MyStateMLS

OPEN LISTING AGREEMENT

1. **PARTIES INVOLVED.** This Open Real Estate Listing Agreement ("Agreement") is entered into on (mm/dd/yyyy) by and between:

Seller (Owner)
Seller's Name: ______________________________ ("Seller"), whose mailing address is
____
City: ______________________________, State: ______________________________.

Agency
Agency Name: ______________________________ ("Broker"), representing
______________________________ ("Agency"), with a mailing address of ______________________________
City: ______________________________, State: ______________________________.

The Seller and the Agency are collectively referred to as the "Parties."

If, for any reason, the Broker is unable to perform their responsibilities as outlined in this Agreement, another representative from the Agency may be assigned during the Agreement's term.

2. **PROPERTY DETAILS.** The real estate covered by this Agreement is located at: ______________________________.

a) **Legal Description:**
Tax Map/Lot: ______________________________
Deed/Book/Page: ______________________________
Other: ______________________________

b) **Fixtures:**
The Seller confirms that all fixtures will be part of the sale,
EXCEPT: ______________________________.

c) **Personal Property:**
The Seller confirms that **ONLY** the following personal property will be included in the sale:
______________________________.

For the purposes of this Agreement, the term "Property" includes the real estate, personal property, and fixtures listed above.

3. OPEN LISTING. The Seller grants the Agency a general, non-exclusive right to market, sell, trade, convey, or exchange the Property during the Listing Period, under the terms of this Agreement. The Seller agrees to pay the Agency a commission of no less than ___% of the total purchase price for any sale the Agency secures. The Seller reserves the right to sell the Property directly without owing a commission to the Agency. The Seller also agrees not to enter into similar agreements with other real estate agents during the Listing Period.

4. PERIOD OF AGREEMENT. This Agreement shall commence on __________________________ (mm/dd/yyyy) (the "Effective Date") and
Remain in effect until __________________________ at 12:00 midnight (the "Listing Period"), unless extended in writing by both parties.

a) **Extension of Listing Period.** The Agency will still be entitled to the Commission if the Property is sold, conveyed, exchanged, or otherwise transferred within _______ (#) days (the "Extension Period") after the Listing Period ends, to any party the Agency negotiated with—unless the Property is listed in good faith with another real estate agency. “Negotiation” includes sharing information about the Property, showing it to a potential buyer, or presenting an offer. All rights under this clause will end when the Extension Period expires.

5. COMMISSION. As payment for securing a ready, willing, and able Buyer to purchase the Property under the agreed terms—or any terms the Seller finds acceptable—the Agency shall receive (check one):

☐ **Percentage (%) Commission:** A percentage of the sale price, as stated in the purchase contract between Buyer and Seller, equal to _________ % (_______%) (“Commission”).

☐ **Fixed Payment Commission:** A set payment of __________________________ Dollars ($__________) (“Commission”).

The Commission is due at closing and payable by the Seller. Real estate commission rates are not fixed by law and are determined by each broker and may be negotiated between the Seller and the broker.

a) **Tenant Placement.** If the Agency secures a ready, willing, and able tenant for the Property, the Agency will earn the amount stated in the rental agreement as its fee. This fee is payable immediately upon execution of a rental agreement, or, in the case of a month-to-month rental, the equivalent of one (1) month’s rent.

b) **Deed.** The Seller agrees to transfer ownership of the Property by __________________ deed.

Ready, Willing, and Able Buyer. Under this Agreement, the Agency will still earn the Commission if a ready, willing, and able Buyer is found but rejected by the Seller. The term “ready, willing, and able” includes, but is not limited to, buyers who meet the agreed terms and have the capacity to complete the purchase.

The term “ready, willing, and able Buyer” refers to a purchase agreement that meets or exceeds the Purchase Price and contains no unreasonable or industry-outside contingencies or terms. The Seller is obligated to review and negotiate all offers from the Agency in good faith.

d) **Litigation.** If legal action is taken against the Seller to recover the compensation outlined in this Agreement—or if the Agency successfully defends itself against a lawsuit brought by the Seller related to this Agreement or any purchase contract concerning the Property—and the Agency prevails, the Seller shall cover all costs incurred by the Agency, including reasonable attorney’s fees.

6. NON-REFUNDABLE PAYMENTS. If the Seller accepts non-refundable payments from a prospective Buyer under a purchase agreement, and that Buyer fails to complete the transaction, the Agency will still be entitled to the Commission stated in this Agreement before any of those payments are applied to expenses or refunded. If the Property is later sold and closed, whether to the same Buyer or a different one, the Agency shall be paid the Commission minus any amounts already received under this clause.

7. FAIR HOUSING. The Agency is dedicated to following all applicable laws and promoting the principles of fair housing for everyone. The Property will be shown to all qualified Buyers in a professional and impartial manner, without discrimination based on race, religion, color, creed, sex, marital or familial status, disability, age, national origin, or any other factor prohibited by law.

8. OWNERSHIP. The Seller affirms that they are the lawful owner of the Property and that no other person or entity has the authority to sell it. The Seller has the legal right to enter into and enforce this Agreement for the sale of the Property.

9. SELLER ACKNOWLEDGMENTS. The Seller confirms that no other active listing agreements exist for the Property that have not been formally terminated with all other agents. The Seller also affirms the accuracy of the following statements regarding the Property’s physical condition, history, and any public or private matters affecting it:

a) **Additional Acknowledgments.** Unless otherwise stated in this Agreement or another written disclosure, the Seller is unaware of:

i) Any recorded default against the Property;
ii) Any bankruptcy or insolvency involving the Seller or impacting the Property;
iii) Any pending condemnation, litigation, arbitration, or other proceeding—public or private—that could affect the Seller's ability to transfer ownership of the Property.

The Seller agrees to promptly inform the Agency if any of these issues arise during the Listing Period.

10. BROKER DUTIES. The Broker agrees to make all reasonable sales efforts while acting in a fiduciary capacity and in the Seller's best interests. The Broker will actively market the Property with the goal of achieving a sale within a reasonable timeframe. The Broker will work to highlight the Property's value for the Seller's benefit and will follow up diligently to help ensure a successful result.

11. SELLER'S DUTIES. The Seller agrees to reasonably cooperate with the Broker, including, but not limited to, allowing open houses, property showings, buyer walkthroughs, inspections, and similar sales activities. The Seller further agrees, in good faith, to fairly consider all proposals, offers, or visits arranged by the Broker. The Seller is responsible for maintaining, repairing, and otherwise caring for the Property until the closing date.

12. INDEMNIFICATION. The Seller agrees to protect and hold the Agency harmless from any claims arising from false or inaccurate information provided by the Seller. This includes reimbursing the Agency for any costs or expenses it incurs in connection with disputes relating to this Agreement.

13. EARNEST MONEY. The Seller authorizes the Agency to receive and deposit buyer funds into an escrow account in compliance with State law. "Earnest Money" refers to any deposit or down payment made by a prospective Buyer. If the Buyer and Seller do not enter into a signed purchase agreement, the Earnest Money will be returned to the Buyer. If a signed purchase agreement exists but the Buyer refuses to proceed, the Earnest Money will also be returned. In case of a dispute between Buyer and Seller regarding the release of Earnest Money, the Agency will hold the funds until there is a mutual written agreement or a binding legal order.

14. PROPERTY DISCLOSURE STATEMENT. If required by State law, the Seller will complete the Property Disclosure Statement to the best of their ability, providing accurate and honest information. If applicable, the Agency will supply the necessary forms and include any material facts that could impact the Property's value in the disclosure.

a) **Property Condition.** The Seller authorizes the Agency to communicate any known facts about the Property's condition or value and to market the Property in its current state unless otherwise agreed. The Seller understands that failure to disclose important facts may create liability for undisclosed defects or related losses.

15. LEAD-BASED PAINT. The Seller states, to the best of their knowledge, that the residential dwelling Property: (check one)
i) ☐ Was not built before January 1, 1978; or
ii) ☐ Has not been inspected for lead-based paint or lead-based paint hazards, and the Seller is not aware of any such hazards. If hazards are known, the Seller must disclose them. The Buyer has the right to a 10-day period to perform a risk assessment or inspection for lead-based paint unless they waive this right in writing.

16. INSURANCE. The Seller agrees to maintain hazard insurance or other appropriate coverage in effect as of the Effective Date and throughout the duration of this Agreement until the Property is sold.

17. BINDING EFFECT. This Agreement shall be binding on the Seller and the Seller's heirs, beneficiaries, successors, and assigns.

18. DISPUTE RESOLUTION. Any disputes arising under this Agreement shall be resolved through binding arbitration between the Parties. If the Parties cannot mutually agree on a single arbitrator, each Party will select one arbitrator, and those two will jointly choose a third arbitrator to decide the matter. Arbitration will be conducted under the rules of the American Arbitration Association then in effect.

19. GOVERNING LAW. This Agreement shall be governed by and interpreted in accordance with the laws of the State of _________________________.

20. SEVERABILITY. If any section or provision of this Agreement is found to be invalid or unenforceable, the remaining sections and provisions shall continue in full force and effect. In such cases, the invalid or unenforceable portion shall be applied to the fullest extent possible without impacting the enforceability of the rest of the Agreement.

21. ADDITIONAL TERMS AND CONDITIONS.

22. ENTIRE AGREEMENT. This document represents the complete and final agreement between the Seller and the Agency, replacing all previous discussions, negotiations, or agreements, whether written or oral. No statements, promises, or agreements outside of what is stated here will bind either Party. This Agreement becomes binding once signed by both the Seller and the Agency, and both Parties acknowledge receipt of a signed copy.

Seller's Signature: _________________________ Date: _________________________

Print Name: _________________________

Seller's Signature: _________________________ Date: _________________________

Print Name: _________________________

Broker's Signature: _________________________

Print Name: _________________________
Agency: _________________________