

Vacant Land Listing Agreement

This Exclusive Right of Sale Listing Agreement ("Agreement") is between

X ("Seller")
and CHERYL SMITH REALTY, INC. ("Broker").

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

2. Description of Property:

(a) **Street Address:** X

Legal Description: LOT BLOCK PORT MALABAR UNIT

☐ See Attachment

(b) **Personal Property,** including storage sheds, electrical (including pedestal), plumbing, septic systems, water tanks, pumps, solar systems/panels, irrigation systems, gates, domestic water systems, gate openers and controls, fencing, timers, mailbox, utility meters (including gas and water), windmills, cattle guards, existing landscaping, trees, shrubs, and lighting: N/A VACANT LAND

☐ See Attachment

(c) **Occupancy:**

Property ☐ is ☐ is not currently occupied by a tenant. If occupied, the lease term expires _____.

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

(a) **Price:** \$X

(b) **Financing Terms:** ☒ Cash ☐ Conventional ☐ VA ☐ FHA ☐ USDA ☐ Other (specify) _____

☐ **Seller Financing:** Seller will hold a purchase money mortgage in the amount of \$_____ with the following terms: _____

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

Lender approval of assumption ☐ is required ☐ is not required ☐ unknown. **Notice to Seller:** You may remain liable for an assumed mortgage for a number of years after the Property is sold. Check with your lender to determine the extent of your liability. Seller will ensure that all mortgage payments and required escrow deposits are current at the time of closing and will convey the escrow deposit to the buyer at closing.

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

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

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

6. Broker Authority: Seller authorizes Broker to:

(a) Advertise the Property as Broker deems advisable including advertising the Property on the Internet unless limited in (6)(a)(i) or (6)(a)(ii) below.

(Seller opt-out) (Check one if applicable)

(i) ☐ Display the Property on the Internet except the street address.

(ii) ☐ Seller does not authorize Broker to display the Property on the Internet.

Seller (_____) (_____) and Broker/Sales Associate (_____) (_____) acknowledge receipt of a copy of this page, which is Page 1 of 4.

VLLA-3 Rev 6/2017

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Seller understands and acknowledges that if **Seller** selects option (ii), consumers who search for listings on the Internet will not see information about the Property in response to their search.

_____/_____
Initials of Seller

- (b) Place appropriate transaction signs on the Property, including "For Sale" signs and "Sold" signs (once **Seller** signs a sales contract) and use **Seller's** name in connection with marketing or advertising the Property.
- (c) Obtain information relating to the present mortgage(s) on the Property.
- (d) Provide objective comparative market analysis information to potential buyers.
- (e) **(Check if applicable)** ☐ Use a lock box system and/or gate code to show and access the Property. A lock box or gate does not ensure the Property's security. **Seller** is advised to secure or remove valuables. **Seller** agrees that the lock box or gate is for **Seller's** benefit and releases **Broker**, persons working through **Broker**, and **Broker's** local Realtor Board / Association from all liability and responsibility in connection with any damage or loss that occurs. ☐ Withhold verbal offers. ☐ Withhold all offers once **Seller** accepts a sales contract for the Property.
- (f) Act as a transaction broker unless a different relationship is or has been established in writing.
- (g) **Virtual Office Websites:** Some real estate brokerages offer real estate brokerage services online. These websites are referred to as Virtual Office Websites ("VOWs"). An automated estimate of market value or reviews and comments about a property may be displayed in conjunction with a property on some VOWs. Anyone who registers on a VOW may gain access to such automated valuations or comments and reviews about any property displayed on a VOW. Unless limited below, a VOW may display automated valuations or comments and reviews about this Property.
 - ☐ **Seller** does not authorize an automated estimate of the market value of the listing (or a hyperlink to such estimate) to be displayed in immediate conjunction with the listing of this Property.
 - ☐ **Seller** does not authorize third parties to write comments or reviews about the listing of the Property (or display a hyperlink to such comments or reviews) in immediate conjunction with the listing of this Property.

7. Seller Obligations and Representations: In consideration of **Broker's** obligations, **Seller** agrees to:

- (a) Cooperate with **Broker** in carrying out the purpose of this Agreement, including referring immediately to **Broker** all inquiries regarding the Property's transfer, whether by purchase or any other means of transfer.
- (b) Provide **Broker** accurate information about the Property of which **Seller** may be aware, including but not limited to utility availability, presence of or access to water supply, sewer or septic system, problems with drainage, grading or soil stability, environmental hazards, commercial or industrial nuisances (noise, odor, smoke, etc.), utility or other easements, shared driveways, encroachments from or on adjacent property, zoning, wetland, flood hazard, tenancies, cemetery/grave sites, abandoned well, underground storage tanks, presence of protected species, or nests of protected species.
- (c) Provide **Broker** access to the Property and make the Property available for **Broker** to show during reasonable times.
- (d) Inform **Broker** before leasing, mortgaging, or otherwise encumbering the Property.
- (e) Indemnify **Broker** and hold **Broker** harmless from losses, damages, costs, and expenses of any nature, including attorney's fees, and from liability to any person, that **Broker** incurs because of (1) **Seller's** negligence, representations, misrepresentations, actions, or inactions; (2) the use of a lock box or gate code; (3) the existence of undisclosed material facts about the Property; or (4) a court or arbitration decision that a broker who was not compensated in connection with a transaction is entitled to compensation from **Broker**. This clause will survive **Broker's** performance and the transfer of title.
- (f) Perform any act reasonably necessary to comply with FIRPTA (Section 1445 of the Internal Revenue Code).
- (g) Make all legally required disclosures, including all facts that materially affect the Property's value and are not readily observable or known by the buyer. **Seller** certifies and represents that **Seller** knows of no such material facts (local government building code violations, unobservable defects, etc.) other than the following:
TBD
- (h) **Seller** will immediately inform **Broker** of any material facts that arise after signing this Agreement.
- (i) Consult appropriate professionals for related legal, tax, property condition, environmental, foreign reporting requirements, and other specialized advice.
- (j) **Seller** represents that **Seller** is not aware of any notice of default recorded against the Property; any delinquent amounts due under any loan secured by or other obligation affecting the Property; any bankruptcy, foreclosure, insolvency, or similar proceeding affecting the Property; any litigation, arbitration, administrative action, government investigation, or other action that affects or may affect **Seller's** ability to transfer the Property; any current, pending, or proposed special assessments affecting the Property; any planned public improvements which may result in special assessments; or any mechanics' liens or material supplier liens against the Property.

8. **Compensation:** Seller will compensate Broker as specified below for procuring a buyer who is ready, willing, and able to purchase the Property or any interest in the Property on the terms of this Agreement or on any other terms acceptable to Seller. Seller will pay Broker as follows (plus applicable sales tax):
- (a) 10 % of the total purchase price plus \$ N/A OR \$ N/A, no later than the date of closing specified in the sales contract. However, closing is not a prerequisite for Broker's fee being earned.
- (b) N/A (\$ or %) of the consideration paid for an option, at the time an option is created. If the option is exercised, Seller will pay Broker the Paragraph 8(a) fee, less the amount Broker received under this subparagraph.
- (c) N/A (\$ or %) of gross lease value as a leasing fee, on the date Seller enters into a lease or agreement to lease, whichever is earlier. This fee is not due if the Property is or becomes the subject of a contract granting an exclusive right to lease the Property.
- (d) Broker's fee is due in the following circumstances: (1) If any interest in the Property is transferred, whether by sale, lease, exchange, governmental action, bankruptcy, or any other means of transfer, regardless of whether the buyer is secured by Seller, Broker, or any other person. (2) If Seller refuses or fails to sign an offer at the price and terms stated in this Agreement, defaults on an executed sales contract, or agrees with a buyer to cancel an executed sales contract. (3) If, within 30 days after Termination Date ("Protection Period"), Seller transfers or contracts to transfer the Property or any interest in the Property to any prospects with whom Seller, Broker, or any real estate licensee communicated regarding the Property before Termination Date. However, no fee will be due Broker if the Property is relisted after Termination Date and sold through another broker.
- (e) **Retained Deposits:** As consideration for Broker's services, Broker is entitled to receive 50 % (50% if left blank) of all deposits that Seller retains as liquidated damages for a buyer's default in a transaction, not to exceed the Paragraph 8(a) fee.
9. **Commercial Real Estate Sales Commission Lien Act:** The Florida Commercial Real Estate Sales Commission Lien Act provides that when a broker has earned a commission by performing licensed services under a brokerage agreement with you, the broker may claim a lien against your net sales proceeds for the broker's commission. The broker's lien rights under the act cannot be waived before the commission is earned.
10. **Cooperation with and Compensation to Other Brokers: Notice to Seller:** The buyer's broker, even if compensated by Seller or Broker, may represent the interests of the buyer. Broker's office policy is to cooperate with all other brokers except when not in Seller's best interest and to offer compensation in the amount of ☒ 5 % of the purchase price or \$ _____ to a single agent for the buyer; ☒ 5 % of the purchase price or \$ _____ to a transaction broker for the buyer; and ☐ _____ % of the purchase price or \$ _____ to a broker who has no brokerage relationship with the buyer.
☐ None of the above. (If this is checked, the Property cannot be placed in the MLS.)
11. **Conditional Termination:** At Seller's request, Broker may agree to conditionally terminate this Agreement. If Broker agrees to conditional termination, Seller must sign a withdrawal agreement, reimburse Broker for all direct expenses incurred in marketing the Property, and pay a cancellation fee of \$ 1,000.00 plus applicable sales tax. Broker may void the conditional termination, and Seller will pay the fee stated in Paragraph 8(a) less the cancellation fee if Seller transfers or contracts to transfer the Property or any interest in the Property during the time period from the date of conditional termination to Termination Date and Protection Period, if applicable.
12. **Dispute Resolution:** This Agreement will be construed under Florida law. All controversies, claims, and other matters in question between the parties arising out of or relating to this Agreement or the breach thereof will be settled by first attempting mediation under the rules of the American Mediation Association or other mediator agreed upon by the parties. If litigation arises out of this Agreement, the prevailing party will be entitled to recover reasonable attorney's fees and costs, unless the parties agree that disputes will be settled by arbitration as follows: **Arbitration:** By initialing in the space provided, Seller (_____) (_____), Sales Associate (_____), and Broker (_____) agree that disputes not resolved by mediation will be settled by neutral binding arbitration in the county in which the Property is located in accordance with the rules of the American Arbitration Association or other arbitrator agreed upon by the parties. Each party to any arbitration (or litigation to enforce the arbitration provision of this Agreement or an arbitration award) will pay its own fees, costs, and expenses, including attorney's fees, and will equally split the arbitrator's fees and administrative fees of arbitration.
13. **Miscellaneous:** This Agreement is binding on Seller's and Broker's heirs, personal representatives, administrators, successors, and assigns. Broker may assign this Agreement to another listing office. This Agreement is the entire agreement between Seller and Broker. No prior or present agreements or representations

will be binding on **Seller** or **Broker** unless included in this Agreement. Electronic signatures are acceptable and will be binding. Signatures, initials, and modifications communicated by facsimile will be considered as originals. The term "buyer" as used in this Agreement includes buyers, tenants, exchangors, optionees, and other categories of potential or actual transferees.

14. Additional Terms:

SELLER(S) ALSO AGREE TO PAY THE FOLLOWING CUSTOMARY CLOSING COSTS AT THE TIME OF CLOSING OUT OF THE PROCEEDS: TITLE INSURANCE, DOCUMENTARY STAMPS ON THE DEED, CITY OF PALM BAY LIEN SEARCH, PRORATION OF REAL ESTATE TAXES AND FED EX FOR CLOSING DOCUMENTS. THESE ITEMS ARE BASED ON CLEAR TITLE. ANY TITLE ISSUES THAT NEED TO BE CORRECTED COULD REQUIRE ADDITIONAL FEES.

Seller's Signature: X Date: X

Home Telephone: X Work Telephone: X Facsimile: X

Address: X **CELL NUMBER** X

Email Address: X

Seller's Signature: X Date: X

Home Telephone: X Work Telephone: X Facsimile: X

Address: X **CELL NUMBER** X

Email Address: X

Authorized Sales Associate or Broker: _____ Date: _____

CHERYL L. SMITH

Brokerage Firm Name: CHERYL SMITH REALTY, INC. email:cheryl@lotlady.com Telephone: (321)951-0322

Address: 738 MALABAR ROAD SE PALM BAY, FL 32907 **OFFICE TOLL FREE (800)545-5687** **FAX:(321)984-7363**

Copy returned to **Seller** on _____ by ☐ email ☐ facsimile ☐ mail ☐ personal delivery.

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