

# FLORIDA Business Opportunities, Inc. & BUSINESS BROKERS OF FLORIDA

## STANDARD "EXCLUSIVE RIGHT OF SALE" LISTING AGREEMENT

Business Name: \_\_\_\_\_ -Business Phone: (\_\_\_\_) \_\_\_\_\_ -  
\_\_\_\_\_

Business  
Address: \_\_\_\_\_ Seller:  
\_\_\_\_\_ (Corporate name, if applicable)

Business Description:

\_\_\_\_\_ Total Price  
(excluding real estate): \$ \_\_\_\_\_ Down Payment: \$ \_\_\_\_\_ Financing: Months: \_\_\_ Interest: \_\_\_ Price  
for Real Estate: \$ \_\_\_\_\_ Down Payment: \$ \_\_\_\_\_ Financing: Months: \_\_\_ Interest: \_\_\_

Seller's "ESTIMATED VALUE" OF ASSETS AND LIABILITIES, and are they included in the total price

Inventory . . . . . \$ [ \_\_\_\_\_ ] (y/n) Leasehold Improvements . \$ [ \_\_\_\_\_ ] (y/n)

Furn/Fix/Equip . . . . . \$ [ \_\_\_\_\_ ] (y/n) Real Estate . . . . . \$ [ \_\_\_\_\_ ] (y/n)

Accounts Receivable . . . \$ [ \_\_\_\_\_ ] (y/n) Liabilities . . . . . (\$ ) [ \_\_\_\_\_ ] (y/n)

\_\_\_\_\_ \$ [ \_\_\_\_\_ ] (y/n) \_\_\_\_\_ \$ [ \_\_\_\_\_ ] (y/n)

1. In consideration of the services of FLORIDA hereinafter referred to as Broker, to market, advertise and otherwise attempt to find a buyer for this business through Broker's efforts, Seller hereby appoints and grants Broker the full and exclusive right to sell, and/or if Seller agrees, to exchange, trade, lease or otherwise dispose of all or any part of the above named business (hereinafter referred to as Business) which shall include the conveyance of all or any portion of its assets, rights, liabilities or property at the Total Price and terms set forth above, or for any other price and terms acceptable to Seller. Seller and Broker acknowledge that this Agreement does not guarantee a sale. Total Price is defined as the amount paid for the Business, including inventory and any liabilities, contingent liabilities and other obligations assumed by the Buyer.

2. The Listing Period shall be from the date of Brokers Acceptance to midnight of \_\_\_\_\_, \_\_\_\_\_ (if left blank, then for twelve months (12) from the date of Brokers Acceptance).

3. Broker hereby accepts employment and promises to use its best efforts in its ordinary course of business to offer for sale and to procure a ready, willing and able purchaser for Business. Seller hereby authorizes Broker to present any and all offers Broker may receive, until such time as Seller accepts an offer to purchase. At such time Broker need not advise Seller of any subsequent offer received. If the purchaser whose offer has been accepted either defaults on his agreement or the purchase agreement is otherwise terminated, subsequent offers will be presented; and Broker reserves the right to determine if a default has occurred or the purchase agreement has been terminated. Seller grants to Broker the right to show Business upon reasonable notification and to advertise Business at Broker's discretion. Seller agrees to refer all prospects regarding the business to Broker during the Listing Period.

4. Seller shall pay to Broker as compensation or liquidated damages, whichever the case may be, an amount equal to \_\_\_\_\_ percent (\_\_\_\_%) of the total purchase price, with a minimum compensation of \$ \_\_\_\_\_ and sales and use tax (if applicable) if any of the following occur:

a. Broker procures a Buyer ready, willing and able to purchase Business at the terms set forth above, or at any other Price and/or Terms acceptable to Seller; or

b. Seller sells, leases, trades, or otherwise disposes of all or any part of the Business during the Listing Period regardless of whether Broker was involved in or responsible for such disposition; or

- c. Seller enters into a contract for sale, letter of intent, and/or accepts a deposit or causes an amount to be placed in escrow for said Business; or
- d. Seller withdraws the Business for sale, or seeks to terminate or terminates this Agreement prior to the termination date of the Listing Period; or
- e. If Seller, through no fault of Buyer, fails or refuses to complete a sale, lease, trade or other disposition of Business after entering into a written agreement to do so; or
- f. Should Seller misrepresent or be fraudulent in communicating any material information, including financial information to Broker and as a result thereof, a sale or contemplated sale or an "Offer to Purchase" is with-drawn, canceled or does not materialize; or
- g. Seller sells, leases, trades or otherwise disposes of all or any part of Business within two (2) years from the termination date of the Listing Period to any person, firm, or entity referred to Seller by Broker, or who became aware of Business through Broker's efforts during the Listing Period. An employment, merger, joint venture or partnership arrangement between Seller and a Buyer shall be deemed to be a disposition herein; or
- h. The sale or transfer of any or all shares of stock in the selling corporation (if applicable) during the Listing Period shall be construed to be a sale of the Business assets at the listed price, and shall be otherwise construed according to the terms hereof; or
- i. Should Seller fail, refuse or neglect to provide Broker with all reasonable financial information, including but not limited to Balance Sheets, Profit and Loss Statements, Tax Returns, Leases, Equipment Lists and all other pertinent documentation and information within 21 days of the signature of this Agreement; or
- j. Seller agrees with a Buyer to cancel an executed sales contract.

The Compensation shall be due and payable immediately upon the occurrence of any of the acts or dispositions set forth herein. However, in the event of a sale, Broker may allow for payment of the Compensation at Closing. In terms of Section 475.42(1)(j) of Florida Statutes, the Broker, at Seller's expense, shall have the right to place an appropriate lien and encumbrance on the Business or real estate or both, necessary to collect any compensation and this shall be the necessary authorization and consent as required by the Statute. Seller further grants Broker a security interest under the Florida Uniform Commercial Code in and to all furniture, fixtures, equipment, inventory, accounts receivable and general intangibles of the Business as security for such commission or for commissions due in the future arising out of any option which a Buyer may subsequently exercise, and appoints Broker as Seller's attorney in fact to execute and file this Agreement and a UCC-1 financing statement to perfect such a security interest. If real property owned by Seller or any shareholder of Seller is leased or sold to a buyer such Seller, Lessor or shareholder will pay Broker a compensation equal to: \_\_\_\_\_ percent (\_\_\_\_%) of the gross rental (lease amount) or \_\_\_\_\_ percent, (\_\_\_\_%) of the sales price of the real property (legal description to be attached.) Seller agrees that as consideration for Broker's services, Broker is entitled to receive fifty percent (50%) of all deposits that Seller retains as liquidated damages for a Buyer's default in a transaction, not to exceed the commission set forth in this paragraph.

5. Seller represents and warrants the following:

- a. Seller and such portion of Business operation as is applicable, is now, and shall otherwise remain, in full compliance with all applicable laws, rules, and regulations regarding the commencement, operation and sale of Business, and to the best of the Seller's knowledge and belief there are no environmental or related matters which would adversely affect the sale of the Business;
- b. All facts, figures and other information set forth herein, and all additional supporting documents pertaining to the Business and as requested by the Buyer has been provided to Broker by Seller. Seller represents that all facts, figures and other information provided are true and accurate; and

c. Seller shall provide proof of ownership of said business, as well as providing the authority required to execute any and all documentation needed to effect the sale of said Business.

6. Seller agrees to cooperate with Broker in carrying out the purpose of this Agreement, including referring immediately to Broker all inquiries regarding the Business transfer, whether by purchase or any other means of transfer. Seller shall deliver to Broker copies of any agreement between Seller and any prospective buyer of the Business within 5 days after the execution and delivery of any such agreement or 5 days before Closing, if earlier; notify Broker of the date, time and place of the Closing; and permit Broker or Broker's representative to be present at the Closing. Seller shall also notify the Closing Agent that Broker or Broker's representative may be present. If Seller fails to notify the Closing Agent, Broker shall be authorized to do so, and to authorize and instruct the Closing Agent to deduct any and all commissions due to Broker under this Agreement from the closing proceeds and to pay same to Broker at Closing.

7. Seller understands and acknowledges that all information supplied to Broker pertaining to Business will be used for promoting Business to potential purchasers. Seller further understands and acknowledges that Broker has not made any independent investigation of the accuracy of the information provided by Seller. Seller understands that such information will be relied upon by Broker, potential purchasers and the actual purchaser of Business for the purpose of submitting an Offer to Purchase. Seller agrees to indemnify and hold Broker harmless against any and all claims, demands, causes of action, losses, damages and costs and expenses, including attorney's fees and expenses incurred by Broker, regardless of whether a suit is filed or not, in the event Seller should breach any warranty, representation or obligation set forth herein. Any information attached hereto and/or acknowledged by the parties, shall be part of this Agreement. The Business Listing Information (BLI), Corporate Resolution to Sell (if a corporation), and the Owners Benefits Worksheet or Owners Cash Flow Analysis, shall be deemed to be a part of this Agreement.

8. Broker, cooperating brokers and any Escrow Agent is authorized to accept, receipt for, and hold all sums paid or deposited as an earnest money deposit; and if such deposit shall be forfeited as liquidated damages by mutual agreement between the parties, half shall be disbursed to Seller and half to the Broker(s) involved, and this Listing Agreement between Seller and Broker shall continue in full force and effect until its termination date.

9. This Contract shall be governed by the laws of the state of Florida. Any breach of this Agreement shall result in the prevailing party being entitled to receive from the other party all of its reasonable attorneys fees, costs, and expenses incurred at both the trial and appellate levels. The parties hereby consent to personal jurisdiction and venue, for any action arising out of a breach or threatened breach of this Agreement in the Circuit Court in and for \_\_\_\_\_ County, Florida. The parties hereby agree that any controversy which may arise under this Agreement would involve complicated and difficult factual and legal issues. Therefore, any action brought by either party, alone or in combination with others, whether arising out of this Agreement or otherwise, shall be determined by a Judge sitting without a jury.

10. The Seller and/or: \_\_\_\_\_ agree to work in the Business at no compensation for a period of \_\_\_\_\_ days, in order to familiarize the Buyer with the Business and sign a non-compete agreement for \_\_\_\_\_ years within a \_\_\_\_\_ mile radius of the Business.

11. The Seller authorizes and agrees that Broker, in its sole discretion, may cooperate with other brokers or may refuse to do so. The Seller authorizes Broker to cooperate with any other broker regardless of their Agency Status. Broker may, in its sole discretion, share all or any portion of the total commission with such other broker(s).

12. The Seller authorizes Broker and any other broker with whom Broker is cooperating, to disclose Seller's reason for selling the Business to any Buyer or prospective Buyer.

13. The "Agency Relationship" between Broker and Seller is a: \_\_\_\_\_.

14. This Agreement constitutes the entire Agreement between the parties and it supersedes all negotiations, preliminary agreements, and all prior and contemporaneous discussions and

understandings between the parties and shall not be modified except in writing executed by the parties. Seller expressly acknowledges reading, understanding and receiving a copy of this Agreement. Seller agrees that should Broker mail a copy of this Agreement within 24 hours of the signature of this Agreement by the Seller, such mailing shall be deemed to be in compliance with 475.25 (1)(r) Florida Statutes. A facsimile copy of this Agreement and any signatures shall be considered for all purposes to be original. If any paragraph, subparagraph, or provision of this Agreement is held invalid by a court of competent jurisdiction, the remainder of the Agreement and the application of such paragraph, subparagraph, or provision to persons or circumstances other than those with respect to which it is held invalid, shall not be affected. This Agreement is binding on Broker's and Seller's heirs, personal representatives, administrators, successors and assigns. The Seller acknowledges that there are no oral representations upon which Seller relied upon in entering into this Agreement.

15.

THIS IS A LEGALLY BINDING CONTRACT.

PLEASE READ IT CAREFULLY BEFORE SIGNING.

TO BIND A CORPORATE OFFICER MUST SIGN BELOW.

Accepted and agreed to by Seller on the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

Seller: \_\_\_\_\_ -Send correspondence to: ( ) Home ( )  
Business

by: \_\_\_\_\_  
Seller or Seller's Agent Title Seller or Seller's Agent Title

by: \_\_\_\_\_ who personally guarantees performance of this  
Agreement.

Home Address: \_\_\_\_\_ Home Phone: (\_\_\_\_) \_\_\_\_\_ -  
\_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip Code: \_\_\_\_\_

FOR Broker:

\_\_\_\_\_  
Listing Agent's Name (Printed) Listing Agent (Signature) Date

\_\_\_\_\_  
Officer's Acceptance Title Date

I hereby acknowledge having received a copy of this Agreement on the \_\_\_\_\_ day of \_\_\_\_\_,  
\_\_\_\_\_.

\_\_\_\_\_  
Authorized Signature of Seller

**FLORIDA Business Opportunities, Inc.**

**3800 South Tamiami Trail #325A**

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