

9.3 EXCLUSIVE LISTING AGREEMENT

1 This is a legally binding agreement establishing an exclusive agency relationship between Seller, Principal Broker and Principal Broker's
2 Firm and establishing Seller's obligations to compensate Principal Broker and Firm. If Seller does not understand this agreement, Seller
3 should seek the advice of legal and financial professionals.

4 **1. Parties to this Agreement.**

5 Seller _____ Principal Broker _____
6 Seller _____ Principal Broker's Firm _____ ("Firm")
7 Seller _____
8 Seller _____

9 **2. Purpose.** This Agreement establishes an exclusive right to sell the property located at _____
10 ("Property"), and more particularly described in the MLS Data Input Form attached to this Agreement as Exhibit A.

11 **3. Exclusive Right to Sell.** Under this Exclusive Right to Sell, Seller agrees that Firm shall be entitled to a commission under the terms
12 described in Section 7 below ("Brokerage Fee").

13 **4. Agents.** By signing below, Seller understands and agrees that this Agreement creates an agency relationship with Principal Broker,
14 _____ [insert name(s) of additional agents acting
15 as seller's agent], and with any other agent associated with Firm that Principal Broker appoints to act as Seller's agent (collectively
16 "Seller's Agent"). Seller's Agent may take all actions Seller has authorized Principal Broker to take. Seller acknowledges having received
17 at first contact with Seller's Agent the Oregon Real Estate Agency Disclosure Pamphlet and represents that Seller understands the
18 contents of said Pamphlet. A **Form 9.2 Disclosed Limited Agency Agreement** will be required (i) if buyer's agent is associated with Firm
19 or (ii) if Principal Broker or Seller's Agent intend to represent both a buyer and Seller in this transaction.

20 **5. Term.** This Agreement shall commence upon the Effective Date and expires at 11:59 p.m. on _____ [Date].
21 If Seller accepts an offer to purchase or lease the Property, the Term extends through the date of closing for that transaction. Upon
22 expiration, this Agreement terminates except Seller remains obligated under the Brokerage Fee provisions of Section 7.

23 **6. Listing Price.** Seller agrees to sell the Property for \$ _____ ("Listing Price"). The Listing Price may be increased
24 or decreased with a writing, signed by both Seller and Principal Broker. If Seller accepts an offer from a buyer, the Purchase Price and
25 fair market value of assumptions, exchanges, leases and other options included in that offer will be considered the Listing Price for the
26 purposes of this Agreement.

27 **7. Brokerage Fee.** Seller shall pay a Brokerage Fee if any of the following occurs:
28 (i) Seller sells the Property during the term of this Agreement or any extension or renewal of the Agreement Term; or
29 (ii) Seller's Agent finds a buyer who is ready, willing, and able to purchase the Property at the Listing Price during the term of this
30 Agreement or any extension or renewal of the Agreement Term; or
31 (iii) Within **120 Calendar Days** after expiration or termination of this Agreement, Seller sells Property to a person with whom
32 Seller's Agent placed Seller in contact.

33 The Brokerage Fee shall be equal to _____ % of the Listing Price, or shall be equal to \$ _____. The Brokerage Fee will
34 be paid to Firm at Closing of the sale. By signing this Agreement, Seller instructs Escrow to pay Firm the Brokerage Fee out of
35 proceeds of the Sale.

36 **8. Multiple Brokerage Fees Prohibited.** If Seller lists the Property with a subsequent duly licensed real estate broker or principal
37 broker after expiration or mutually agreed upon termination of this Agreement, and application of this Agreement would result in
38 Seller paying more than one Brokerage Fee, no Brokerage Fee will be due under this Agreement. This provision does not apply if
39 Seller unilaterally terminates.

40 **9. Cooperating Broker Fee.** If a cooperating broker takes part in the sale, the Principal Broker shall pay the cooperating broker an
41 amount equal to _____ % of the Listing Price, or an amount equal to \$ _____.

42 **10. Earnest Money Forfeited.** Principal Broker and Seller agree that (Choose one):

Seller Initials _____

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43 If a Sale Agreement with a buyer is terminated and the buyer forfeits their Earnest Money, Principal Broker's expenses,
44 including without limitation advertising costs and attorney fees, will be paid from the forfeited Earnest Money. Up to half of
45 the remaining funds will be disbursed to Firm, up to the Brokerage Fee. All remaining funds will be disbursed to Seller.

46 If a Sale Agreement with a buyer is terminated and the buyer forfeits their Earnest Money, all funds will be disbursed to
47 Seller.

48 **11. Insufficient Funds.** If the proceeds from the sale of Property are insufficient to cover closing costs, Seller agrees and acknowledges
49 that Seller will remain responsible for paying all closing costs and debts including the Brokerage Fee.

50 **12. Termination; Early Termination Fee.** The parties may mutually terminate this Agreement with a written termination statement
51 signed by both parties. Seller may unilaterally terminate this Agreement before the end of the Term ("Early Termination"). As a
52 condition required for an Early Termination, Seller shall pay an "Early Termination Fee" equal to 25% of the expected Brokerage Fee
53 based on the Listing Price stated above. If a Brokerage Fee is payable to Firm at the time of the Early Termination, Seller shall remain
54 obligated to pay the Brokerage Fee to Firm at Closing, but will not be required to pay an Early Termination Fee. If a Brokerage Fee is
55 payable to Firm under Section 7(iii) above, the amount of any Early Termination Fee paid by Seller shall be deducted from the
56 Brokerage Fee.

57 **13. Services; Authority.** Seller authorizes Principal Broker to market the Property and authorizes Principal Broker to:

- 58 (i) Place a "For Sale" sign on the Property and remove other similar signs;
- 59 (ii) Turn on, leave on, or cause utility providers to do so, any of the Property's utilities to permit showing of Property;
- 60 (iii) Gather and disclose any information pertaining to encumbrances on or condition of the Property;
- 61 (iv) Access the Property at reasonable times to show it to prospective buyers;
- 62 (v) Advertise the Property and information about the Property in any manner deemed appropriate by the Principal Broker;
- 63 (vi) Accept deposits on behalf of Seller;
- 64 (vii) Deliver documents, disclosures, and addendums to buyers on behalf of Seller;
- 65 (viii) Share commissions, compensation, finder's fees or Brokerage Fees with cooperating brokers and cooperating firms;
- 66 (ix) Communicate with Seller by telephone, text messaging, facsimile, email and/or other electronic means during and after the
67 Term of this Agreement.

68 If Property is occupied by a tenant, Seller will obtain permission and authority from tenant to permit the above services where
69 necessary.

70 **14. Optional Authorizations.** By checking the below boxes, Seller further authorizes only the following selected actions:

- 71 Principal Broker may place a lockbox on the Property, with Seller responsible for all risk of loss or damage stemming from such
72 lockbox;
- 73 Principal Broker may advertise the Property on the Internet in addition to the multiple listing services selected below
- 74 Principal Broker may advertise the Property with the following multiple listing services, and Seller authorizes the
75 uncompensated use, relicense, repurpose, and display of Property photos and Property data on the same: Regional Multiple
76 Listing Service (RMLS) Oregon Data Share/Flex MLS (Southern Oregon MLS, MLS of Central Oregon, Klamath County Association
77 of REALTORS®) Lincoln County MLS (LCMLS-O) Clatsop MLS (CMLS) Tillamook County Board MLS (TCBMLS) Willamette
78 Valley MLS (WVMLS) Intermountain MLS (IMLS)

79 **15. Seller Representations.** Seller represents and warrants the following:

- 80 (i) Seller has authority to convey marketable and insurable title to the Property and to enter into this Agreement;
- 81 (ii) Seller will cooperate with Principal Broker to sell the Property;
- 82 (iii) Seller shall accurately and truthfully complete a **Form 3.1 Seller Property Disclosure Statement** if required;
- 83 (iv) If Property is subject to Lead-Based Hazard disclosures, Seller shall accurately and truthfully complete any required disclosure
84 statements;
- 85 (v) Seller acknowledges that Principal Broker may not have made inquiries or investigations into the Property and may rely on
86 Seller's disclosure statements;
- 87 (vi) All information provided by Seller and all information Seller will provide is correct, complete, and not misleading to the best
88 of Seller's ability;

Seller Initials _____

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- 89 (vii) Seller will install approved smoke and carbon monoxide detectors as required by Oregon law;
- 90 (viii) Seller will comply with all laws relating to the Property and sale thereof, including fair housing laws; and
- 91 (ix) On the closing of the sale and date of possession, the Property will be free from material defects and in substantially its
- 92 present condition.

93 **16. FIRPTA.** The Foreign Investment in Real Property Tax Act of 1980 requires buyers withhold certain amounts of money at closing to
 94 cover the tax when purchasing Foreign-Person owned property. To avoid delays in closing, Seller must complete a FIRPTA disclosure
 95 based on the following: Seller is a foreign person under FIRPTA; or Seller is not a foreign person under FIRPTA

96 **17. Indemnification.** Seller shall protect, defend, indemnify, and hold harmless Principal Broker and their respective agents, assigns
 97 and employees from and against:

- 98 (i) any damages other than for those caused by Principal Broker’s failure to comply with duties owed to all parties in a transaction
 99 as a result of Broker’s representation of Seller;
- 100 (ii) all losses, costs, liabilities, claims, damages, and expenses of every character and kind, as incurred, relating to or arising out
 101 of inaccuracy, nonfulfillment or breach of any representation, warranty, covenant or agreement made by Seller in the Sale
 102 Agreement;
- 103 (iii) any legal action including any counterclaim based on facts that, if true, would constitute a breach of any representation,
 104 warranty, covenant or agreement made by Seller in the Sale Agreement;

105 relating to or arising out of any act or omission of Seller prior to the Closing Date; or information and disclosures about the Property
 106 provided by Seller.

107 **18. Dispute Resolution.** Any dispute or claim that arises out of or that relates to this Agreement, or to the interpretation or breach
 108 thereof, or to the existence, validity, or scope of this agreement, shall be exclusively resolved in accordance with this dispute resolution
 109 provision, under the laws of Oregon. All disputes within the jurisdiction of the small claims court shall be submitted to small claims
 110 court in the county where the Property is located. All disputes not within the jurisdiction of the small claims court will be resolved
 111 through mediation, and if unresolved through mediation, to binding arbitration through Arbitration Services of Portland (ASP)
 112 according to the then-existing rules of ASP. The prevailing party in any dispute resolution procedure (as determined by the judge,
 113 mediator or arbitrator, as applicable) shall be entitled to recover all reasonable attorneys’ fees, costs and expenses incurred at trial,
 114 on appeal, at mediation and at arbitration.

115 The following matters are excluded from this Dispute Resolution provision:

- 116 (i) Any matter within the jurisdiction of probate, small claims, or bankruptcy court;
- 117 (ii) Matters that must be exclusively resolved under Article 17 of the Code of Ethics and Professional Standards Policies of the
 118 National Association of REALTORS®; and
- 119 (iii) Matters related to contracts with Seller that predate this Agreement and contain a mandatory mediation or arbitration
 120 provision.

121 SELLER HAS BEEN ADVISED TO CONSULT INDEPENDENT LEGAL COUNSEL TO UNDERSTAND THE PROVISIONS OF THIS AGREEMENT AND
 122 BY CONSENTING TO THIS AGREEMENT, HEREBY WAIVES THE CONSTITUTIONAL RIGHT TO BRING ISSUES AND CLAIMS RELATED TO THIS
 123 AGREEMENT TO A TRIAL BY JUDGE OR JURY, OTHER THAN SMALL CLAIMS COURT PROCEEDINGS, IN ANY STATE OR FEDERAL ACTION,
 124 PROCEEDING, OR COUNTERCLAIM BROUGHT BY ANY PARTY AGAINST ANY OTHER PARTY.

125 **19. Modification.** No provision in this Agreement may be modified except in a writing signed by Seller and Principal Broker.

126 **20. Additional Provisions.** _____
 127 _____
 128 _____

129 **21. Signatures**

130 Seller: _____ Dated: _____
 131 Seller: _____ Dated: _____
 132 Seller: _____ Dated: _____
 133 Seller: _____ Dated: _____
 134
 135 Principal Broker: _____ Dated: _____

EXHIBIT A
[LISTING DATA INPUT FORM]
Changes based on MLS standards

TRAINING COPY

Seller Initials _____

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