



EXCLUSIVE RIGHT-TO-SELL LISTING AGREEMENT (Residential)

In consideration of the services to be rendered by the Broker named below, the undersigned, as a Seller or Party ("Seller"), hereby exclusively lists the Property as described in Paragraph 3 below ("Property") for the purpose and on the terms herein stated:

1. Effect of Listing Agreement. By appointing Broker as exclusive Broker, Seller agrees to work through Broker for the sale, option or exchange (collectively "Sale") of the Property and to refer to Broker all inquiries received in any form from other real estate Brokers, agents, associated broker associates, sales associates, or provisional sales associates, sales persons, prospective buyers or tenants, or any other source during the time this Listing Agreement is in effect. In addition, any compensation which is conditioned upon the Sale of Property shall be earned by Broker as set forth herein without any discount or allowance for any efforts made by Seller or by any representative of Seller in connection with the sale of the Property.

2. Sale. "Sale of Property" or "Sale" means the voluntary transfer or exchange of any interest in the Property or the voluntary creation of any right to acquire any interest in the Property (including, without limitation, a contract, option, exchange or sale).

3. Property. The Property is described as: Lot(s) _____, Block(s) _____, Addition _____, City _____, County _____, Oklahoma, which street address is _____ (zip code) together with all Seller's right, title, interest and estate in and to oil, gas and other minerals in and under such real estate, if any not previously reserved or conveyed of record; improvements and appurtenances, if any, and the following items, if any:

- Attic and ceiling fan(s) •Fireplace inserts, logs, grates, doors and screens •Propane tank(s), if owned
•Bathroom mirror(s) •Free standing heating unit(s) •Sprinkler systems & control(s)
•Other mirror(s), if attached •Humidifier(s), if attached •Swimming Pool/ Spa equipment /accessories
•Central vacuum & attachments •Water Conditioning systems, if owned •Attached recreational equipment
•Floor coverings, if attached •Window treatments & coverings, interior & exterior •Exterior landscaping and lighting
•Key(s) to the property •Storm windows, screens & storm doors •Entry gate control(s)
•Built-in & under cabinet/counter appliance(s) •Garage door opener(s) & remote transmitting unit(s) •Water meter, sewer/trash membership, if owned
•Free standing slide-in / drop-in kitchen stove •Fences (includes sub-surface electric & components) •All remote controls, if applicable
•Built-in sound system(s) / speaker(s) •Mailboxes/Flag poles •Transferable Service Agreements & Product Warranties
•Lighting & light fixtures •Outside cooking unit(s), if attached •Shelving, if attached
•Fire, smoke, security system(s), if owned

and all other property owned by Seller and attached to the above described real property except the following property which is not included: _____

4. Listing Price. Seller lists the Property for \$ _____ (the "Sales Listing Price") and agrees to sell the Property for the Sales Listing Price or any other price acceptable to Seller. Seller understands that certain expenses will be incurred in the sale.

5. Term. This Listing Agreement shall commence on _____ and shall continue until the earlier of the following: A. the completion of the Sale of the Property by Seller;

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B. Midnight, _____, or, if necessary, this date shall be automatically extended by such time period as defined as the Closing Date, or any extension thereof, in the Contract of Sale which the Seller has accepted on the Property during the term of this Listing Agreement and except for the provisions in 8.D) below; or the mutual written consent of the parties to terminate the Listing Agreement.

6. Broker Duties and Responsibilities.

A. Broker shall have the following duties and responsibilities to a Party, which are mandatory and may not be abrogated or waived by the Broker:

- 1) Treat all Parties with honesty and exercise reasonable skill and care;
- 2) Unless specifically waived in writing by a Party to the Transaction (*if waived, check here and attach completed Written Disclosure Waiving Broker Duties and Responsibilities which is to be used and incorporated herein*):
 - a. receive all written offers and counteroffers,
 - b. reduce offers or counteroffers to a written form upon the request of any Party to the transaction, and
 - c. present timely all written offers and counteroffers.
- 3) Timely account for all money and property received by the Broker;
- 4) Keep confidential information received from a Party or prospective Party confidential. The confidential information shall not be disclosed by the Broker without the consent of the Party disclosing the information unless the consent to the disclosure is granted in writing by the Party disclosing the information (*if waived, check here and attach completed Written Disclosure Waiving Broker Duties and Responsibilities which is to be used and incorporated herein*), the disclosure is required by law, or the information is made public or becomes public as the result of the actions from a source other than the Broker. The following information shall be considered confidential and shall be the only information considered confidential in a Transaction:
 - a. that a Party or prospective Party is willing to pay more or accept less than what is being offered;
 - b. that a Party or prospective Party is willing to agree to financing terms that are different from those offered;
 - c. the motivating factors of the Party or prospective Party purchasing, selling, leasing optioning or exchanging the Property, and
 - d. information specifically designated as confidential by a Party unless such information is public;
- 5) Disclose information pertaining to the property as required by the Residential Property Condition Disclosure Act; and
- 6) Comply with all requirements of the Oklahoma Real Estate License Code and all applicable statutes and rules.

B. Broker shall have the following duties and responsibilities only to the Party for whom the Broker is providing brokerage services in a transaction, which are mandatory and may not be abrogated or waived by a Broker:

- 1) Inform in writing the Party for whom the Broker is providing brokerage services when an offer is made that the Party will be expected to pay certain closing costs, brokerage service costs and approximate amount of the costs; and
- 2) Keep the Party for whom the Broker is providing Brokerage Services informed regarding the Transaction.

7. Duties When Working With Both Parties. A Broker may provide services to both Parties to the Transaction. This could occur when a Broker has contracted with a Seller to sell their property and a prospective Buyer contacts the same Broker to see the property. If and when working with both Parties to a Transaction, the Broker duties and responsibilities set forth in this section shall remain in place for both Parties. In addition, if Broker is providing Brokerage Services to both Parties of the Transaction the Broker shall provide written notice to both Parties that the Broker is providing Brokerage Services to both Parties prior to the Parties signing a contract to purchase, option or exchange real estate.

Seller acknowledges that Broker is not an expert with respect to the law, tax, financing, surveying, structural condition, wood infestation, hazardous materials, or other matters requiring expertise. Seller is encouraged to seek expert assistance concerning such matters.

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8. Compensation to Broker.

A. **Compensation.** In consideration of the services performed by Broker, Seller shall pay Broker as follows:

- 1) Sales Compensation: (1) _____ % of the gross sales price of the Property **AND** **OR**
(2) \$ _____.

B. **When Earned.** Such compensation shall be earned when any one of the following occurs during the term of this Listing Agreement:

- 1) Any Sale of the Property by Seller to anyone at any price on any terms;
- 2) Broker, or in cooperation with another Broker, finds a Buyer who is ready, willing and able to buy, option or exchange the Property at the Sales Listing Price or for any other price acceptable to Seller; or
- 3) Seller breaches this Listing Agreement, including, without limitation, the removal or withdrawal of the Property or any portion of the Property from the market and then contributes, conveys or transfers the Property or any interest therein to an individual or Firm during the term of the Listing Agreement.

C. **Payable.** When the compensation is earned, the compensation is payable, either during the term of the Listing Agreement or after its expiration or termination, at the earlier of:

- 1) The closing of any Sale of the Property;
- 2) Seller's refusal to sell the Property after the Sale Compensation has been earned;
- 3) Seller's breach of this Listing Agreement; or
- 4) At such time as otherwise set forth in the Listing Agreement.

D. **Extension Period.** If, within _____ days after the term of this Listing Agreement (the "Extension Period"), Seller enters into a contract for the Sale of the Property to a registered Buyer, Seller shall pay Broker an amount equal to the Sale Compensation. A "Registered Buyer" is a Buyer or Party to whom the Broker has shown the Property, who has been informed of the Sales Listing Price or whom Broker has negotiated concerning the Property, and whose name has been submitted to Seller in writing prior to or within _____ days after the termination or expiration of this Listing Agreement. If Seller relists the Property upon termination or expiration of this Listing Agreement with another licensed real estate Broker, the Extension Period and this subparagraph will not apply.

E. **Other Fees.** If a Buyer or Party with whom Seller has entered into a contract for the Sale of the Property during the term of this Listing Agreement breaches such a contract, and Seller receives earnest money or a portion thereof as liquidated damages, Seller will pay Broker the lesser of one-half of such amount or the Sale Compensation. Any amount paid under this subparagraph is in addition to any amount that Broker may be entitled to receive from any subsequent Sale of Property

9. Disclosures Required by Seller.

- A. Seller will deliver to Broker the disclosures and notices as required by law. Seller must complete the required disclosures or notices to the best of Seller's knowledge and belief. Seller authorizes Broker to furnish prospective buyers and other brokers with copies of all required disclosures or notices.
- B. Seller shall promptly amend the applicable disclosures and notices (i) which become outdated or inaccurate, and (ii) if Seller becomes aware of any defect including without limitation, any defect known after an inspection.
- C. Seller acknowledges that Broker has the duty to disclose to any Buyer any defects in the Property actually known to Broker which are not included in the Residential Property Condition Disclosure Statement.
- D. *Seller will protect, defend, indemnify and hold any and all Brokers harmless from any and all damages, costs, attorneys' fees or expenses arising from Seller's failure to disclose any defects of which Seller has actual knowledge or information of as required by law or communication of any incorrect information to any and all Brokers.*

10. Definitions.

- A. The term "Broker" means a real estate broker, an associated broker associate, sales associate, or provisional sales associate authorized by a real estate broker to provide Brokerage Services;
- B. The term "Brokerage Services" means those services provided by a Broker to a Party in a Transaction;
- C. The term "Party" means a person who is a seller, buyer, landlord, or tenant or a person who is involved in an option or exchange;

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D. The term "Transaction" means an activity to buy, sell, lease, rent, option, or exchange real estate. Such activities or processes may include, without limitation, soliciting, advertising, showing or viewing real property, presenting offers or counteroffers, entering into agreements and closing such agreements; and The term "Firm" means a sole proprietor, corporation, association or partnership.

11. Listing of the Property.

- A. Broker is a member of the Multiple Listing Service of _____ (the "MLS"). Broker is authorized to file listing information about the Property with the MLS for processing and dissemination.
- B. Seller authorizes Broker to place information about the Property on the Internet either directly or through a program of the MLS or other listing service.

12. Access to the Property.

A. **Authorizing Access.** Authorizing access to the Property means giving permission to another person to enter the Property, disclosing any security codes affecting the Property to such person and lending a key, (if applicable) to the Property to such person either directly or through a key box. To facilitate the showing and Sale of the Property, Seller authorizes Broker to:

- 1) Access the Property at any reasonable hour, and
- 2) Authorize other Brokers, inspectors and or appraisers to access the Property at any reasonable hour.

B. **Key Box.** NOTICE: A key box is a locked container placed on the Property in which a key to the Property is placed. Key boxes make it more convenient for cooperating Brokers and their associates, home inspectors, appraisers and repair persons to facilitate the showing, inspecting and repairing of the Property. The key box is locked and opened by a special combination, key or a programmed access card so that whoever possesses the special combination, key or the access card to the key box has access to the Property at any time, even in Seller's absence. The use of the key box will probably increase the number of showings, but may involve risks such as unauthorized entry or theft. Please discuss the advantages and disadvantages of key boxes with your Broker, insurance agent and/or attorney.

- 1) Broker (**check one**) is is not authorized to place a key box containing a key to the Property on the Property.
- 2) If the Property is occupied by a tenant at any time during this Agreement, Seller will furnish Broker a written statement, signed by all tenants, authorizing the use of a key box or Broker may remove any key box from the Property.
- 3) Seller acknowledges that Seller understands that neither the lockbox system, the key box, the key to the key box nor any other component or aspect of the lockbox system is designated or intended as a security device or system.
- 4) *Seller will protect, defend, indemnify and hold any and all Brokers harmless from any damages or claims arising from authorizing access to the Property or the use of a key box including, but not limited to, damages to or loss of real or personal property or personal injury not caused by Broker's negligence. Seller assumes all risk of any loss, damage and injury.*

13. Brokers Authority. Broker is not authorized to execute any document in the name of or on behalf of Seller with respect to the Property. Seller authorizes Broker to:

- A. advertise the Property by means and methods as Broker determines in its sole judgment and discretion;
- B. make and use photographs or other electronic images of the Property;
- C. place a "For Sale" sign on the Property;
- D. remove from the Property all other signs offering the Property for sale or lease;
- E. at Seller's expense, turn on or leave on until closing or termination of this Listing Agreement all utilities or have service persons do so in order to show the Property or to permit inspection of the Property;
- F. furnish sales information about other properties to any prospective Party;
- G. disseminate the information about the Property to seek assistance from and offer compensation to other Brokers providing Brokerage services to the Party;
- H. have access to the Property at any reasonable hour to show the Property to any prospective Party;
- I. obtain all information pertaining to any present mortgage on the Property from any holder of any note secured

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by a lien on the Property or any mortgage service company and to furnish information pertaining to the Property to any prospective Party or lender;

- J. upon the closing of a Sale of the Property, to submit information about the Property, sales price of the Property and contract terms to the named MLS for publication to subscribers for market evaluation or appraisal purposes (any information or data, including information about a Sale, becomes the property of the named MLS for all purposes);
- K. upon termination, expiration, completion of performance of the Transaction and/or closing of the Sale of the Property, except as may be provided in a written brokerage agreement between the Broker and a Party to the Transaction, the Broker owes no further duties or responsibilities to the Party after termination, expiration, or completion of performance to the Transaction, except:
 - 1) to account for all monies and property relating to the Transaction; and
 - 2) to keep confidential all confidential information received by the Broker during the Broker's relationship with the Party—as defined in Paragraph 6 of this Listing Agreement and as required by law; and
- L. accept earnest money and deposit the earnest money in trust in accordance with the terms of a contract for the Sale of the Property.

14. **Seller's Representations.** Except as set forth in Paragraph 18 below, Seller represents that:

- A. Seller has fee simple title to and possession of the Property and all its improvements and fixtures thereon, unless rented, and the legal capacity to convey the Property.
- B. Seller is not now a Party to a Listing Agreement with another Broker for the sale, exchange, option or lease of the Property.
- C. No person or entity has any right to purchase, lease or acquire the Property by virtue of an option, right of first refusal or other agreement.
- D. The Property (**check one**) is not subject to a mandatory homeowners association, or is subject to a mandatory homeowners association with annual dues payable in the amount of \$ _____ per _____.
- E. The Property (**check one**) is not subject to a special assessment, or is subject to a special assessment of which \$ _____ is unpaid.
- F. The Property (**check one**) is, or is not in an historical preservation district.
- G. The Property (**check one**) is, or is not in a municipal special design district.
- H. There are no delinquencies or defaults under any mortgage or other encumbrance on the Property.
- I. The Property is not subject to probate proceedings, foreclosure, divorce proceedings or the jurisdiction of any court.
- J. All information relating to the Property provided herewith or which may be provided to Broker by Seller is true and correct, and Seller will notify Broker in the event of any changes to these representations.

15. **Seller's Additional Promises.** Seller agrees to:

- A. Cooperate fully in good faith with Broker to facilitate the showing and marketing of the Property;
- B. Not negotiate with any prospective Buyer who may contact Seller directly; and
- C. Provide Broker with copies of all leases or rental agreements, if any, pertaining to the Property and advise Broker of any tenants or other Parties moving in or out of the Property.

16. **Limitation of Liability.** If the Property becomes vacant during the term of this Agreement, Seller must notify Seller's casualty insurance company and request a Vacancy Clause to cover the Property. Broker is not responsible for managing the Property, the security of the Property, nor for inspecting the Property. **Broker is not responsible or liable in any manner for personal injury to any person or for loss or damage to any persons real or personal property resulting from: (i) acts of third parties; (ii) vandalism; (iii) theft; (iv) freezing water pipes; (v) a dangerous condition on the Property; (vi) the Property's non-compliance with any law or ordinance; and (vii) any act or omission not caused by Brokers negligence. Seller agrees to protect, defend, indemnify and hold Broker harmless from any liability for which Broker is not responsible under this Agreement.**

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17. **Residential Service Contract.** A Residential Service Contract is an agreement under which a Company or its authorized representative may repair or replace certain operating items in the Property. Seller (**check one**) (a) shall, or (b) shall not purchase a Residential Service Contract. Residential Service Contracts may have deductibles, may cover different items and may be available during the listing period. In addition Seller acknowledges that an administrative fee may be paid to the Broker who initiates the Residential Service Contract.

18. **Special Information.**

*** Ask me what I add here that's guaranteed to get you extra attention!**

19. **Default.** If Seller breaches this Listing Agreement (including but not limited to Sale of the Property without Broker's knowledge and consent), Seller is in default and will be liable to Broker for the amount of the compensation specified in Paragraph 8 above. If Broker breaches this Listing Agreement, Broker is in default and Seller may exercise any remedy at law.

20. **Mediation.** Any dispute arising under, out of, in connection with, or in relation to this Listing Agreement shall be submitted to an Alternative Dispute Resolution System available in the county wherein the Property is located. Any Settlement Agreement shall be binding. If the parties are unable to locate a system in the area, the parties can call the Early Settlement Program under the jurisdiction of the Oklahoma Supreme Court at 1 (405) 556-9802 or www.oscn.net and click on Alternative Dispute Resolution in the left margin.

21. **Attorneys' Fees.** If Seller or Broker is a prevailing party in any legal proceeding brought as a result of a dispute under this Listing Agreement, such party will be entitled to recover from the non-prevailing party all costs of such proceeding and reasonable attorneys' fees.

22. **Agreement of Parties.**

A. **Addenda.** Addenda and other related documents which are incorporated into this Listing Agreement are:

- 1) Those disclosures or notices referred to in Paragraph 9 above;
- 2) Seller's Estimate of Expenses, of which Seller acknowledges receipt; and
- 3) If applicable, Written Disclosure Waiving Broker Duties and Responsibilities as referenced in Paragraph 6 above.

B. **Entire Agreement.** This Listing agreement and any Addenda contain the entire agreement between the parties and may not be changed except by written agreement. Seller acknowledges receipt of a copy of the Listing Agreement and any Addenda identified in Paragraph 22.A. above.

C. **Assignability.** This Listing Agreement may not be assigned by either party without approval of the other party.

D. **Binding Effect.** This listing agreement is binding upon and inure to the benefit of the parties hereto, their respective personal representatives, heirs successors and permitted assigns.

E. **Joint and Several.** All Sellers executing this Listing Agreement are jointly and severally liable for the performance of all its terms.

F. **Governing Law.** The laws of the State of Oklahoma govern the interpretation, validity, performance and enforcement of this Agreement.

G. **Severability.** If any clause in this Listing Agreement is found to be invalid or unenforceable by a court of law, the remainder of this Listing Agreement will not be affected and all other provisions of the Agreement will remain valid and enforceable.

23. **Counterparts.** If more than one person is named as Seller herein, this Listing Agreement may be executed by each Seller individually, and when so executed, such copies taken together shall be deemed to be a full and complete agreement between the parties.

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24. **Additional Notices.**

- A. Compensation or the sharing of fees between brokers is not fixed, controlled, recommended, suggested or maintained by the Broker's local Realtor Association, or any listing service. Compensation is determined by individual brokerage firms.
- B. **Equal Opportunity.** Properties shall be shown and be made available to Parties without regard to age, race, color, religion, sex, handicap, disability, familial status, national origin, sexual orientation or as may be provided by local, state or federal laws or regulations.
- C. Broker cannot give legal advice. This is intended to be a legally binding agreement. **READ IT CAREFULLY.** If you do not understand the effect of this Listing Agreement, consult your attorney **BEFORE** signing.

25. **Waiver.** Seller waives the right to receive subsequent written bonafide offers for a Transaction related to the Property after acceptance of a contract by Seller. This Broker agrees to advise the other Party's Broker that no assistance is required with regard to the Seller receiving subsequent written bonafide offers after acceptance of a contract. This waiver is required to be in writing by law.

Executed by Seller this _____ day of _____, 20_____.

Seller's Telephone (Home) _____ (Work) _____

(Mobile) _____ (Email) _____

Seller's Address _____

Seller (Print)

Seller (Signature)

Seller (Print)

Seller (Signature)

Executed by Broker this _____ day of _____, 20_____.

Berkshire Hathaway HomeServices Benchmark Realty

Broker (Company)

Steve Reese

Broker or Associate (Signature)

info@bhhsbenchmark.com

Email Address

Steve@SoldonShawnee.com

Email Address

405-275-8182

Telephone

405-585-6580

Telephone

Seller's Initials _____