

SOUTHEASTERN MULTI-PROPERTY AUCTION

LISTING BROKER MARKETING AGREEMENT

In consideration of the mutual covenants and obligations contained herein, and other good and valuable consideration, the receipt, adequacy and sufficing of which are hereby mutually agreed upon, _____

_____ (herein known as the "Listing Broker"), and _____

_____ (herein known as the "Owner" and together known as the "Sellers"), and Joe Williams & Associates, Inc., Joe B Williams, President/Broker-in-Charge (herein known as the "Sponsoring Broker") agree as follows: whereas the owner(s) has entered into an exclusive-right-to-sell agreement with the listing broker, and whereas the owner(s) and the listing broker are desirous to take advantage of the sponsoring broker's auction services do agree to the following terms and conditions to market the subject property at the sponsoring broker's multi-property auction scheduled herein after. The subject property is described as: _____

COMMON PURPOSE

The sellers acknowledge that the common purpose of the seller's exclusive-right-to-sell agreement and this multi-purpose auction marketing agreement is to the best advantage of the owner(s), and the parties further acknowledge understand and agree that there is no conflict between the afore mentioned listing agreements.

AGENCY DISCLOSURE

The parties agree the sponsoring broker shall perform the duties herein described as the sub-agent of the sellers exclusively. The listing broker affirms to have provided the seller with all government required forms, information, and disclosures.

OUT-OF-STATE PROPERTY

For subject property located out of the state of South Carolina, the spon-

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soring broker is recognized and accepted by the sellers as being a contracted for service vendor, other declarations of agency relationships stated herein not withstanding. Compensation to the sponsoring broker for the sale of out-of-state subject property, shall be for marketing services rendered and not for professional broker representation. Sellers entering out-of-state property for sale in the sponsoring broker's multi-property auction, acknowledge that they understand and accept, the fact that although the sponsoring broker is a duly licensed real estate professional in the state of South Carolina, he is not licensed in other states as such, and hold the sponsoring broker harmless from liability that may arise from the sale of such property.

MARKETING TERMS

The sellers and the sponsoring broker agree the term of this agreement shall begin on the date the parties sign this agreement and the sellers pay to the sponsoring broker's marketing fee, described below, and that it shall terminate at 11:59 AM on the day of the designated auction or the date the auction sale closes.

PERSONAL PROPERTY

Unattached personal property is excluded from this agreement unless specifically listed, described, and mutually agreed in writing to be sold as an attached addendum hereto.

COMMITMENT TO SELL

The sellers agrees to enter into a written contract-for-sell form provided by the sponsoring broker, sanctioned by the South Carolina Association of Realtors, and which will contain agreed to terms and conditions, as well as their customary provisions. The sellers acknowledge having been provided a sample copy of the afore mentioned contract-for-sale form, as well as having read, understood and accepted it's form.

RELIANCE UPON REPRESENTATION

The sellers acknowledge that the sponsoring broker is relying upon complete and accurate information supplied by the sellers, and further acknowledges that if the sponsoring broker were not supplied with such reliable information, the sponsoring broker would not enter into this agreement.

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SPONSORING BROKER HELD HARMLESS

In the event, the sellers knowingly, violates or fails to perform any duty prescribed in the exclusive-right-to-sell listing agreement, as referred to or misrepresents and/or fails to disclose material information or otherwise knowingly makes false, incomplete, and/or misleading representations which may cause damages to a buyer, or potential buyer, the owner(s) hereby agrees to defend, indemnify and hold the sponsoring broker, harmless for such, including but not limited to indemnification for attorneys fees, court and other cost. The sellers agrees to disclose to the sponsoring broker and to potential buyer(s) known latent defects of the subject property which may occur and/or which may not be readily ascertainable upon viewing the subject property and to hold the sponsoring broker harmless for any liabilities arising from such defects.

Although the exclusive- right-to-sell agreement that presently exist between the listing broker and the seller is a requirement for including the subject property in the sponsoring broker’s subject auction, the sellers agree to hold the sponsoring broker harmless in any conflict that may arise between the seller and the listing broker under the terms of their listing agreement.

AUCTION METHOD

The sellers authorize the sponsoring broker and the associate, such as auctioneer to offer the subject property for sale at auction in any manner (“high bidder’s choice”), which in their professional judgment is most likely to benefit the owner(s).

AUCTIONEER RETAINER FEE

The sponsoring broker assumes sole responsibility for providing licensed professional auctioneers and for paying all auctioneer retainer fees. Therefore, the sponsoring broker holds the sellers harmless from such charges and obligations.

AUCTION EVENT TIME AND PLACE

The scheduled date and time for the auction event, is _____

_____.
This auction time is subject to change and/or cancellation due to unforeseen circumstances beyond the sponsoring broker’s control.

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MARKETING FEE

The auction marketing fee shall be the product of ½ of 1% (.005) times the list price set forth in the seller’s exclusive-right-to-sell listing agreement not to exceed \$1,000, and is due and payable at the time this marketing agreement is signed by the parties. The sellers agree and understand the marketing fee is forfeited and non-refundable upon payment and will not be carried forward as a credit to another auction event. The sponsoring broker assumes responsibility for the expenses necessary to produce and promote the auction and agrees to hold the sellers harmless for further payment of such expenses. The marketing budget for each auction event shall consist of the total marketing fees specifically collected for that auction event exclusively.

A summary of marketing expenditures relative to the subject auction shall be provided to the owner(s) after the auction. 100% of the marketing funds will be expended in the promotion and production of the auction.

RECEIPT FOR MARKETING FEE

The sponsoring broker hereby acknowledges receipt of the sellers marketing fee payment in the amount of \$ _____.

cash _____ money order _____ check # _____ dated _____ at _____ AM/PM

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NO CONTROL OF RATES OR FEES

The sponsoring broker’s compensation for services rendered herein is solely a result of negotiations between the sponsoring broker and the sellers and is not fixed, controlled, suggested, recommended, or maintained by any board/association, multiple listing service, or by other persons or entities not a party to this agreement.

SPONSORING BROKER COMPENSATION

The owner(s) agrees to compensate the sponsoring broker 8% of the accepted high bid offer. As an off-set to the owner(s) obligation to compensate the sponsoring broker, a buyer’s premium of this exact amount shall be added to the accepted high bid offer to determine the contractual sales price as a pass through at the time of closing.

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OWNER'S RESERVE

The owner's reserve will be defined for the purposes of this agreement as: the bid price at or above which the auctioneer is permitted to sell the subject property. The owner(s) may choose to establish a reserve prior to the auction, choose not to name a reserve prior to the auction and remain free to confirm acceptance or rejection of the high bid after it is posted, or choose not to establish a reserve price and accept the high bid regardless of the amount.

- _____ a. The owner(s), agrees that the reserve price will be \$ _____.
Owner Initials _____
- _____ b. The owner(s) agrees that the subject property will be sold subject to owner's confirmation.
Owner Initials _____
- _____ c. The owner(s) agrees that the subject property will be sold to the highest bidder.
Owner Initials _____

The owner(s) authorizes and obligates the sponsoring broker and the auctioneer to sell the subject property at the highest bid offer that equals or exceeds the minimum acceptable bid stated above.

SPONSORING BROKER DUTIES

The sponsoring broker agrees to perform the following duties:

- To conduct the auction event for the subject property in accord with accepted real estate and auction industry legal and ethical standards.
- To promote the auction event in a manner that attracts a large number of interested and qualified buyers.
- To provide information, supplied by the owner(s), to potential buyers and assist with the closing process.
- To provide a suitable location and facility for the auction event.
- To expend 100% of marketing fees for the production and promotion of the auction event, and to provide the sellers with a summary of marketing expenditures after the auction.
- To enter the subject property description in the listing broker's

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MLS system.

- To pay a properly registered broker, whose client is an auction buyer, a referral commission.
- To provide the necessary equipment and supplies to conduct the auction event, such as: sound, video, and lighting system; projectors and screens; tables and chairs; telephones, computers, copiers and copy paper, printers and faxes.
- To provide adequate professionally trained and licensed auctioneers, ringmen, recorders, bookkeepers, registrars, clerical assistants as well as licensed South Carolina real estate sales associates to perform as sales counselors.
- To provide food, lodging and transportation for the out-of-town auction staff.
- To provide security, set-up/take down, and clean up personnel.
- To solicit service providers to assist participants, such as: attorneys, bankers, home inspectors, 1031 tax deferral advisors, home warranty and property insurance professionals, exterminators, contractors, etc.

SELLER'S DUTIES

The sellers agree to perform the following duties:

- To prepare the subject property for showing, such as; keeping it neat and orderly, doing necessary repairs and painting, cleaning the premises and maintaining it fresh and free of trash and debris, cut grass and eliminate weeds, dead trees, limbs, and shrubs, etc.
- To provide the sponsoring broker with quality pictures and professionally written descriptions, salient write-ups and disclosures.
- Place the sponsoring broker's auction signs on the property and return them after the auction date.
- Not to negotiate within 30 days prior to the auction with any prospective buyer about a potential sale or transfer of any kind of the subject property without informing the sponsoring broker.
- To provide detailed and complete information and documentation about the subject property, such as: title insurance; verification

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of ownership; verification of authority to sell the subject property; deeds; plats; appraisals; inspections; license mortgages; restrictions and covenants; easements and right-of-ways, etc.

- To provide reasonable access to the subject property to prospective buyers for viewing and for inspections.

APPROVAL OF SPONSORING BROKER TO HOLD ESCROW FUNDS

The sellers approve, and authorize the sponsoring broker and/or a designated “escrow” attorney, to hold in trust and to account for bidder deposits and earnest deposit funds until they are applied to the purchase at the time of closing

MULTIPLE LISTING SERVICE

The sellers agree that the entering of the subject property into a multiple listings service is a responsibility of the listing broker. The sponsoring broker, may also enter the subject property into a multiple listings service.

ADVERTISING AND DISTRIBUTION

The sellers grant, authorize, and instruct the sponsoring broker to advertise and distribute salient information about the subject property.

DISCLAIMER

The sellers acknowledge and understand that the sponsoring broker, has not guaranteed or indicated in any way that the auction effort will result in a sale, or produce a specific sales price. This marketing agreement contains the entire understanding of the parties. All prior understanding and negotiations, written or oral, have been merged herein, and shall not survive the execution of this marketing agreement. The sellers acknowledge not to be relying upon statements or representations made by or on the behalf of the sponsoring broker that are not specifically set forth in this agreement.

SPONSORING BROKER PROTECTION PERIOD

The sellers acknowledge, understand, and obligate that should the subject property not sell, for any reason during the term of this marketing agreement, and, the owner(s) sells, options, or conveys the subject property to any person

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or entity who has been provided to the sellers by the sponsoring broker as the “procuring cause”, within 365 days after the expiration date stated herein, the owner(s) shall promptly compensate the sponsoring broker a sales commission of 8% of the sales price at the time of closing.

BUYER DEFAULT

In the event the buyer defaults and/or fails to complete a contract orally agreed to purchase, the owner(s) shall be held harmless for payment of sales commission that may have otherwise been earned and due to the sponsoring broker. Escrow funds, forfeited by the buyer(s) and properly authorized for disbursement shall be divided equally between the sponsoring broker and the owner(s) less any expenses incurred by the sponsoring broker to obtain the legal authority to disburse.

OWNER(S) DEFAULT

In the event the subject property is declared sold by the auctioneer at auction as herein authorized, and the sellers fails to enter into and/or to comply with the contractual sales terms, causing the sale to fail, the sellers agrees and obligates to promptly pay the sponsoring broker the full commission the sponsoring broker would have otherwise earned upon the closing of the sale.

MEDIATION CLAUSE DISPURES AND/OR CLAIMS

A claim arising from a breach of this agreement, shall be submitted to mediation in accordance with the rules and procedures of the dispute resolution system of the NATIONAL ASSOCIATION OF REALTORS. Such disputes and claims shall include representations made by the sellers or the broker in connection with the services to which this agreement pertains, including allegations of concealment, misrepresentation, negligence and/or fraud. Any agreement signed by the parties pursuant to the mediation conference shall be binding. This mediation clause shall survive for a period of 120 days after the date of the closing.

FAIR HOUSING

The sellers and the sponsoring broker agree that the subject property is offered without regard to race, color, religion, sex, handicap, familial status,

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or national origin and is listed in full compliance with local, state, and federal fair housing laws.

FACSIMILE

The parties agree that this agreement may be communicated by use of a fax, or other secure electronic means, including signatures, initials, times, dates, and modifications with verifiable e-mail.

ENFORCEMENT

The parties agree that the sponsoring broker may take action to enforce this agreement and to collect associated costs, fees, and damages. The sellers agree to reimburse, indemnify, and/or pay the sponsoring broker's cost of enforcing this agreement, collection costs, fees, and damages including incidental expenses and attorney's fees.

NOTICE TO THE OWNER(S) OF POTENTIAL TAX LIABILITY

The sellers acknowledge that the sponsoring broker has notified him/her/ them that a tax may be levied upon the sales proceeds. The sellers further acknowledge that the sponsoring broker has provided written material explaining these circumstances, and providing suggestions as to how this tax may be advantageously postponed.

MISCELLANEOUS

- (a) This agreement is binding upon the parties and their respective successors, heirs and assigns.
- (b) The sellers represent to be in good standing with full power and the authority to enter into this agreement. Any party signing this agreement on behalf of the owner(s) represent that they are authorized to do so.
- (c) If any term or provision of this agreement is held illegal, invalid or unenforceable, such illegality or unenforceability will not affect the legality, validity, or enforceability of the remainder.
- (d) Applicable law jurisdiction and venue concerning the agreement shall be construed and interrupted in accordance with the laws of the State of South Carolina.

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IN WITNESS WHEREOF, this agreement has been duly executed by the parties.

Owner: _____ Date: _____ Time: _____

Email: _____ Phone: _____ Fax: _____

Witness: _____ Date: _____ Time: _____

Owner: _____ Date: _____ Time: _____

Email: _____ Phone: _____ Fax: _____

Witness: _____ Date: _____ Time: _____

THE OWNER(S) MAILING ADDRESS:

THE REAL ESTATE FIRM: United Country - Joe Williams & Associates, Inc.
Phone: (843) 549-2314

By: _____ Date: _____ Time: _____
Joe B Williams, President/Broker-in-Charge

AUCTION FIRM: United Country - Rogers Auctioneers, Inc. SCFL #3919

By: _____ Date: _____ Time: _____
Michael L. Rogers, Auctioneer