

Exclusive Right of Sale Listing Agreement

1 This Exclusive Right of Sale Listing Agreement ("Agreement") is between
 2* _____ ("Seller")
 3* and _____ McCallion & McCallion ("Broker").

4 **1. Authority to Sell Property:** Seller gives Broker the EXCLUSIVE RIGHT TO SELL the real and personal
 5 property (collectively "Property") described below, at the price and terms described below, beginning
 6* _____ and terminating at 11:59 p.m. on _____ ("Termination Date"). Upon
 7 full execution of a contract for sale and purchase of the Property, all rights and obligations of this Agreement will
 8 automatically extend through the date of the actual closing of the sales contract. Seller and Broker acknowledge
 9 that this Agreement does not guarantee a sale. This Property will be offered to any person without regard to race,
 10 color, religion, sex, handicap, familial status, national origin, or any other factor protected by federal, state, or local
 11 law. Seller certifies and represents that she/he/it is legally entitled to convey the Property and all improvements.

12 **2. Description of Property:**
 13* (a) Street Address: _____

14 _____
 15* Legal Description: _____
 16* _____ See Attachment _____

17* (b) Personal Property, including appliances: _____
 18* _____ See Attachment _____

19 (c) Occupancy:
 20* Property is is not currently occupied by a tenant. If occupied, the lease term expires _____.

21 **3. Price and Terms:** The property is offered for sale on the following terms or on other terms acceptable to Seller:

22* (a) Price: \$ _____

23* (b) Financing Terms: Cash Conventional VA FHA Other (specify) _____
 24* Seller Financing: Seller will hold a purchase money mortgage in the amount of \$ _____
 25* with the following terms: _____

26* Assumption of Existing Mortgage: Buyer may assume existing mortgage for \$ _____ plus
 27* an assumption fee of \$ _____. The mortgage is for a term of _____ years beginning in
 28* _____, at an interest rate of _____% fixed variable (describe) _____.

29* Lender approval of assumption is required is not required unknown. **Notices to Seller:** (1) You may
 30 remain liable for an assumed mortgage for a number of years after the Property is sold. Check with your
 31 lender to determine the extent of your liability. Seller will ensure that all mortgage payments and required
 32 escrow deposits are current at the time of closing and will convey the escrow deposit to the buyer at closing.
 33 (2) Extensive regulations affect Seller financed transactions. It is beyond the scope of a real estate licensee's
 34 authority to determine whether the terms of your Seller financing agreement comply with all applicable laws or
 35 whether you must be registered and/or licensed as a loan originator before offering Seller financing. You are
 36 advised to consult with a legal or mortgage professional to make this determination.

37* (c) Seller Expenses: Seller will pay mortgage discount or other closing costs not to exceed _____% of the
 38 purchase price and any other expenses Seller agrees to pay in connection with a transaction.

39 **4. Broker Obligations:** Broker agrees to make diligent and continued efforts to sell the Property until a sales
 40 contract is pending on the Property.

41 **5. Multiple Listing Service:** Placing the Property in a multiple listing service (the "MLS") is beneficial to Seller
 42 because the Property will be exposed to a large number of potential buyers. As a MLS participant, Broker is
 43 obligated to timely deliver this listing to the MLS. This listing will be promptly published in the MLS unless Seller
 44 directs Broker otherwise in writing. Seller authorizes Broker to report to the MLS this listing information and price,
 45 terms, and financing information on any resulting sale for use by authorized Board / Association members and
 46 MLS participants and subscribers unless Seller directs Broker otherwise in writing.

Seller (_____) (_____) and Broker/Sales Associate (_____) (_____) acknowledge receipt of a copy of this page, which is Page 1 of 5.

- 47 **6. Broker Authority:** Seller authorizes Broker to:
- 48 (a) Advertise the Property as Broker deems advisable including advertising the Property on the Internet unless
- 49 limited in (6)(a)(i) or (6)(a)(ii) below.
- 50 (Seller opt-out) (Check one if applicable)
- 51* (i) Display the Property on the Internet except the street address.
- 52* (ii) Seller does not authorize Broker to display the Property on the Internet.
- 53 Seller understands and acknowledges that if Seller selects option (ii), consumers who search for listings
- 54 on the Internet will not see information about the Property in response to their search.
- 55* _____ / _____ Initials of Seller
- 56 (b) Place appropriate transaction signs on the Property, including "For Sale" signs and "Sold" signs (once Seller
- 57 signs a sales contract) and use Seller's name in connection with marketing or advertising the Property.
- 58 (c) Obtain information relating to the present mortgage(s) on the Property.
- 59 (d) Provide objective comparative market analysis information to potential buyers.
- 60* (e) (Check if applicable) Use a lock box system to show and access the Property. A lock box does not
- 61 ensure the Property's security. Seller is advised to secure or remove valuables. Seller agrees that the lock
- 62 box is for Seller's benefit and releases Broker, persons working through Broker, and Broker's local Realtor
- 63 Board / Association from all liability and responsibility in connection with any damage or loss that occurs.
- 64* Withhold verbal offers. Withhold all offers once Seller accepts a sales contract for the Property.
- 65 (f) Act as a single agent of Seller with consent to transition to transaction broker.
- 66 (g) **Virtual Office Websites:** Some real estate brokerages offer real estate brokerage services online. These
- 67 websites are referred to as Virtual Office Websites ("VOWs"). An automated estimate of market value or
- 68 reviews and comments about a property may be displayed in conjunction with a property on some VOWs.
- 69 Anyone who registers on a VOW may gain access to such automated valuations or comments and reviews
- 70 about any property displayed on a VOW. Unless limited below, a VOW may display automated valuations or
- 71 comments and reviews about this Property.
- 72* Seller does not authorize an automated estimate of the market value of the listing (or a hyperlink to such
- 73 estimate) to be displayed in immediate conjunction with the listing of this Property.
- 74* Seller does not authorize third parties to write comments or reviews about the listing of the Property (or
- 75 display a hyperlink to such comments or reviews) in immediate conjunction with the listing of this Property.
- 76 **7. Seller Obligations:** In consideration of Broker's obligations, Seller agrees to:
- 77 (a) Cooperate with Broker in carrying out the purpose of this Agreement, including referring immediately to
- 78 Broker all inquiries regarding the Property's transfer, whether by purchase or any other means of transfer.
- 79 (b) Provide Broker with keys to the Property and make the Property available for Broker to show during
- 80 reasonable times.
- 81 (c) Inform Broker before leasing, mortgaging, or otherwise encumbering the Property.
- 82 (d) Indemnify Broker and hold Broker harmless from losses, damages, costs, and expenses of any nature,
- 83 including attorney's fees, and from liability to any person, that Broker incurs because of (1) Seller's
- 84 negligence, representations, misrepresentations, actions, or inactions; (2) the use of a lock box; (3) the
- 85 existence of undisclosed material facts about the Property; or (4) a court or arbitration decision that a broker
- 86 who was not compensated in connection with a transaction is entitled to compensation from Broker. This
- 87 clause will survive Broker's performance and the transfer of title.
- 88 (e) Perform any act reasonably necessary to comply with FIRPTA (Section 1445 of the Internal Revenue Code).
- 89 (f) Make all legally required disclosures, including all facts that materially affect the Property's value and are not
- 90 readily observable or known by the buyer. Seller certifies and represents that Seller knows of no such
- 91 material facts (local government building code violations, unobservable defects, etc.) other than the following:
- 92* _____
- 93 Seller will immediately inform Broker of any material facts that arise after signing this Agreement.
- 94 (g) Consult appropriate professionals for related legal, tax, property condition, environmental, foreign reporting
- 95 requirements, and other specialized advice.
- 96 **8. Compensation:** Seller will compensate Broker as specified below for procuring a buyer who is ready, willing,
- 97 and able to purchase the Property or any interest in the Property on the terms of this Agreement or on any other
- 98 terms acceptable to Seller. Seller will pay Broker as follows (plus applicable sales tax):
- 99* (a) _____ 5 or 6% of the total purchase price plus \$ _____ OR \$ _____, no
- 100 later than the date of closing specified in the sales contract. However, closing is not a prerequisite for Broker's
- 101 fee being earned.
- 102* (b) _____ 5 or 6 (\$ or %) of the consideration paid for an option, at the time an option is created. If the option is
- 103 exercised, Seller will pay Broker the Paragraph 8(a) fee, less the amount Broker received under this
- 104 subparagraph.

Seller (____) (____) and Broker/Sales Associate (____) (____) acknowledge receipt of a copy of this page, which is Page 2 of 5.

- 105* (c) _____ na _____ (\$ or %) of gross lease value as a leasing fee, on the date **Seller** enters into a lease or
- 106 agreement to lease, whichever is earlier. This fee is not due if the Property is or becomes the subject of a
- 107 contract granting an exclusive right to lease the Property.
- 108 (d) **Broker's** fee is due in the following circumstances: (1) If any interest in the Property is transferred, whether by
- 109 sale, lease, exchange, governmental action, bankruptcy, or any other means of transfer, regardless of whether
- 110 the buyer is secured by **Seller**, **Broker**, or any other person. (2) If **Seller** refuses or fails to sign an offer at the
- 111 price and terms stated in this Agreement, defaults on an executed sales contract, or agrees with a buyer to
- 112* cancel an executed sales contract. (3) If, within 120 days after Termination Date ("Protection Period"),
- 113 **Seller** transfers or contracts to transfer the Property or any interest in the Property to any prospects with whom
- 114 **Seller**, **Broker**, or any real estate licensee communicated regarding the Property before Termination Date.
- 115 However, no fee will be due **Broker** if the Property is relisted after Termination Date and sold through another
- 116 broker.
- 117* (e) **Retained Deposits:** As consideration for **Broker's** services, **Broker** is entitled to receive 50% (50% if
- 118 left blank) of all deposits that **Seller** retains as liquidated damages for a buyer's default in a transaction, not to
- 119 exceed the Paragraph 8(a) fee.

120 **9. Cooperation with and Compensation to Other Brokers: Notice to Seller:** The buyer's broker, even if

121 compensated by **Seller** or **Broker**, may represent the interests of the buyer. **Broker's** office policy is to cooperate

122 with all other brokers except when not in **Seller's** best interest and to offer compensation in the amount of

123* 2.5 or 3% of the purchase price or \$ _____ to a single agent for the buyer; 2.5 or 3% of the

124* purchase price or \$ _____ to a transaction broker for the buyer; and 2.5 or 3% of the purchase

125* price or \$ _____ to a broker who has no brokerage relationship with the buyer.

126* None of the above. (If this is checked, the Property cannot be placed in the MLS.)

127 **10. Brokerage Relationship:**

128 **SINGLE AGENT NOTICE**

129 **FLORIDA LAW REQUIRES THAT REAL ESTATE LICENSEES OPERATING AS SINGLE AGENTS DISCLOSE TO**

130 **BUYERS AND SELLERS THEIR DUTIES.**

131* As a single agent, _____ McCallion & McCallion

132 and its associates owe to you the following duties:

- 133 1. Dealing honestly and fairly;
- 134 2. Loyalty;
- 135 3. Confidentiality;
- 136 4. Obedience;
- 137 5. Full Disclosure;
- 138 6. Accounting for all funds;
- 139 7. Skill, care, and diligence in the transaction;
- 140 8. Presenting all offers and counteroffers in a timely manner, unless a party has previously directed the licensee
- 141 otherwise in writing; and
- 142 9. Disclosing all known facts that materially affect the value of residential real property and are not readily observable.

143* _____

144 Signature _____ Date _____

145* _____

146 Signature _____ Date _____

147 * * * * *

148 **CONSENT TO TRANSITION TO TRANSACTION BROKER**

149 **FLORIDA LAW ALLOWS REAL ESTATE LICENSEES WHO REPRESENT A BUYER OR SELLER AS A SINGLE**

150 **AGENT TO CHANGE FROM A SINGLE AGENT RELATIONSHIP TO A TRANSACTION BROKERAGE**

151 **RELATIONSHIP IN ORDER FOR THE LICENSEE TO ASSIST BOTH PARTIES IN A REAL ESTATE**

152 **TRANSACTION BY PROVIDING A LIMITED FORM OF REPRESENTATION TO BOTH THE BUYER AND THE**

153 **SELLER. THIS CHANGE IN RELATIONSHIP CANNOT OCCUR WITHOUT YOUR PRIOR WRITTEN CONSENT.**

154* As a transaction broker, _____ McCallion & McCallion

155 and its associates, provides to you a limited form of representation that includes the following duties:

Seller (____) (____) and Broker/Sales Associate (____) (____) acknowledge receipt of a copy of this page, which is Page 3 of 5.

- 156 1. Dealing honestly and fairly;
- 157 2. Accounting for all funds;
- 158 3. Using skill, care, and diligence in the transaction;
- 159 4. Disclosing all known facts that materially affect the value of residential real property and are not readily observable
- 160 to the buyer;
- 161 5. Presenting all offers and counteroffers in a timely manner, unless a party has previously directed the licensee
- 162 otherwise in writing;
- 163 6. Limited confidentiality, unless waived in writing by a party. This limited confidentiality will prevent disclosure that the
- 164 seller will accept a price less than the asking or listed price, that the buyer will pay a price greater than the price
- 165 submitted in a written offer, of the motivation of any party for selling or buying property, that a seller or buyer will agree
- 166 to financing terms other than those offered, or of any other information requested by a party to remain confidential; and
- 167 7. Any additional duties that are entered into by this or by separate written agreement.

168 Limited representation means that a buyer or seller is not responsible for the acts of the licensee. Additionally, parties
 169 are giving up their rights to the undivided loyalty of the licensee. This aspect of limited representation allows a licensee
 170 to facilitate a real estate transaction by assisting both the buyer and the seller, but a licensee will not work to represent
 171 one party to the detriment of the other party when acting as a transaction broker to both parties.

172 I agree that my agent may assume the role and duties of a transaction broker.

173* _____
 174 Signature Date

175* _____
 176 Signature Date

177 **11. Conditional Termination:** At **Seller's** request, **Broker** may agree to conditionally terminate this Agreement. If
 178 **Broker** agrees to conditional termination, **Seller** must sign a withdrawal agreement, reimburse **Broker** for all direct
 179* expenses incurred in marketing the Property, and pay a cancellation fee of \$495.00 _____ plus
 180 applicable sales tax. **Broker** may void the conditional termination, and **Seller** will pay the fee stated in Paragraph
 181 8(a) less the cancellation fee if **Seller** transfers or contracts to transfer the Property or any interest in the Property
 182 during the time period from the date of conditional termination to Termination Date and Protection Period, if
 183 applicable.

184 **12. Dispute Resolution:** This Agreement will be construed under Florida law. All controversies, claims, and other
 185 matters in question between the parties arising out of or relating to this Agreement or the breach thereof will be
 186 settled by first attempting mediation under the rules of the American Mediation Association or other mediator
 187 agreed upon by the parties. If litigation arises out of this Agreement, the prevailing party will be entitled to recover
 188 reasonable attorney's fees and costs, unless the parties agree that disputes will be settled by arbitration as follows:
 189* **Arbitration:** By initialing in the space provided, **Seller** (____) (____), Sales Associate (____), and **Broker** (____)
 190 agree that disputes not resolved by mediation will be settled by neutral binding arbitration in the county in which
 191 the Property is located in accordance with the rules of the American Arbitration Association or other arbitrator
 192 agreed upon by the parties. Each party to any arbitration (or litigation to enforce the arbitration provision of this
 193 Agreement or an arbitration award) will pay its own fees, costs, and expenses, including attorney's fees, and will
 194 equally split the arbitrator's fees and administrative fees of arbitration.

195 **13. Miscellaneous:** This Agreement is binding on **Seller's** and **Broker's** heirs, personal representatives,
 196 administrators, successors, and assigns. **Broker** may assign this Agreement to another listing office. This
 197 Agreement is the entire agreement between **Seller** and **Broker**. No prior or present agreements or representations
 198 will be binding on **Seller** or **Broker** unless included in this Agreement. Electronic signatures are acceptable and
 199 will be binding. Signatures, initials, and modifications communicated by facsimile will be considered as originals.
 200 The term "buyer" as used in this Agreement includes buyers, tenants, exchangors, optionees, and other categories
 201 of potential or actual transferees.

Seller (____) (____) and Broker/Sales Associate (____) (____) acknowledge receipt of a copy of this page, which is Page 4 of 5.

202* **14. Additional Terms:** _____
203 _____
204 _____
205 _____
206 _____
207 _____
208 _____
209 _____
210 _____
211 _____
212 _____
213 _____
214 _____
215 _____
216 _____

217* **Seller's Signature:** _____ **Date:** _____

218* Home Telephone: _____ Work Telephone: _____ Facsimile: _____

219* Address: _____

220* Email Address: _____

221* **Seller's Signature:** _____ **Date:** _____

222* Home Telephone: _____ Work Telephone: _____ Facsimile: _____

223* Address: _____

224* Email Address: _____

225* **Authorized Sales Associate or Broker:** _____ **Date:** _____

226* Brokerage Firm Name: _____ **McCallion & McCallion** Telephone: _____ **239-472-1950**

227* Address: _____ **1640 Periwinkle Way, Sanibel, Florida 33957**

228*

Copy returned to Seller on _____ by <input type="checkbox"/> email <input type="checkbox"/> facsimile <input type="checkbox"/> mail <input type="checkbox"/> personal delivery.
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