

# Exclusive Right To Sell Listing Agreement

**CONSIDERATION AND TERMS OF CONTRACT:** Kermath Realty LLC, hereinafter referred to as "KRLLC", agrees to market, negotiate, schedule and show with potential buyers the property located at: \_\_\_\_\_

Listing date: (date we would go live) \_\_\_\_\_ through end date: \_\_\_\_\_. The property includes but is not limited to the following: all buildings, gas, oil, and mineral rights owned by seller; built-in appliances; water softener (unless rented) water pumps and pressure tanks; stationary laundry tubs; radio and television antennas and any mechanical controls; shades, shutters, window blinds, and curtain and drapery rods; attached floor coverings; attached fireplace doors and screens; garage door opener and controls; screens, storm windows and doors & other related fixtures unless noted on the listing.

**SALES PRICE AND TERMS:** Seller agrees to list property for SALE for \$\_\_\_\_\_.

If listing for rent, seller offers property for rent for: \_\_\_\_\_ (insert monthly rent) and agrees to pay a buyer's agent should there be one a commission of \_\_\_\_\_ (typically 1/2 month's rent).

## LISTING OPTIONS: CHOOSE THE ONE YOU SIGNED UP FOR

1. **BASIC LIMITED SERVICE MLS LISTING:** \_\_\_\_\_ months \_\_\_\_\_ initial
2. **DELUXE LIMITED SERVICE MLS LISTING:** \_\_\_\_\_ months \_\_\_\_\_ initial
3. **FULL SERVICE LISTING, UP FRONT FEE ONLY:** list until sold or cancelled by seller
4. **FREE MLS LISTING:** This is a full service listing. List until sold or cancelled by seller. The "Free" MLS listing has an **up front deposit of \$350**. This "**Up front deposit**" is refunded upon closing of your home (less a "**Selling fee**" of 1% of sales price). The 1% "**Selling fee**" on sale of your home is refunded upon the successful **closing of the purchase** of a home through us. The purchase of the next home must be through the mls with a minimum commission to buyer's agent of 2.5%. If purchase is a fsbo, seller would need to agree to pay us, buyer's agent 3% at closing. **FOR EXAMPLE:** SALES PRICE OF \$300,000. \$350 up front deposit, 1% selling fee of \$3,000 - \$350 = total closing fee of \$2,650. This \$2,650 is then refunded to you at closing when you purchase your next home with us.

**COMMISSION:** This is a variable rate commission schedule. Seller has paid a commission of (amount you paid at time of sign up) \$\_\_\_\_\_ at the time of listing. **Seller will also pay an additional commission of \_\_\_\_\_ %.** (This should be 3% to buyer's agent). This is the coop or MLS fee to buyer's broker if buyer is procured from a buyer's agent / broker. **NOTE:** We cannot list you if this is not filled in.

Seller will be listed in the \_\_\_\_\_ MLS.

Commission shall be paid if, during the term of this contract (1) a licensed real estate agent sells & closes on the property, or (2) a licensed real estate agent produces a buyer who is ready, willing and able to buy the property, has a signed offer to purchase with seller. NOTE: This assumes there is a valid, signed offer to purchase between buyer and seller. If seller refuses to close on a valid, signed offer to purchase, Realtor commission is due and owed to that agent. Seller will also pay an agent the commission if, within 30 days after this contract expires, the property was shown to someone who learned about it through Broker's or agents efforts during the term of the contract. Seller authorizes KRLLC to pay this commission to any participating broker (buyer's agent) in the MLS. The fee is earned by the buyer agent/Broker that brings the buyer that closes on the property and will be paid at closing. All sales go through KRLLC (so we can report accurate data to the M.L.S.) and no other Broker may list the property during the term of the listing. The above commission will be paid to a participating broker / agent when acting as a buyer's broker or

transaction coordinator. If seller procures their own buyer through any efforts of their own and that buyer does not have an agent, no other commission is required beyond the up-front fee.

**SERVICES PROVIDED:** The seller is giving KRLLC the authority to enter this listing into the local MLS by KRLLC subject to the rules and regulations of the MLS service. KRLLC advises all participants in buying and selling real estate to enlist the services of a competent real estate attorney. By entering the seller's home into the M.L.S., Zillow, Trulia & Realtor.com, the prepaid commission is non-refundable. KRLLC will make every attempt to transmit sellers listing to all websites advertised but makes no guarantees that the data will feed to any or all of them except the MLS & Realtor.com. (The datafeed comes from the MLS so it should feed but we cannot guarantee it). Seller understands that upon notification that their listing is live in the MLS & Realtor.com, KRLLC has fulfilled it's obligations to seller and there are no refunds, full or partial. Full service listings: KRLLC will assist with offers, counters and help through closing but again, there are no refunds for full service listings once a listing is live.

Any buyer lead generated is the property of KRLLC. KRLLC has the right to bring lead / potential buyer to seller & be compensated no different than any other buyer's agent. Seller may cancel listing at any time via email without cost. If this listing is cancelled it cannot be restarted with paying an additional fee. KRLLC will correct at no charge any initial input errors that may occur but will not be liable for damages resulting from such errors. It is the responsibility of seller to inform KRLLC in a timely manner to correct any accuracy issues with listing. Any inaccuracy of listing is sellers responsibility. No refunds due to inaccuracy. If when a fully accepted offer is signed by buyer if seller reduces above agreed upon commission to buyer's agent on that offer, broker has the right to cancel this listing immediately with no refund. \_\_\_\_ Initial.

**FULL SERVICE LISTINGS:** If seller chooses full service listing options, KRLLC may provide assistance with arranging appointments, accepting and presenting offers, advising on offers and counter offers, negotiate for seller and assist through closing. There are no refunds if seller is dissatisfied with the level of service or has any issues with respect to processing a signed offer to purchase. \_\_\_\_ initial if full service.

**LIMITED SERVICE LISTINGS:** If seller choose limited service listing, seller is responsible for the following: providing KRLLC with a copy of any and all offers & counter offers & closing statement within 24 hours of receipt. Seller is also responsible to negotiate their offer, process their paperwork, order title and payoffs. This is not the job of the buyer's agent should there be a buyer's agent. \_\_\_\_ initial if limited service.

**SELLERS DUTIES & REPORTING OF CHANGES:** The MLS rules state that we must maintain accurate data as far as reporting changes from active to "signed offer / pending, then to sold". THIS IS YOUR RESPONSIBILITY AS SELLER, NOT THE BUYER'S AGENT OR THE TITLE COMPANY'S. IF any changes are not reported to us for us to report to the MLS, we face fines which we pass to you. Seller agrees to provide a copy of any fully signed offer between buyer / buyer's agent & seller within 24 hours of signatures of buyer & seller. Broker may cancel the listing without refund when Seller does not report to KRLLC via fax or email verification of the signed sales contract within 24 hours, KRLLC will also charge sellers credit card a \$25 fine. Seller further agrees to provide the final closing statement when property sells within 24 hours of closing. If seller does not provide KRLLC a copy of the closing statement within 24 hours of closing seller could be charged a \$50 fine. Seller also agrees to pay any and all MLS fines associated with not providing the signed offers and closing statement in a timely manner. NOTE: We need to maintain accurate data in the MLS or there are possible fines usually \$25 to \$100 for not reporting or maintaining accuracy in the mls. Sellers credit card will be charged for any MLS fines resulting from not reporting accurate data. THIS IS VERY IMPORTANT AND YOUR DUTY AS SELLER. \_\_\_\_ Initial

**OCCUPANCY:** Seller will give occupancy \_\_\_\_ days after closing. This is only an estimate, specific occupancy and tenant rights and rental rates will be drafted in the offer to purchase.

**SIGNS:** KRLLC will provide the seller with a KRLLC's Realtor yard sign, photo of which is on the web site. The Seller gives KRLLC the right to post listing information and photograph(s) on any web sites deemed suitable by KRLLC of and to any Internet site where the MLS appears KRLLC has no control over either of these. KRLLC will put seller's phone number on sign so possible buyers can call seller direct. FSBO signs are prohibited by MLS rules.

**CANCELLATION:** This agreement may be cancelled at any time by seller with no refunds by a signed cancellation form or email to KRLLC. This agreement can also be cancelled by broker at his discretion if seller is not in compliance with mls rules, there is an attempt to renegotiate buyer's agency commission or any other act that may cause liability for KRLLC This determination can be made by KRLLC. \_\_\_\_ initial.

**NON-DISCRIMINATION:** As required by law, seller and broker agree not to discriminate because of religion, race, color, national origin, age, sex, disability, familial status, or marital status in the sale of the property.

**INDEMNIFICATION:** OWNER shall defend, indemnify and hold BROKER, its shareholders, directors, officers, employees, agents and representatives harmless from, any and all losses, claims, damages, liabilities and costs, including without limitation commission claims, court costs, reasonable attorneys' fees and MLS penalties and fines, which arise from, are related to, or are in connection with, (i) OWNER'S breach of this Agreement or violation of any federal, state or local law; (ii) OWNER'S provision of false, misleading, inaccurate or incomplete information, representations or warranties to BROKER, prospective buyers or buyer; or (iii) claims of third parties relating to the Listed Property, the sale thereof, and/or any compensation to be paid in connection with such sale (including, without limitation, a claim by the Cooperating Brokerage against BROKER for a commission). Seller also accepts any liability for any potential misrepresentation as to the condition and square footage measurement of the home. Seller accepts any responsibility to pay buyers agent commission should it be found that subsequent to closing, a buyer was procured by buyers agent. Seller will require the buyer to obtain a copy of their lender's appraisal or an independent appraisal and investigate all discrepancies between that number, public record and the MLS listing before taking title. If seller fails to require buyer to do this, Seller indemnifies Realtor of all liability. Seller agrees to pay commission and any fees associated with the dispute. KRLLC is not an expert in, and is not providing advice to seller concerning legal matters, tax, financing, surveying, structural or mechanical condition, hazardous material or engineering. Seller is encouraged to seek expert help from qualified professionals in such areas.

**COMMISSION DISPUTES, (SELLERS'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, 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. 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.

**LIMITATION OF LIABILITY.** In no event will BROKER, its shareholders, directors, officers, employees, or agents be liable for any damages, losses, or liability, whether based on warranty, contracts, statutes, regulations, tort or any other legal theory. The BROKER's liability hereunder is limited to the Service Fee paid by OWNER to BROKER. If a commission was paid directly or through BROKER to a Cooperating Broker, OWNER agrees to make all claims for reimbursement of said commission against the Cooperating Broker directly.

**RELEASE OF LIABILITY, REPRESENTATIONS AND WARRANTIES.** I (we) the undersigned agree to hold harmless & release KRLLC from any and all future claims resulting from; a) discrepancies in square footage and room measurements, b) any act of negligence by the seller, c) occupancy issues prior to and after closing if a buyer moved items in and/or occupied the home prior to closing, d) emotional distress resulting from any issues the buyers may have after purchasing the home, e) any other liability or issue from purchasers including any earnest money deposit issues. Seller hereby by represents to the best of their knowledge that the information provided to the broker as to the measurements of the home and condition of the home is accurate. Seller assumes full responsibility for any inaccuracies on data provided to broker as far as condition, square footage, lot size, acreage, wetland issues, easements, mold, survey and any other discrepancies that may arise from a purchase. Broker is hereby held harmless against any claims arising from the sale of the property related to the above issues.

Seller If legal recourse arises out of Seller's non-performance under this contract and the MLS Listing Contract KRLLC will be entitled to recover all fees and commissions, including, but not limited to, reasonable attorney's fees and costs. I have read and understand this entire agreement; by my signature below, I agree to all of the terms of this contract in its entirety.

Ownership:  single  joint  trust / company Marital status:  single  married

Seller 1: \_\_\_\_\_

Date: \_\_\_\_\_

Print Name: \_\_\_\_\_

Phone: \_\_\_\_\_

Email: \_\_\_\_\_

Seller 2: \_\_\_\_\_

Date: \_\_\_\_\_

Print Name: \_\_\_\_\_

Phone: \_\_\_\_\_

Email: \_\_\_\_\_

By Broker: \_\_\_\_\_

Date: \_\_\_\_\_