



Listing Agreement for Improved Real Property and Co-operatives

(For use in Montgomery County, MD and Washington, DC)

Property Address: _____ Unit: _____

Subdivision: _____

Project: _____

City: _____ State: _____ Zip: _____

Known as Lot(s) _____ Block/Square: _____ Tax ID# _____

Parking Space(s) # _____ Storage Unit(s) # _____

1. **SELLER** (List all Sellers): _____

Mailing address, if different: _____

Office Telephone: _____ Home Telephone: _____

Cell Phones: _____ / _____

Email Addresses: _____ / _____

Emergency Contact Name & Telephone (only necessary if sole seller): _____

2. **BROKER:** _____ Bright MLS Broker Code & Office ID: _____

Office Address: _____

Office Telephone: _____ Broker/Supervisor Manager Name: _____

Listing Agent: _____ License #: _____

Cell Phone: _____ Direct Line: _____ Email: _____

3. **PURPOSE:** This agreement ("Agreement") establishes
A. a **brokerage relationship** ("Brokerage Relationship"), an agency relationship between Seller and Broker, and
B. a **contractual obligation** ("Contractual Obligation") between Seller and Broker, in which the Broker has the exclusive right to sell, exchange or convey the herein described property ("Property"), together with all improvements, rights and easements thereon and under the terms and conditions set forth herein.

4. **LISTING PRICE:** The Property is offered for sale at a listing price ("Listing Price") of \$ _____, or such other price as is later agreed upon by Seller in writing.

5. **LISTING PERIOD:** This Agreement commences when signed and expires at 11:59 pm on _____ ("Listing Period"). If a sales contract is ratified before this Agreement expires, providing for settlement beyond the Listing Period, the terms hereof shall be extended automatically until final disposition of the sales contract.

6. **ENTRY INTO MULTIPLE LISTING SERVICE:**
_____/_____/_____ Seller hereby authorizes Property to be entered into Active status in Bright MLS on _____ or within one (1) business day of Public Marketing of Property, whichever comes first. **All listings shall be available for showing immediately upon their entry into Active status in Bright MLS.** "Public Marketing" includes, but is not limited to, displaying flyers in windows, yard signs, digital marketing on public facing websites, brokerage website displays (including internet data exchanges and virtual office websites), digital communications marketing (email blasts), multi-brokerage listing sharing networks, and applications available to the general public.

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_____/_____/_____ Seller hereby authorizes the use of the "Coming Soon" status in Bright MLS prior to Property becoming Active in Bright MLS in accordance with Bright MLS rules and policies. Seller and Listing Broker understand the Property cannot be shown while in the "Coming Soon" status of Bright MLS. The listing may remain in "Coming Soon" status for up to 21 days.

_____/_____/_____ Seller **DOES NOT** authorize Broker to enter Property into Bright MLS. If Seller does not authorize Broker to enter Property in Bright MLS, Broker shall instead market Property as an Office Exclusive Listing. "Office Exclusive Listing" means any listing Seller has prohibited Broker from Public Marketing. For each Office Exclusive Listing, Broker shall have Seller sign and deliver concurrently with this Agreement a "Waiver of Broker Cooperation" form or other acceptable certification that Seller does not authorize Broker to publicly market the listing via Bright MLS or otherwise. Broker shall submit such waiver or other certification to Bright MLS within three (3) business days of execution of this Agreement.

If Seller DOES NOT authorize Broker to enter Property into Bright MLS, Seller acknowledges that by electing not to enter the Property listing into Bright MLS: 1) real estate licensees from other companies and their buyer clients who have access to Bright MLS may not be aware that Seller's Property is for sale and the terms and conditions under which Seller is marketing the Property; 2) Seller's Property will not be included in the Bright MLS download to various real estate internet sites that are used by the public to search for property listings; and 3) any reduction in the exposure of the Property may negatively impact the sales price.

7. BROKER'S FEE:

A. Fee: Seller agrees to pay to Broker _____ % of the sale price **OR** \$ _____ (*strike one*) and an additional flat fee in the amount of \$ _____ as Broker's Fee ("Broker's Fee"). The amount of Broker's Fee is stated in this Contract and is not prescribed by law or established by any membership organization with which the Broker is affiliated. Seller acknowledges that Broker's Fee shall be earned and payable in the event that:

- 1) Seller enters into a sales contract during the listing period, with any buyer procured by Seller, listing broker, or his sales associates, or other brokers or their sales associates, or any other buyer, provided the buyer performs and settles on said contract.
- 2) Further, such Broker's Fee shall be paid if the Property is sold, exchanged, conveyed, or otherwise transferred within _____ days after the expiration of the Listing Period or termination of this Agreement (the "Protection Period") to anyone to whom the Property has been shown by Broker or anyone else, including the Seller, during the Listing Period, unless a valid listing agreement is entered into during the term of said Protection Period with another licensed real estate broker.

B. Authority to Cooperate with and Compensate Other Brokers: Seller authorizes Broker to cooperate with other brokers as subagents of Broker ("Subagents") and/or as Brokers retained by prospective buyers to represent buyer's interests ("Buyer Agents"). Broker shall pay to Sub agent's Broker, who has earned and is entitled to share in the Broker's Fee, _____ % of the Sales Price. Broker shall pay to any Buyer Agent's Broker who has earned and is entitled to share in the Broker's Fee _____ % of the sales price.

C. Payment of Broker's Fee: Payment of Broker's Fee is due at Settlement, unless Seller, after contract acceptance, fails to perform or is otherwise in default of the sales contract, or executes a release of the sales contract to which the Broker is not a party. In such case, the Broker's entire fee is due no later than the agreed settlement date.

D. Forfeiture of Deposit: If the earnest money deposit ("Deposit") is forfeited, or if there is an award of damages by a court or a compromise agreement between the Seller and Purchaser, the Broker may accept and the Seller agrees to pay the Broker one-half of the Deposit in lieu of a Broker's Fee (provided Broker's share of any forfeited Deposit will not exceed the amount which would have otherwise been due at settlement).

E. Default by Buyer: If Seller enters into a contract with a Buyer during the original listing period, and Buyer subsequently defaults, then the original Listing Period is extended by the number of days Property was under contract.

F. Attorney's Fees: If Broker prevails in any action brought to obtain payment of the Broker's Fee, Broker shall also be entitled to recover in such action Broker's reasonable attorney's fees and court costs.

8. AGENCY: Maryland and Washington, DC have each adopted specific laws governing the disclosure of agency relationships and dual agency (i.e., the situation where the listing and selling agents are associated with the same broker). Seller hereby gives consent for Broker's non-assigned agent, who holds their home open, to later represent a Buyer in purchasing Seller's Property or another property. All applicable jurisdictional Agency disclosure forms have been made available to Seller who acknowledges receipt of those checked below:

Maryland

- Consent for Dual Agency
- Dual Agency within a Team

Washington, DC

- Consent for Dual Representation
- Designated Representation in the District of Columbia

9. AUTHORIZATIONS:

A. Sign: Seller authorizes Broker to install a "for sale" sign on the Property, in accordance with applicable zoning ordinances and community association regulations.

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B. Key and Lockbox:

- 1) **Use:** Seller authorizes Broker to allow key-entry showings and the installation of a lock box ("Lockbox" or "Key Box") and the delivery of door access keys for use by the Greater Capital Area Association of REALTORS®, Inc. ("GCAAR") members and members of current REALTOR® Associations Signatory to the ELECTRONIC KEYBOX SERVICE AGREEMENT ("Authorized Users") to access the Property and to accompany prospective buyers, inspectors, appraisers, exterminators and other parties necessary for showings and inspecting the Property. Affiliate or non-affiliate members (i.e., inspectors, appraisers, estimators) may have access for their business purposes if permission for limited access showing code is granted below.
- 2) **Limited Access Showing Codes:** Seller hereby: (Seller to initial): ____ / ____ **authorizes OR** ____ / ____ **does not authorize** use of a one day showing code. It is understood by Seller that there is a possibility that a person may use the access code in an unauthorized manner. Therefore, caution should be used with these codes as such codes will allow certain individuals to access the property without an electronic record as to their identity. The seller recognizes that it is often desirable and advantageous to Seller and may expedite the sale of their Property to have such access available.
- 3) **Leased Property:** If the Property is under lease during the Listing Period, Seller will furnish Broker with a written authorization, signed by all lessees, authorizing the use of a Lockbox and/or keys.
- 4) **Private Insurance:** Seller is advised to take all precautions for safekeeping of valuables and to maintain appropriate insurance through Seller's own insurance company.
- 5) **Liability:** Seller agrees that he, his heirs and assigns shall indemnify, save and hold harmless said Broker, his agents, and his affiliated brokers, salespeople, cooperating brokers, subagents, affiliate members with key(s) and with Lockbox access and other individuals who have use through a one day access code and the Greater Capital Area Association of REALTORS®, Inc., from any and all claims, loss or liability arising from the use of said key(s) or Lockboxes, including Broker's negligence, breach of contract or any wrong doing exclusive of gross negligence or willful misconduct. Seller assumes all risk of any loss, damage and injury, except those caused by gross negligence or willful misconduct of any party.

10. MARKETING/VIRTUAL OFFICE WEBSITES ("VOW"):

A. Internet Marketing Options: Certain features may be displayed on the websites of multiple listing service(s) ("MLS") participants, including:

Seller to Initial **YES** **NO:**
 ____ / ____ 1) Seller authorizes the listed Property to be displayed on the internet.
 If Seller has selected "No" for this Option, a consumer who conducts searches for listings on the Internet will not see information about the listed Property in response to their search. **Initial here** ____ / ____

IF "No" was selected for Option 1, skip Options 2-4. If "Yes" was selected for Option 1, continue to Options 2-4.

____ / ____ 2) Seller authorizes the listing address, (including house/unit numbers and street name) to be displayed on the Internet.

If Seller has selected "No" for this Option, a consumer who conducts searches for listings on the Internet will not see this particular information about the listed Property in response to their search. **Initial here** ____ / ____

____ / ____ 3) Seller authorizes the display of an automated estimate of the market value of the Property (or a hyperlink to such estimate) on MLS participants' websites.

____ / ____ 4) Seller authorizes the display of unedited comments or reviews of the Property (or display a hyperlink to such comments or reviews) on MLS participants' websites. (also known as the "Blogging Feature").

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- B.** During the term of this agreement, Seller may, by written request to Broker, authorize Broker to enable or disable use of either feature as described above. Broker agrees to promptly transmit the request to the Bright MLS. Broker cannot control if unauthorized or disabled features are displayed by others on the Internet. Seller understands and agrees that public websites determine their own content and use of data, and therefore Broker has no control over public websites and no obligation to remove any of the above content from public websites at any time. Broker is further authorized to and shall market the Property through various means including, but not limited to: installing a sign, photographing the interior and exterior of the Property and installing a lockbox. Seller authorizes Broker to market Property, including use of address and interior and exterior photographs, in media which may include, but not be limited to publications at Broker's discretion, except as otherwise limited by Seller in paragraph 10.A. Seller acknowledges that Broker is bound by the bylaws, policies, procedures, rules and regulations governing Bright MLS and the Lockbox system. Seller hereby authorizes Broker to report any contract of sale with sales price and terms of sale to Bright MLS for dissemination, in accordance with rules and policies.
- 11. INCLUSIONS/EXCLUSIONS:** Unless otherwise negotiated in the sales contract, the sales price shall include those items of personal property as described in the attached Inclusions/Exclusions Disclosure. It is recommended that this Disclosure be left at the Property or placed online for prospective buyers.
- 12. PROPERTY CONDITION AND DISCLOSURE OF MATERIAL FACTS:**
- A. Legal Requirement:** Seller acknowledges that the Broker has informed Seller of Seller's obligations to provide a property condition disclosure to prospective buyers, as defined in applicable jurisdictional forms attached hereto.
 - B. Indemnify:** Seller agrees to indemnify, save, and hold Broker and his sales associates harmless from all claims, complaints, disputes, litigation, judgments and attorney's fees arising from any incorrect information supplied by Seller or from Seller's failure to disclose any material facts.
 - C. Hazardous Materials and Conditions:** There are environmental conditions and hazardous materials that could affect the Property and sale. Broker does not have the technical expertise to advise Seller of their presence. Seller may employ an expert to inspect for same. In the event Seller conducts such tests and makes reports available to Broker, Seller authorizes Broker to make said reports available to prospective buyers.
 - D. Amend as Applicable:** Seller agrees to amend in writing the applicable Disclosures, if any material change affecting the Property occurs during the Listing Period.
- 13. LEAD PAINT REGULATIONS:** A SELLER WHO FAILS TO GIVE THE REQUIRED LEAD-BASED PAINT DISCLOSURE FORM AND EPA PAMPHLET ENTITLED "PROTECT YOUR FAMILY FROM LEAD IN YOUR HOME" MAY BE LIABLE UNDER THE ACT FOR THREE TIMES THE AMOUNT OF DAMAGES AND MAY BE SUBJECT TO BOTH CIVIL AND CRIMINAL PENALTIES. Seller and any agent involved in the transaction are required to retain a copy of the completed Federal Lead-Based Paint Disclosure Form for a period of three (3) years following the date of settlement.
- 14. RENOVATION, REPAIR AND PAINTING OF PROPERTY:** In accordance with the Lead Renovation, Repair and Painting Rule ("RRP") as adopted by the Environmental Protection Agency ("the EPA"), effective April 22, 2010, if the improvements on the Property were built before 1978, contractor(s) engaged by Seller to renovate, repair or paint the Property must be certified by the EPA where such work will disturb more than six square feet of lead-based paint per room for interior projects; more than 20 square feet of lead-based paint for any exterior project; or includes window replacement or demolition ("Covered Work"). Before and during any Covered Work project, contractor(s) must comply with all requirements of the RRP.
- A Seller who personally performs any Covered Work on a rental property is required to be certified by the EPA prior to performing such Covered Work. No certification is required for a Seller who personally performs Covered Work on a Seller's principal residence. However, Seller has the ultimate responsibility for the safety of Seller's family or children while performing such Covered Work. For detailed information regarding the RRP, Seller should visit <http://www2.epa.gov/lead/renovation-repair-and-painting-program>.
- 15. WOOD-DESTROYING INSECTS:** Seller agrees to provide access to the Property for an inspection to determine evidence of infestation by termites and/or other wood-destroying insects. This inspection is in addition to the pre-settlement inspection and other inspections as agreed to in the sales contract. The inspection shall include the house, garage or other outbuildings and any fences abutting the house, as may be required by the sales contract. If infestation or damage exists, then prior to or at settlement, Seller agrees, at Seller's expense, to treat infestation and repair damage in accordance with the terms of the contract of sale or lender requirements. In the event Seller accepts a contract that includes VA financing, Seller agrees to reimburse Buyer for the reasonable cost of said inspection.

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16. ENCUMBRANCES/LIENS/OTHER TITLE MATTERS: Seller represents that no other person or entity owns any portion of the Property or has any ownership rights to the Property. Seller has the capacity to convey clear title and that the Property is not subject to any right to purchase, lease or acquisition by virtue of an existing option, right of first refusal or other agreement. Seller agrees not to negotiate new leases, or extend existing leases, during the Listing Period without written notification to Broker.

Seller warrants clear title and agrees to provide sufficient cash to discharge at settlement all liens and encumbrances including, but not limited to, existing deeds of trust, home equity loans, mechanic's liens, deferred transportation-related facility charges/taxes, tax judgment liens, property taxes, Co-op, Condo, HOA fees or any specific unit assessments. Seller shall comply with all orders, requirements, or notices of violations of any county or local authority, condominium unit owners' association, homeowner's or property owners' association or actions in any court on account thereof, against or affecting the Property on the date of settlement. Title is to be good and marketable, and insurable by a licensed title insurance company with no additional risk premium. In case action is required to perfect the title, such action must be taken promptly by the Seller at the Sellers' expense. Seller shall convey the Property by special warranty deed. Seller shall sign such affidavits, lien waivers, tax certifications and other documents as may be required by the lender, title insurance company, Settlement Agent, or government authority, and authorizes the Settlement Agent to obtain pay-off or assumption information from any existing lender(s) and/or lien holder(s).

Seller discloses to Broker that the following are the only existing liens/encumbrances against the Property and existing matters that could affect the title to the Property, and further agrees to disclose any new liens or matters which arise during the Listing Period:

Check any/all that apply:

- A)** The Property is owned free and clear of any liens/loans or equity lines of credit. Please note that a lien may still exist if there is an equity line of credit even if the seller has no current balance on the equity line. **If checked, skip to F.**
- B)** The Property is security for a **first mortgage** or Deed of Trust loan, held by (Lender or Servicer's Name): _____ with an approximate balance of \$ _____.
- C)** The Property is security for a **second mortgage** or Deed of Trust loan, held by (Lender or Servicer's Name): _____ with an approximate balance of \$ _____.
- D)** The Property is security for a **line of credit** or home equity line of credit, held by (Lender or Servicer's Name): _____ with an approximate balance of \$ _____.
- E)** The Seller is in **default** on any of the loans identified in numbered items B, C, and D above for which the Seller has received any notices of such default(s), notice of threatened foreclosure or notice of the actual filing of foreclosure.
- F)** This transaction could result in a **short sale** (in which sale proceeds may not cover all outstanding loans/liens plus transaction costs). If yes, the **GCAAR Short Sale Addendum to Listing Contract must be attached.**
- G)** There are **liens** filed or secured against the Property for Federal, State or local income taxes; unpaid real property taxes; or unpaid Co-operative, Condominium or Homeowners' Association fees/assessments; or utility liens.
- H)** There are **judgements** against Seller (including each Seller jointly held property) or the Seller has knowledge of any matter that might result in a judgement that may potentially affect the Property.
- I)** The Seller has filed for **bankruptcy** protection under United States law, or the Seller is contemplating doing so during the term of this Listing Agreement. Seller expressly authorizes Broker to contact bankruptcy attorney to determine the impact of such filing including, but not limited to, if Seller has the authority to enter into this Listing Agreement, if this Listing Agreement must be approved by the Bankruptcy Court, and if any future sales contract requires Bankruptcy Court approval. Seller must immediately notify Broker if Seller files during the term of this Listing Agreement.
- J)** The Property subject to an **estate**.
- K)** There is a **deceased co-owner**; a death certificate will be required at settlement.
- L)** There is a pending **divorce** proceeding; attached is a copy of any Separation Agreement.
- M)** There are any **other legal proceedings** pending that could result in a judgment against the Seller or affect the property, such as: _____
- N)** Any Seller is a **foreign person for purposes of U.S. income taxation**. See Paragraph 21.B.

During the term of the Listing Agreement, should any change occur with respect to any of the answers to items A-N above, Seller shall IMMEDIATELY give written Notice to Broker and Listing Agent of such change(s).

17. OWNERSHIP WITH ASSESSMENTS:

The Property is a member of the following association(s), and applicable addenda relative to each is hereby attached:

Condominium Co-operative Homeowners' Association (HOA)

18. SMOKE DETECTOR AND CARBON MONOXIDE DETECTOR REQUIREMENTS: Seller shall have smoke detectors and carbon monoxide detectors installed and operational in accordance with the requirements of the jurisdiction in which the Property is located prior to settlement.

19. FAIR HOUSING LAWS: In compliance with federal fair housing regulations, the Property shall be made available to all persons without regard to race, color, religion, national origin, sex, physical or mental handicaps or familial status. Additional protected classes exist for the District of Columbia, the State of Maryland and some local jurisdictions.

20. CLOSING COSTS: Seller acknowledges that Buyers have the right to select the title insurance company, settlement or escrow company or title attorney. Seller agrees to pay settlement costs including, but not limited to, the release of liens or encumbrances against the Property, deed preparation, other legal document preparation, courier/delivery charges, reasonable settlement fees, and, in addition, transfer and recordation taxes and any other costs agreed upon in the sales contract.

21. FEDERAL TAX REPORTING/WITHHOLDING:

- A. **1099 Reporting:** Section 1445 of the Internal Revenue Code may require the settlement agent to report the gross sales price, Seller's federal tax identification number and other required information to the IRS. Seller will provide to the settlement agent such information at the time of settlement.
- B. **Foreign Investment Real Property Tax Act Withholding ("FIRPTA"):** If Seller is a foreign person for purposes of U.S. income taxation, the IRS requires that a percentage of the sales price be withheld from Seller's proceeds at the time of settlement: those funds are to be applied towards the payment of any capital gains tax that might be due. A foreign person includes, but is not limited to; non-resident aliens, foreign corporations, foreign partnerships, foreign trusts or foreign estates ("Foreign Person"). Sellers are advised to seek legal and/or financial advice concerning these matters. If Seller is not a Foreign Person, Seller shall execute an affidavit to this effect at the time of settlement.

22. GENERAL PROVISIONS:

- A. **Laws and Regulations:** Seller acknowledges that Broker must comply with federal, state and local laws and regulations as well as real estate licensing laws and regulations of either the District of Columbia or the State of Maryland.
- B. **Competing Properties:** Seller understands that Broker may have or obtain listings of other similar properties and that potential buyers may consider, make offers on, or purchase through Broker properties that are similar to Seller's property. Seller consents to Broker's representation of Sellers and Buyers of other similar properties before, during and after the expiration of this Agreement.
- C. **Subsequent Offers:** Upon receipt by Broker of a ratified contract of sale pursuant to this Listing Agreement, Broker shall have no further obligation hereunder to procure any additional purchase offers.
- D. **Delivery:** Delivery or Delivered means hand carried, sent by overnight delivery service, sent by wired or electronic medium which produces a tangible record of the transmission (such as "fax", email which includes an attachment with an actual copy of the executed instruments being transmitted, or U.S. Postal mailing.) In the event of overnight delivery service, Delivery will be deemed to have been made on the next business day following the sending, unless earlier receipt is acknowledged in writing. In the event of U.S. Postal mailing, Delivery will be deemed to have been made on the third business day following the mailing, unless earlier receipt is acknowledged in writing.
- E. **Notice:** This Agreement shall be deemed enforceable when it and all addenda and any modifications thereto have been signed, initialed where required by Seller and Broker (or Supervising Manager), and Delivered to the other party.
- F. **Paragraph Headings:** The Paragraph headings in this Agreement are for reference and convenience only, and do not define or limit the intent, rights or obligations of the parties.
- G. **Definitions:** The singular shall include the plural, the plural the singular, and the use of either gender shall include the other gender.
- H. **"Buyer"** means "purchaser" and vice versa.

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23. **AUTHORITY TO DISCLOSE EXISTING OFFERS:** Seller is advised that prospective buyers or cooperating brokers may inquire of Broker or Broker's agents the existence of other offers for the purchase of the Property. Disclosure of other offers could result in the buyer making the highest and best offer as promptly as possible or such disclosure could result in the interested buyer electing not to make an offer. Seller(s) hereby **authorizes OR** **does not authorize** the Broker to disclose the existence of other offers on the Property in response to inquiries from buyers or cooperating brokers. Such disclosure may include the source of offers (the listing licensee, another licensee in the listing firm, or a cooperating broker).

24. **HOMEOWNER WARRANTY:**

Seller **does OR** **does not** elect to purchase a homeowner warranty, which may be in effect during the Listing Period and may transfer to the buyer upon settlement. Seller should review the scope of coverage, exclusions and limitations.

Cost not to exceed \$ _____ Warranty provider to be _____

25. **BINDING AGREEMENT:**

- A. This Agreement contains the entire legally binding agreement between Seller and Broker and cannot be changed except with written consent of all parties. Any prior discussion between the parties concerning this subject matter is superseded by this Agreement.
- B. This Agreement shall survive execution and delivery of the deed and shall not be merged therein. If this Agreement is signed by more than one person, it shall constitute the joint and several obligations of each party. Further, this Agreement is binding upon the parties, their personal representatives, successors, heirs and assigns.
- C. This Agreement shall be interpreted and construed in accordance with the laws of the jurisdiction where the Property is located.
- D. Seller hereby acknowledges that he has read and understands this Agreement, understands he may seek legal advice prior to signing it, and acknowledges that all information provided to Broker by Seller is true and correct to the best of Seller's knowledge. Seller hereby acknowledges receipt of a copy of this legally binding agreement and agrees to be bound by its terms and conditions.

26. **TERMINATION:**

- A. **DC Properties:** This Agreement may be terminated prior to the end of the Listing Period only by mutual written agreement of the parties.
- B. **Montgomery County Properties:** See required Jurisdictional Addendum to the Listing Agreement.

27. **ADDITIONAL TERMS:**

 Seller Date By: _____
 Broker/Supervising Manager Date

 Seller Date _____
 Listing Agent Date

NOTE: If any party is signing for another as a fiduciary, attach appropriate Power of Attorney, Letter of Administration, or other authorization as applicable. An original document will be required for settlement.