

MLS FLAT FEE
EXCLUSIVE LISTING AGREEMENT & AGENCY DISCLOSURE
(PART A)

THIS IS A LEGALLY BINDING AGREEMENT
READ CAREFULLY BEFORE SIGNING

THIS AGREEMENT is a **Exclusive Listing Agreement** entered into by and between **Svetlana Bryner**, (the Broker), **Utah Discount Realty** (the "Company"), and _____ (the "Seller").

1. TERM OF LISTING. This contract commences on the date of execution of this Listing Agreement, for a period of () months and ending at 5:00 P.M. on the ____ day of _____ 200 __. (the "Listing Period"), Granting the Company an Exclusive Listing Agreement to Sell, Lease, or Exchange certain real property owned by the Seller, described as, TAX ID # _____ located at: _____

(the "Property"), at the price and terms stated on the attached MLS Listing Input Form, or at such other price and terms to which the Seller may agree in writing. The Seller understands that the marketing program of this Listing Agreement is limited due to the Fixed Listing Fee And that the Broker is only the Listing Agent. (Note sec. 2.3 and 2.4)

2. BROKERAGE FEE. The Seller desires to have BROKER list his/her real Property over the Wasatch Front Multiple Listing Service, (herein the MLS). The seller agrees to pay the Broker a **Fixed Listing Fee** of \$ 395 upon listing the Property in the MLS. The Seller hereby authorizes release of the Fixed Listing Fee to the Broker upon receipt. If during the listing period, the Seller, the Broker, the listing agent, another Utah Licensed Real Estate Agent locates a party who is ready, willing and able to buy, lease, or exchange the Property, or any part thereof, at the listing price and terms contracted or any other price and terms to which the Seller may agree to in writing then the seller agrees to pay the Broker an additional broker fee (herein the "BROKERAGE PAYMENT"). Said BROKERAGE PAYMENT consists of the following contingent payment: A **Buyer's Agent Commission** (BAC) of \$ _____ or _____% of such sale, lease, or exchange price which commission, unless otherwise agreed to in writing, shall be due and payable on the date of closing the sale, lease, or exchange. The Listing Broker is authorized to share the (BAC) **Buyers Agent Commission** with any Buyer he may represent in a transaction arising out of this Listing Agreement.

2.1. Services Provided. BROKER may, but is in no way obligated to, make any effort to find a buyer or tenant for the Property. BROKER's only obligations under this agreement are to list information about the Property, supplied by the Seller, on the Wasatch Front Regional Multiple Listing Service (MLS) identified above, place a brief description and picture/s (1-8) of the Property on the Internet Site, and other additional sites available. Owner acknowledges that these additional sites may be restricted to display only Broker or Broker's agent's phone number and that Broker shall be entitled to work the leads from said sites in order to attempt to earn the **Buyers Agent Commission** set forth in section 2 of the Listing Agreement. OWNER shall NOT be obligated to have the Property posted on any additional sites. The Seller will provide a completed MLS LISTING INPUT FORM and will be responsible for the accuracy of the data, including the descriptions of the Property. BROKER will in no way be liable for the accuracy of this data. The only service that BROKER and the Agent will perform for the Seller is that of placing this data on the designated MLS, the Internet Sites and those services contracted for under the terms of this contract.

2.2. Buyer Agent Commission Waiver. It is expressly understood that if the Buyer is not represented by a Buyer's Agent, the BROKER will WAIVE the Buyer's Agent Commission (BAC) portion of the BROKERAGE FEE. The Seller will confirm that the prospective purchaser/s has not signed an exclusive buyer representation agreement "a Buyers Contract" with a licensed agent. And will indemnify the BROKER in any procuring cause arbitration by another BROKER. If any offer for sale, lease, or exchange is accepted by the Seller, the Seller agrees to notify BROKER within 24 hours and provide the identity of all parties, price, and terms.

2.3. Seller Representation. The Seller upon the signing of this listing contract [] DOES [] DOES NOT request representation by the Company and BROKER as Sellers Agent. The **Selling Agent Commission** (SAC) to be (one half) 1/2% of such acquisition price. (See sec 17 Agency Relations)

2.4. Licensed Representation. If above option is not exercised then during the Listing Period, the Seller may initiate **Seller Representation** by the Company with BROKER as Sellers Agent with a **Selling Agent Commission** (SAC) of (one) 1% of such acquisition price. The rules of procuring cause shall apply. The Code defines procuring cause as ". . . the uninterrupted series of casual events which results in the successful transaction." The BROKERAGE PAYMENT, unless otherwise agreed in writing by the Seller and the Broker, shall be due and payable on the date of closing the sale, lease, or exchange.

2.5. Agency Relationships. It is expressly understood by the Seller that unless the option referenced above in sections (2.3 and/or 2.4) are exercised by the Seller; The Seller will act as his own agent in the selling process. The seller will indemnify the BROKER in any procuring cause arbitration by another cooperating BROKER.

2.6. Sellers Termination. Seller may terminate this Exclusive agreement at any time upon at least 5 days prior written notice to BROKER provided that there is not then a contract pending for the sale of the property entitling a Commission to be paid under this section. Upon entering into this Agreement, the Seller has paid a **NON-REFUNDABLE** "Fixed Listing Fee" (noted above) due and payable at the time of contracting.

3. SIGNAGE. At the option of the Seller and with a **\$50.00 refundable deposit**, BROKER will provide a Broker Sign. The Broker IS IS NOT authorized to place an appropriate sign on the Property. Owner acknowledges that said sign will display Broker or Broker's agent's phone number and that Broker shall be entitled to work the leads from said yard sign in order to attempt to earn the **Buyers Agent Commission** set forth in section 2 of the Listing Agreement. OWNER shall NOT be obligated to use Brokers Yard sign and may at any time return it to Broker and use OWNER's own yard sign.

4. KEY BOX. At the option of the Seller and with a **\$50.00 refundable deposit** and a **\$50 delivery & pickup service fee**. The BROKER will install an AGENT ACCESS Key Box to the property. The Broker IS IS NOT authorized and instructed to have a key box installed on the Property. The Broker IS IS NOT authorized to have a key to the Property. The Seller acknowledges that the Broker has discussed with the Seller the safeguarding of personal property and valuables located within the Property. The Seller further acknowledges the Broker is not an insurer against the loss of or damage to personal property. The Seller accepts full responsibility for any loss or damage that might result from the use of the key or key box from any source whatsoever and agrees to hold the Broker and the Seller's Agent harmless from any and all liability as a result of having the key to the Property and having the key box installed on the Property. If a tenant occupies the Property on other than a "nightly rental basis", the tenant agrees to the installation of a key box and joins in the waiver and release of the BROKER and the Broker as provided above.

(Tenant/s)

(Date)

5. Additional Marketing Services. In addition to the Fixed Listing Fee The Broker offers, at the Seller's option, additional Marketing Fee Services. The Seller requests at the signing of this contract the following Marketing Fee Services, and hereby authorizes the Broker to release any funds paid to it by the Seller for any such Marketing Fee Services upon receipt.

\$ 150.00 360 Video Tour

\$ 100.00 Home Magazine COLOR Advertisement (per issue)

\$ 50.00 Talking House Receiver (per month)

\$ Other: Realtor Bus Tour, Newspaper ads, Other magazines, Open House, Flyer Box w/Company Flyers etc

\$ _____ .00 Total Additional Fees

ALL ADDITIONAL MARKETING SERVICES PAID BY THE SELLER TO COMPANY SHALL BE RIEMBURSED TO THE SELLER UPON CLOSING IF THE BROKER REPRESENTS THE BUYER AND COLLECTS THE BUYERS AGENT COMMISSION (reimbursement shall not to exceed 1/2 of the BAC)

6. FAILURE TO PAY. Seller hereby consents to the immediate withdraw or termination of Sellers MLS Listing in the event that payment of Brokers services are not paid within five (5) business days of receipt; the Broker shall be solely authorized to withdraw the property from the active market and/or to terminate this Agreement and shall have no further obligation to market the Property on behalf of the Seller. Seller also agrees that such withdrawal or termination shall not relieve Sellers obligation to pay for the services already rendered by Listing Broker. All unpaid funds will be subject to collections by outside agency.

7. SELLER WARRANTIES/DISCLOSURES. The Seller warrants that the individuals or entity listed above as the "Seller" represents all of the record owners of the Property. The Seller warrants that he/she has marketable title and an established right to sell, lease, or exchange the Property. The Seller agrees to execute the necessary documents of conveyance. The Seller agrees to furnish buyer with good and marketable title, and to pay at Settlement, for a standard coverage owner's policy of title insurance for the buyer in the amount of the purchase price. The Seller agrees to fully inform the Buyer's Agent regarding the Seller's knowledge of the condition of the Property. The Seller agrees to personally complete and sign a Seller's Property Condition Disclosure form.

8. PROFESSIONAL ADVICE. The Broker and the Agent are trained in the marketing of real estate. Neither the Broker nor the Agent are trained to provide the Seller or any prospective buyer with legal or tax advice, or with technical advice regarding the physical condition of the Property. If the Seller desires advice regarding : (I) legal or tax matters; (ii) the physical condition of the Property; (iii) this Commission Agreement; or (iv) any transaction for the acquisition of the Property, the Agent and the Broker **STRONGLY RECOMMEND THAT THE SELLER OBTAIN SUCH INDEPENDENT ADVICE.**

9. GUARANTEE / CONVERSION OPTION. If you are unable to sell your property using this service, you can recover your listing fee with us by participating in our "Realtor referral" program. Should you decide that you need a full service selling agent, you may re-write the contract with us under our "Traditional" MLS plan, or we will refer your listing to a

cooperating Realtor in your area who will re-list your property. You will be credited the "listing fee" at closing from the selling agent's commission. Should you decide to list your property with another Realtor that is not part of our "Realtor referral" program, you will not be entitled to any credit.

10. DISPUTE RESOLUTION. The parties agree that any dispute, arising prior to or after a closing related to this Commission Agreement, shall first be submitted to mediation through a mediation provider mutually agreed upon by the parties. If the parties cannot agree upon a mediation provider, the dispute shall be submitted to the American Arbitration Association. Each party agrees to bear its own cost of mediation. If mediation fails, the other procedures and remedies available under this Agreement shall apply.

11. ATTORNEY FEES. Except as provided in Section 10, in any action or proceeding arising out of this Commission Agreement involving the Seller and/or BROKER, the prevailing party shall be entitled to reasonable attorney fees and costs.

12. SELLER AUTHORIZATION. SELLER will provide and BROKER is authorized to disclose after closing the final terms and sales price of the Property to the Wasatch Front Regional Multiple Listing Service.

13. EQUAL HOUSING OPPORTUNITY. Seller and BROKER agree to comply with Federal, State, and local fair housing laws.

14. FAXES. Facsimile (fax) transmission of a signed copy of this Listing Agreement, and retransmission of a signed fax, shall be the same as delivery of an original. If this transaction involved multiple owners this Listing Agreement may be executed in counterparts.

15. EARNEST MONEY DEPOSITS. As part of an offer to purchase the Property, a potential buyer will typically deliver an Earnest Money Deposit to the brokerage which assists the buyer in preparing that offer. The Broker is hereby authorized and directed to accept on behalf of the Seller, and to hold in its trust account, any Earnest Money Deposit delivered to the Broker by a potential buyer represented by the Broker. In the event that the transaction fails, and the Earnest Money Deposit becomes non-refundable, and after all contract contingencies have been removed, these funds shall be distributed in accordance to the terms of the REPC.

16. MLS AND INDEPENDENT WEB SITES. OWNER acknowledges and understands that the operators of the MLS organization's and/or web sites (like realtor.com for example) establish policies and procedures permitting BROKER to add additional photos or text descriptions to the display of OWNER's Listing at such sites (herein third party sites) and that the services BROKER offers here insofar as any expanded Photo/Display options is EXPRESSLY UNDERSTOOD and AGREED to be subject to the terms of use as established by those third party sites. Further, BROKER shall NOT be responsible for any subsequent change in those policies which may render the nature of the services offered hereunder different or discontinue to offer such options to BROKER since BROKER has no control over the third party sites and their policies. Payments hereunder will NOT be refunded or prorated in any such event.

17. AGENCY RELATIONS. The following is a brief but very important explanation regarding the nature of agency relationships between the Seller, the buyer, the Company and the real estate agents involved in a sale of the Property.

17.1 Principal Broker. Every real estate agent must affiliate with a real estate broker. The broker is referred to as a Principal Broker or a Branch Broker (if the brokerage has a branch office). The broker is responsible for operation of the brokerage and for the professional conduct of all agents.

17.2 Right of Agents to Represent Seller and/or Buyer. An agent may represent, through a brokerage, a seller who wants to sell property or a buyer who wants to buy property. On occasion, an agent will represent both seller and buyer in the same transaction. When an agent represents a seller, the agent is a "Seller's Agent"; when representing a buyer, the agent is a "Buyer's Agent"; and when representing both seller and buyer, the agent is a "Limited Agent".

17.3 Requirement of Written Agreement. To represent a seller, a buyer, or both, a written agreement is required. Except as provided below, the Principal/Branch Broker also represents whomever the agent represents; and regardless of whom the agent represents, the agent owes a duty of honesty and fair dealing to all parties to the transaction.

17.4 Seller's Agent. A Seller's Agent works to assist the seller in locating a buyer and in negotiating a transaction suitable to the seller's specific needs. A Seller's Agent has fiduciary duties to the seller which include loyalty, full disclosure, confidentiality, diligence, obedience, reasonable care, and holding safe monies entrusted to the agent.

17.5 Buyer's Agent. A Buyer's Agent works to assist the buyer in locating and negotiating the acquisition of a property suitable to that buyer's specific needs. A Buyer's Agent has the same fiduciary duties to the buyer that the Seller's Agent has to the Seller.

17.6 Limited Agent. A Limited Agent represents both seller and buyer in the same transaction and works to assist in negotiating a mutually acceptable transaction. A Limited Agent has fiduciary duties to both seller and buyer. However, those duties are "limited" because the agent cannot provide to both parties undivided loyalty and full disclosure of all information known to the agent. For this reason, a Limited Agent must remain neutral in the representation of a seller and buyer, and may not disclose to either party information likely to weaken the bargaining position of the other; such as, the highest price the buyer will pay or the lowest price the seller will accept. A Limited Agent must, however, disclose to both parties

material information known to the Limited Agent regarding a defect in the Property and/or the ability of each party to fulfill agreed upon obligations.

17.7 Exclusive Right-to-Sell (ERS) – A contractual agreement under which the listing broker becomes the agent of the seller(s) and the seller(s) agrees to pay a commission to the listing broker, regardless of whether the property is sold through the efforts of the listing broker, the seller(s), or anyone else. Except the seller(s) may name one or more individuals or entities as exemptions in the listing agreement and if the property is sold to any exempted individual or entity, the seller(s) is not obligated to pay a commission to the listing broker.

17.8 Exclusive Agency Listing (EAL) – A contractual agreement under which the listing broker becomes the agent of the seller(s) and the seller(s) agrees to pay a commission to the listing broker if the property is sold through the efforts of any real estate broker. If the property is sold solely through the efforts of the seller(s), the seller(s) is not obligated to pay a commission to the listing broker.

17.9 In-House Sale. If the buyer for the Seller's Property is also represented by an agent in the Company, that transaction is commonly referred to as an "In-House Sale". Most In-House Sales involve limited agency because seller and buyer are represented by one or more agents in the Company.

18. ADDITIONAL TERMS. There ARE ARE NOT addenda to this Contract containing additional terms. If there are, the terms of the following addenda are incorporated into this Contract by this reference: Addendum No. , Other (specify) _____

19. ENTIRE AGREEMENT. This Commission Agreement, including the Seller's Property Condition Disclosure form and the MLS Listing Input form, contain the entire agreement between the parties relating to the subject matter of this Commission Agreement. This Commission Agreement may not be modified or amended except in writing signed by the parties hereto.

THE UNDERSIGNED Seller does hereby agree to the terms of this Listing Agreement.

(Seller/s Signature)

(Date)

THIS LISTING AGREEMENT shall become effective only upon acceptance by the Company as evidenced by its signature below.

ACCEPTED by the Company.

by _____

(Svetlana Bryner, Principal Broker)

Utah Discount Realty

Phone: 801-556-0065

FAX: 877-519-3413

(Date)

SELLERS CONTACT INFORMATION:

EMAIL (ADDRESS) EMAIL _____ **@** _____ **.** _____

MAILING ADDRESS _____

CONTACT PHONE #'S HOME (_____) _____ **OFFICE** (_____) _____

CELL (_____) _____ **FAX** (_____) _____

Notices:

- The Fair housing laws require the PROPERTY to be shown and made available for sale to all persons without regard to race, color, religion, national origin, sex, disability or familial status.
- If the PROPERTY was built before 1978, federal law requires that before a buyer is obligated under a contract to buy the PROPERTY, the Seller shall: (1) provide the buyer with a lead hazard information pamphlet (as prescribed by EPA); (2) disclose the presence of any known lead base paint or hazards (including providing the buyer with any lead hazard evaluation report available to Seller); and (3) permit the buyer to conduct a risk assessment or inspection for the presence of lead base paint hazards. A contract for the sale of PROPERTY built before 1978 must contain a statutorily prescribed Lead Warning Statement to the buyer.
- Real Estate Commissions are negotiable and are Not established by law.