder of the Agreement shall continue in full force and effect and shall remain fully valid and enforceable.

MISCELLANEOUS. This Agreement shall inure to the benefit of, and be binding upon, the parties hereto, their heirs, administrators, successors, permitted assigns, parent companies, subsidiaries, officers, directors, and receivers. Neither this Agreement nor any of the rights, duties or benefits hereunder may be assigned by either party hereto without the prior written consent of the other party hereto. This instrument contains the entire agreement and understanding of the parties hereto with respect to the subject matter contained herein. No representation, promise or inducement not included in this Agreement shall be binding on any party hereto. This Agreement cannot be amended or cancelled except by an agreement in writing executed by each of the parties hereto.

SELLER'S WARRANTY OF AUTHORITY, ACCURACY AND COMPLETENESS OF INFORMATION: Seller specifically represents and warrants that Seller has complete authority to sell the Property and convey title to the Property. Seller has personally reviewed this Agreement and the attached Seller Property Information Sheets and any other exhibits and acknowledges that all of the information in this Agreement, the Seller Property Information Sheets, and exhibits relating to the description and physical condition of the Property were provided by Seller and are accurate and complete to the best of Seller's knowledge. SELLER AGREES TO DEFEND, INDEMNIFY AND HOLD HARMLESS THE BROKER AND BROKER'S AGENTS AGAINST AND FROM ANY LOSSES, DAMAGES, CLAIMS, SUITS OF LAW (INCLUDING COURT COSTS AND ATTORNEY'S FEES) OR OTHER COSTS OR EXPENSES RELATING TO OR RESULTING FROM ANY COPYRIGHT INFRINGEMENT (DIRECT, CONTRIBUTORY, OR OTHERWISE) BY ANY ENTITY, OR RESULTING FROM ANY ACTUAL OR ALLEGED INACCURACY OR INCOMPLETENESS OF THE SELLER PROPERTY INFORMATION SHEETS CONTAINED HEREIN OR OF ANY OTHER REPRESENTATIONS, ORAL OR WRITTEN, PROVIDED BY SELLER TO BROKER AT THE DATE OF THIS LISTING AGREEMENT AS WELL AS INFORMATION SUBSEQUENTLY PROVIDED BY SELLER. SELLER FURTHER AGREES THAT ALL THE INFORMATION NECESSARY AND IMPORTANT FOR MARKETING THE PROPERTY IS INCLUDED IN THIS AGREEMENT AND THE SELLER PROPERTY INFORMATION SHEETS ATTACHED HERETO.

DISCLAIMER, WAIVER AND RELEASE OF CLAIMS. The parties hereto hereby acknowledge and agree that: (a) THIS DOCUMENT HAS IMPORTANT CONSEQUENCES, LEGAL, FINANCIAL AND OTHERWISE, AND THE PARTIES ACKNOWLEDGE THEY SHOULD CONSULT WITH AN ATTORNEY OR OTHER PROFESSIONAL OF THEIR CHOICE WITH RESPECT TO THE TERMS OF, AND/OR THE COMPLETION, MODIFICATION AND/OR EXECUTION OF, THIS DOCUMENT; (b) form documents by their nature are designed to be of general application, and may not be applicable to specific facts and circumstances, may not address a given party's specific conditions or requirements and/or may not reflect the relative bargaining or negotiations of the parties, as such variables may arise on any given transaction; (c) to avoid any possible misunderstanding or confusion as to the original form of this document and any revisions, modifications or changes to it, any and all revisions, modifications or changes to the original should be made readily apparent by highlighting, underscoring or other means to distinguish them from the original form; (d) the BAMLs makes no representation or warranty, express or implied, as to the suitability or applicability of the terms and conditions of, or the enforceability of, this document or other document forms; (e) BAMLs forms are updated by BAMLs from time to time, and BAMLs strongly recommends to the parties that they use the most current, updated versions of any such document forms; and (f) by executing this document the parties hereto each hereby waive and release BAMLs, its officers, directors, members, employees and agents, from any and all claims, demands and/or causes of action (whether known or unknown) arising out of, pertaining to or resulting directly or indirectly from the use of this form document or from the listing of the Property in the MLS System.

FACSIMILE OR COUNTERPART SIGNATURE: This Agreement may be executed and delivered by any party hereto by sending a facsimile of the signature or by a legally recognized e-signature. Such facsimile signature or legally recognized e-signature shall be binding on the party so executing it upon receipt of the signature by the other party.

AGENCY: This Agreement establishes an agency relationship between the Broker and Seller.

This Agreement, including the attached Seller Property Information Sheets, is intended to be the legal and binding contract of all parties. If it is not fully understood, Seller should seek professional legal advice. This Agreement may not be modified or amended except by writing, which writing must be signed by both the Seller and the Broker. The Broker has the right to rescind this Agreement by written notice given within seven (7) working days of the date of this Agreement.

SPECIAL STIPULATIONS:

Seller acknowledges that Seller has read and understood the terms of this Agreement and has received a copy of said Agreement.

Seller: _____

By: _____

Name: _____

Title: _____

Address _____

Phone: _____

Fax _____

Date _____

Broker: _____

By: _____

Name _____

Title _____

Address _____

Phone _____

Fax _____

Date _____

Firm License # _____

Agent Name(s) _____

Agent License #(s) _____