

Listing Contract

Exclusive Agency to Sell Real Property

BROKER: HOUSEPAD LLP (Hereinafter referred to as "Broker").

SELLERS: (Hereinafter referred to as "Seller").

1. PROPERTY ADDRESS BEING LISTED: (Hereinafter referred to as the "Property").

2. LISTED PRICE: \$. Seller is solely responsible for determining the appropriate listing price.

3. CONTRACT TERM: This Listing Contract (this "Contract") will begin from the date this Contract is signed by Seller. Seller may cancel this Contract by following the terms of Paragraph 19. The listing expiration date appearing in this Contract is automatically set and calculated based on the date this Contract is being signed.

This Contract will automatically expire on _____.

4. PURPOSE OF THIS CONTRACT AND BROKER'S DUTIES: Seller is hiring Broker to submit the Property (with its full address information) in the appropriate Multiple Listing Service and *www.realtor.com*. Broker will be making an offer of compensation, as authorized by the Seller in paragraph 5, to other brokers to find a buyer. Seller hereby authorizes Broker and such other brokers to place "For Sale" signs on the Property during the term of this Contract. Broker is acting as a Limited Seller's Agent on behalf of Seller and only to complete these previously mentioned duties and the duties listed below in this Paragraph 4. Other websites mentioned on Broker's website as included are unaffiliated companies that may change their policies at any time, in which case Seller agrees no refund or reduction would be due Seller.

As a Limited Seller's Agent on behalf of Seller, Broker shall be obligated to perform the following duties and obligations as set forth in Section 76-2417 of the Nebraska Statutes:

- (a) To perform the terms of the written agreement (this Contract) made with the client (the Seller);
- (b) To exercise reasonable skill and care for the client;
- (c) To promote the interests of the client with the utmost good faith, loyalty, and fidelity, including:
 - (i) Seeking a price and terms which are acceptable to the client, except that the licensee (Broker) shall not be obligated to seek additional offers to purchase the property (Property) while the property is subject to a contract for sale or to seek additional offers to lease the property while the property is subject to a lease or letter of intent to lease;
 - (ii) Presenting all written offers to and from the client in a timely manner regardless of whether the property is subject to a contract for sale or lease or a letter of intent to lease;
 - (iii) Disclosing in writing to the client all adverse material facts actually known by the licensee; and
 - (iv) Advising the client to obtain expert advice as to material matters about which the licensee knows but the specifics of which are beyond the expertise of the licensee;
- (d) To account in a timely manner for all money and property received;
- (e) To comply with all requirements of sections 76-2401 to 76-2430, the Nebraska Real Estate License Act,

and any rules and regulations promulgated pursuant to such sections or act; and

- (f) To comply with any applicable federal, state, and local laws, rules, regulations, and ordinances, including fair housing and civil rights statutes and regulations.

5. BROKER FEE: Seller agrees to pay Broker a fee for listing the Property on the MLS (the "MLS Listing Fee"). The MLS Listing Fee is \$195 for a new listing, or \$95 for relisting a property listed with Broker in the past year. If the Platinum Package (\$699) or Gold Package (\$549) were ordered, this Broker fee amount is higher as stated because additional features are included. Seller acknowledges and agrees that upon Broker listing the Property on the MLS, Broker has earned the MLS Listing Fee. Additional Broker fees may apply as described in this Contract and/or on Seller's website order receipt. The MLS Listing Fee and all other Broker fees owed in connection with this Contract ("All Broker Fees") shall be paid to Broker as follows:

- (a) If the Property is sold, All Broker Fees shall be included in the Seller settlement or closing statement as a charge to Seller and paid to Broker upon close of escrow; or
- (b) If this Contract expires, or is terminated, or the Property is sold without All Broker Fees paid at settlement; Seller hereby authorizes Broker without delay to charge Seller's credit card for the amount of All Broker Fees.
- (c) Collections fees and reasonable legal expenses will be added if necessary to collect All Broker Fees. If Seller purchased an advertising package through an advertising company which includes MLS advertising, Broker's MLS Listing Fee will be paid by the advertising company following the conclusion of the listing.

Additionally Seller will pay Broker of the gross sale price at settlement. The amount selected in the preceding sentence is the amount Broker is to offer on behalf of Seller on the MLS listing. If the title company is paying this fee to Broker for Broker to pay this fee to the broker for the buyer, Seller will additionally pay Broker a \$40 fee for Broker to deposit and make the payment. Other brokers will be paid this commission acting only as a buyer's agent. The Disclosure of Brokerage Relationships in Real Estate Transactions explains the types of brokerage relationships. This Contract will automatically be extended to the settlement date if the Property is under contract (Sales Agreement) on the expiration date. If Seller procures the buyer, no commission is due Broker.

6. EXPERT ASSISTANCE: Broker advises Seller to obtain expert assistance with respect to legal, tax and accounting matters or matters relating to zoning, surveying, inspections, construction, hazardous materials, engineering, or other matters that are not within the expertise of Broker. Broker shall have no liability with respect to such matters.

7. BROKER COMMUNICATIONS AND ELECTRONIC SIGNATURES: Seller authorizes all Broker

communications to Seller to be via e-mail to this e-mail address: . If this preceding box is left blank, Broker will use Seller e-mail on file. Seller will provide another email address if experiencing email receipt problems. Seller is responsible for ensuring their email settings do not filter legitimate emails. If there is a second owner of record for the Property, and this Contract is being electronically signed, the second owner will ratify this Contract at the following email address:

. This 2nd email address is only for ratification purposes of this Contract, and will not be used for communications from Broker.

Broker and Seller agree that an Electronic Signature of any document executed through Broker's website ratification system, including but not limited to this Contract and addendums or amendments to this Contract, will be binding on both Broker and Seller and will be treated for all intents and purposes as if it was physically signed. "Electronic signature" means an electronic sound, symbol, or process attached to or logically associated with a record and executed or adopted by a person with the intent to sign the record. The terms used in this Contract, including but not limited to Electronic Signature, should be construed in accordance with the Uniform Electronic Transactions Act as adopted by the State of Nebraska. Seller hereby consents to the use of third party electronic signature capture service providers as chosen by Broker. Forms not executed through Broker's website ratification system may not be electronically signed, unless an exception is granted at Broker's discretion.

8. REALTOR.COM: Realtor.com does not permit Broker to display Seller's contact information on Realtor.com, and instead Realtor.com displays Broker's phone number. Broker's phone system will either play Seller's phone number to the caller, or for \$30.00 forward the phone call to Seller's phone number, or for \$50.00 both forward the call and supply caller ID. Seller has read on Broker's website about, and understands the difference between basic and showcase listings on Realtor.com. Seller will order the appropriate option if they require showcase features.

9. CONFLICT OF INTEREST: Broker will promptly notify Seller if there is a conflict of interest.

10. PUBLICATION OF SALE PRICE: Seller is aware that newspapers may publish the final sales price after settlement. Broker has permission to advertise the sales price.

11. SELLER WILL REVEAL MATERIAL DEFECTS OR ENVIRONMENTAL HAZARDS to buyers on the Seller Property Condition Disclosure Statement, including the lead based paint disclosure if the Property was built before 1978. Seller has the duties to honestly and completely filling out said disclosures, and presenting them to the buyer on or before the signing of a sales contract. Seller will also provide Broker a copy of the Seller Property Condition Disclosure Statement signed by the buyer within 24 hours of the buyer's signature, unless already provided to Broker by the buyers agent, and Seller will pay Broker a \$50 fee if this is not delivered by Seller to Broker, unless it has already been delivered by the buyers agent to Broker.

A material defect is a problem or condition that:

- Is a possible danger to those living on the Property, or
- Has a significant, adverse effect on the value of the Property.

If a claim is filed accusing Seller and/or Broker of failing to disclose known material defects and/or environmental hazards;

- Seller will not hold Broker or Licensee responsible in any way.
- Seller will indemnify, defend, protect and hold Broker and Licensee harmless from any claims, lawsuits, and actions that result.
- Seller will pay all of Broker's or Licensee's costs that result. This includes attorney's fees and court ordered payments or settlements (money Broker or Licensee pays to end a lawsuit or claim at Broker's sole discretion).

The Residential Lead-Based Paint Hazard Reduction Act says that any seller of property built before 1978 must give the buyer an EPA pamphlet entitled *Protect Your Family From Lead in the Home*. Seller assumes full responsibility for providing this to buyers, for disclosing known presence of lead-based paint and lead-based paint hazards and providing a list of, and copies of all reports and records available to Seller pertaining to lead-based paint and lead-based paint hazards on the Property.

12. DEPOSIT MONEY: Seller is advised to have an attorney or title company hold the escrow moneys, subject to all Nebraska laws & regulations. Seller agrees to pay Broker a \$200 fee for escrow services if Seller and buyer agree in the sales contract for a deposit or escrow check to be delivered to Broker. This escrow fee is \$400 if Seller and buyer instruct Broker to hold the escrow moneys in an interest bearing account. If Seller does not want Broker to hold escrow moneys, Seller will sign a sales contract for escrow money(s) to not be delivered to Broker and held in another licensed location agreed by Seller and buyer, and Seller will instruct all agents and prospects to not mail Broker deposit moneys. If the escrow option is selected, Broker will mail the escrow funds to closing via USPS Priority Mail. In every sale, regardless of who holds the escrow money, Broker will provide Seller and buyer with a escrow detailed report following the conclusion of escrow. Seller will pay Broker \$50 for this escrow report, due in every sale regardless of whether or not the buyer was procured through this Contract.

13. NOTICE TO PERSONS OFFERING TO SELL OR RENT HOUSING IN NEBRASKA: Federal housing laws, the Nebraska laws, and the Nebraska State Real Estate Commission Regulations prohibit discrimination in the sale, rental, appraisal, financing, or advertising of housing or other property in the basis of RACE, COLOR, RELIGION, or RELIGIOUS CREED, SEX, SEXUAL ORIENTATION, GENDER IDENTITY, SPOUSAL AFFILIATION, DISABILITY (physical or mental), FAMILIAL STATUS (children under 18 years of age), AGE (40 or older), NATIONAL ORIGIN or ANCESTRY, USE OR HANDLING/TRAINING OF SUPPORT OR GUIDE ANIMALS, or the FACT OF RELATIONSHIP OR ASSOCIATION TO AN INDIVIDUAL KNOWN TO HAVE A DISABILITY as reasons for refusing to sell, show, or rent properties, loan money, or set deposit amounts, or as reasons for any decision relating to the sale of property.

Seller also acknowledges that many jurisdictions have stricter laws that extend protection to political beliefs, income, affectional orientation, and other factors. Seller agrees to investigate and comply with all laws regarding discrimination. Broker will in no way be responsible for Seller's actions in violating fair housing laws and will indemnify and hold Broker harmless from any fair housing violation claims. Broker may cancel Seller's listing without refund if a fair housing violation exists and is not corrected within 24 hours of notice.

14. FOREIGN SELLERS: The Foreign Investment and Real Property Tax Act (FIRPTA) may apply if Seller is a foreign person, foreign corporation or partnership, or nonresident alien, unless the purchase price is \$300,000 or less AND the buyer intends to use the Property the Buyer's residence. FIRPTA may require the buyer of real property to withhold 10% of the sale price and to deposit that amount with the Internal Revenue Service upon closing.

Seller ___ is ___ is not subject to FIRPTA.

15. REPORTING TIMELINESS AND ACCURACY: Seller accepts full responsibility and liability for the accuracy and timeliness of data submitted to Broker. Seller will notify Broker within 24 hours of any changes or corrections. Seller understands that in many cases corrections are required, and Seller will allow Broker the necessary reasonable time to make MLS corrections after Seller notification. Seller allows listing data in violation of MLS rules to be changed at Broker's discretion. Seller will notify Broker in writing if they do not receive the email with the MLS proof on the day of listing activation, and will indemnify, defend, protect and hold Broker harmless for problems in the MLS proof or Realtor.com not discovered until a later date. The listing normally takes a few hours to a few days to appear on Realtor.com. Seller assumes the responsibility for checking Realtor.com for listing display. Seller allows and understands that Realtor.com listing problems require a longer period of time to correct than MLS listing problems. Seller will reply within 24 hours to all inquiries regarding the listing. Broker may have to temporarily withdraw the listing when Seller does not reply within 48 hours, in which case a \$25 service fee to Broker will apply to reactivate the listing. Broker may cancel the listing without refund when Seller does not report to Broker acceptance of a sales agreement within 24 hours. Broker will mark the listing as settled in the MLS after the settlement date given by Seller. If the settlement date changes and Seller does not notify Broker before Broker marks the listing as settled in the MLS, Seller agrees to pay a \$25 processing fee. At settlement, Seller will fax or e-mail a copy of the signed HUD1 statement or the equivalent to Broker's office. Seller's credit card will be charged \$50 if the signed HUD1 sheet is not delivered to Broker the day of settlement. This fee will be reduced to \$25 if the HUD1 is delivered to Broker in days following the settlement. Seller will provide proof of HUD1 fax or email to reverse this fee if the delivery is in dispute. Seller's credit card information will be kept on file. Seller's credit card will be charged for any MLS fines incurred, if Seller was at fault by not meeting the requirements of this Paragraph. MLS fines typically range from \$25 to \$1000.

16. BROKER NOT RESPONSIBLE FOR DAMAGES: Seller agrees that Broker and Broker's salespersons are not responsible for any damage to the Property or any loss or theft of personal goods from the Property, unless such damage, loss or theft is directly caused by Broker or Broker's salespersons.

17. BROKER SERVICE FEES: Broker will provide assistance with document preparation to Seller. Seller agrees that this assistance will be provided without additional charge only by e-mail communications, in the format of question and answer. Seller agrees to pay Broker \$25 per 15 minutes for any documents Broker must review and/or sign, and the same rate for any time spent by Broker on the phone regarding this listing or transaction. All communications, offers, and negotiations received by Broker will be sent to Seller's registered email address. Additional fees apply for forwarding of communications by other means. For any written offer to purchase or offer to sell the Property received by Broker, Broker is required by the Nebraska Real Estate Commission to calculate and furnish Seller with a closing cost estimate, for which the Broker fee is \$75 for each closing cost estimate sheet provided. If Seller receives an offer directly from a buyer, Seller will within 24 hours deliver a copy of the offer to Broker for this to be completed. Seller will pay Broker a \$50 fee for each counter offer, or sales contract Seller withholds from Broker. A revised offer or counteroffer with the same settlement date will have a reduced Broker fee of \$50 for the closing cost estimate provided by Broker. Broker is required to have Seller sign and date the closing cost estimate. Broker will subtract \$15 from the closing cost fee to Seller if Seller signs, dates, and returns this estimate to Broker prior to accepting a sales contract. Seller will not instruct any agents to communicate or negotiate directly with Seller. Agents will be instructed to set up showings through Broker's website www.2show.us, where showing requests will be automatically sent to Seller's email. If the property sells, at settlement Seller will pay Broker a \$15 fee for the showing setup service.

18. NO OTHER BROKER CONTRACTS: Seller will not list the Property with another broker during this Contract's term, unless Seller first cancels this Contract under the terms of Paragraph 19.

19. CANCELLATION: Seller may cancel this Contract at any time, under the following conditions. 1) Seller cancellation request must be in writing with all Sellers' signatures. 2) All Broker Fees mentioned in this Contract are paid in full by Seller. 3) Seller may not cancel this Contract when an offer has been presented and the Seller has not replied in writing to the party making the offer. 4) Seller may not cancel this Contract if the Property is under contract (Sales Agreement). Seller must first reject any offers and/or be released from a Sales Agreement before the listing is canceled. The intent of this Paragraph is to prevent claims from cooperating brokers for a due commission not being paid. Broker will notify Seller via email when the cancellation has been completed. If Seller requires Broker's signature and/or letterhead confirming cancellation, Seller agrees to pay a \$25 processing

fee.

20. THIRD PARTY DISPUTES (SELLER'S DUTY TO DEFEND): In the event an aggrieved party files an arbitration claim or lawsuit against or in any way involving Broker that seeks payment of a commission or money damages in connection with the sale or attempted sale of the Property, Seller agrees to indemnify, defend, protect and hold Broker harmless from, and aid Broker in defense of any such claim or lawsuit ("Duty to Defend"). Seller further agrees that, upon commencement of such an arbitration claim or lawsuit, Broker may immediately charge \$700.00 on Seller's credit card on file with Broker in anticipation of Broker's legal and administrative fees in responding to such a claim or lawsuit, regardless of its merits. This charge is nonrefundable unless the claim is satisfied before Broker's expenses reach \$700, in which case the unused portion will be returned to Seller. Broker's time involved in responding to such a claim or lawsuit will be calculated at \$150 per hour. This charge is not and should not be construed as a limitation on Seller's Duty to Defend. If Seller fails, for any reason, to fulfill its Duty to Defend, Broker may seek indemnity, contribution, and/or reimbursement from Seller for all costs incurred as a result of the claim or lawsuit, including attorney's fees as well as recovery of all costs of collection thereof, including but not limited to attorney's fees, collection agency fees, court costs, and expenses, less the \$700 previously paid by Seller pursuant to this paragraph.

21. COPYRIGHTS: The MLS listing proof sent by Broker to Seller is copyrighted by the MLS. Seller agrees that this listing proof is solely for data accuracy purposes, and will not distribute the file in anyway to anyone. Seller will be responsible for any MLS fines resulting from distributing the MLS listing proof. If Seller desires a highlight sheet, Broker recommends that Seller use their Realtor.com listing for this purpose. Seller is responsible for ensuring that any photos sent to broker for posting are not copyrighted by anyone other than Seller.

22. PHOTOS: Seller will not supply or instruct Broker to load any photos that were previously uploaded to the MLS by another company, even if Seller owns the copyright to such photos, unless Seller has the written permission from the broker who previously published the photos in MLS. Seller agrees Broker is not responsible to check past listings for photo compliance. Any claims in this regard will be handled as a dispute according to the terms of Paragraph 19 of this Contract.

23. OTHER TERMS:

- The parties agree that, in the event of any failure, defect, or malfunction of the MLS listing, the only remedy available to Seller shall be a prorated refund for unperformed services from the fees paid by Seller.
- This Contract shall be binding on and inure to the benefit of the successors and assigns of the respective parties to this Contract.
- The parties agree that Broker will not be liable for any consequential damages of any nature caused to the business or property of Seller by any failure, defect, or malfunction of Seller's listing or product purchased from Broker. Seller will be exclusively limited to seek a refund of money paid to Broker.
- If any term or provision of this Contract is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remainder of the provisions of this Contract shall remain in full force and effect and shall in no way be affected, impaired, or invalidated.
- This Contract shall be governed by and construed in accordance with the laws of the State of Nebraska.
- Seller acknowledges receipt of the documents listed on Exhibit A attached hereto.

24. DIRECT SOLICITING / SIGNAGE:MLS rules do not allow the listing to go to public websites (websites where the listing is viewable by non agents- ex. Realtor.com)when the owner has posted their contact information on a sign or any other kind of notice at the property seeking direct listing inquiries.If Seller wants public website listing inclusion, Seller will sign and return the Direct Soliciting Addendum to certify that Seller meetstthese requirements. This is required before the listing can be propagated to public websites. Seller is responsible for any MLS finesthat result from Seller misrepresentation in regards to the requirements in this paragraph.

25. THIS CONTRACT is the entire agreement between Broker and Seller. All changes must be in writing and signed by Broker and Seller. The duties of Broker in this Contract are intended to comply with all applicable laws. The broker's fee and duration of this Contract have been determined as a result of negotiations between Broker and Seller. Broker has the right to reject any property for submission at Broker's discretion, and refund Broker Fee to Seller. If Seller has legal questions, Seller is advised to consult an attorney.

All owners of record agree to these terms.

Seller's Signature _____ *Date:* _____

Seller's Signature _____ *Date:* _____

Broker Signature: 

Listing Expiration Date:

Exhibit A

- Disclosure of Brokerage Relationships in Real Estate Transactions
 - Form Seller Property Condition Disclosure Statement
 - Seller's Website Order Receipt
-