

# Exclusive Right-to-Sell Agreement (Residential)

KELLER WILLIAMS® REALTY OF NW ARKANSAS  
2418 E. Joyce Blvd.  
Fayetteville, AR 72703  
Ph: (479) 442-4228 Fax: (479) 442-2022



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Form Serial Number: 000000-000000-000000

**1. RIGHT-TO-SELL:** In consideration of the services of \_\_\_\_\_  
\_\_\_\_\_ (by and through the Principal Broker, or agent thereof assigned by Listing Firm) (hereafter collectively called "Listing Firm") in assisting in the possible sale or exchange of the real property described in Paragraph 2 (the "Property"), and \_\_\_\_\_  
\_\_\_\_\_ being the sole owner(s) of the Property (hereafter called "Seller") agree that Listing Firm shall have the exclusive right to market the Property for the Listing Period described in Paragraph 4. Seller does hereby certify and represent that Seller has peaceable possession of the Property, including all improvements and fixtures thereon, and the legal authority and capacity to convey the Property by a good and sufficient general warranty deed, free from any liens, leasehold or other interests, except as may be set forth in Paragraphs 17 and 20.

**2. LEGAL DESCRIPTION AND ADDRESS OF THE PROPERTY:**

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**3. OFFERING:** Listing Firm agrees to use reasonable effort to solicit an offer(s) to purchase the Property in the amount of \$ \_\_\_\_\_ (the "Offering Price") but will present for Seller's consideration any offer to purchase the Property received by Listing Firm regardless of choices in Paragraph 11. Seller agrees to refer to Listing Firm all offers and inquiries received by Seller regarding the Property during the term of this Exclusive Right-to-Sell Agreement.

**4. LISTING PERIOD:** This listing begins at 12:01 a.m. on (month) \_\_\_\_\_ (day) \_\_\_\_\_, (year) \_\_\_\_\_, and expires at 11:59 p.m. on (month) \_\_\_\_\_ (day) \_\_\_\_\_, (year) \_\_\_\_\_, unless extended by mutual written agreement of Seller and Listing Firm (the "Listing Period").

**5. CONVEYANCE:** Unless otherwise specified, conveyance of the Property shall be made to any person (hereinafter called "Buyer") submitting an offer that is accepted by Seller, and such conveyance shall be made as directed by Buyer, in fee simple absolute by general warranty deed. **Unless expressly reserved herein, Listing Firm may represent to the public that the Property is to be sold inclusive of all mineral rights owned by Seller concerning and located on the Property, if any.** Seller warrants and represents to Listing Firm and authorizes Listing Firm to inform prospective buyers that only the signatures set forth below are required to transfer legal title to the Property.

**6. ABSTRACT OR TITLE INSURANCE:** Seller has legal ability to furnish Buyer evidence of good merchantable title by: (i) current and complete abstract of title; or (ii) title insurance in the amount of any agreed-upon purchase price.

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**7. LISTING FIRM'S FEE:** If Listing Firm presents to Seller an offer in an amount equal to or greater than the Offering Price, or such lesser price or terms as Seller may accept, or if the Property is otherwise sold or disposed of by Listing Firm or any other person, including Seller, during the Listing Period, Seller agrees to pay Listing Firm a professional fee of: (i) \_\_\_\_\_ percent (\_\_\_\_\_% ) of the gross amount of any accepted Real Estate Contract or value of any property exchanged for the Property; or (ii) \$ \_\_\_\_\_, for professional services rendered.

A. If co-brokerage applies, said fee shall be divided \_\_\_\_\_% of the Purchase Price to Listing Firm and \_\_\_\_\_% of the Purchase Price to Selling Firm.

B. Other: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

In consideration for Seller's promise contained within this paragraph 7, Listing Firm promises to Seller that it will use reasonable effort to solicit an offer regarding the Property on terms and conditions acceptable to Seller. Seller agrees that Listing Firm is not required to investigate the financial or other ability of a prospective buyer to consummate any proposed or accepted Real Estate Contract. Seller will not owe a fee to Listing Firm if Buyer does not remove any condition set forth in a Real Estate Contract and cannot close, unless failure to close is the result of breach of a Real Estate Contract by Seller.

**8. BROKER SERVICE FEE:** In addition to the fee defined in Paragraph 7 of this Exclusive Right-to-Sell Agreement, Seller agrees to pay Listing Firm a fee of \$ \_\_\_\_\_, payable only if the subject Property is sold under terms and conditions acceptable to Seller. The fee is for costs to Listing Firm for services other than preparation of documents. By execution of this Exclusive Right-to-Sell Agreement, Seller hereby authorizes the Closing Agent to deduct said fee from the proceeds of the sale at Closing.

**9. EXPIRED LISTING CONDITIONS:** Seller agrees to pay the professional fee set forth in Paragraph 7 to Listing Firm if the Property is sold or otherwise disposed of:

- A. during the Listing Period, as defined in Paragraph 4;
- B. during a period of \_\_\_\_\_ days (the "Post-Term Period") after the Listing Period when information given by or obtained through Listing Firm during the Listing Period resulted in or contributed in any manner to the sale or disposal of the Property, regardless of procuring cause; or
- C. at any time after expiration or termination of this Exclusive Right-to-Sell Agreement (including termination by Listing Firm as specified in Paragraph 10 below) when information obtained through Listing Firm during the Listing Period was the procuring cause of the sale or disposal of the Property.

However, if Seller employs another real estate firm as exclusive agent for marketing the Property after expiration of this Exclusive Right-to-Sell Agreement, Seller shall pay only one professional fee, and that to the currently employed real estate firm.

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**10. CANCELLATION:** Seller may cancel this Exclusive Right-to-Sell Agreement prior to its expiration date without in any manner affecting the indemnities provided by Paragraph 19. Such cancellation will be effective only after: 1) Seller has provided written notice to Listing Firm, sent by United States certified mail, return receipt required, and 2) Seven (7) calendar days have elapsed since such written notice was received by Listing Firm. Upon the effective date of cancellation, Seller shall be liable to Listing Firm for a cancellation fee equal to:

- A. \_\_\_\_\_ percent (\_\_\_\_\_% ) of the Offering Price set forth in Paragraph 3, or
- B. the liquidated sum of \$\_\_\_\_\_, it being agreed by Seller and Listing Firm the liquidated sum is not a penalty and is agreed to because damages incurred by Listing Firm resulting from cancellation by Seller will be difficult to ascertain, and the amount set forth in the blank (even if \$0) shall be in addition to and not a limitation of the sums due Listing Firm pursuant to Paragraph 9 (Expired Listing Conditions) of this Exclusive Right-to-Sell Agreement.

Listing Firm may cancel this Exclusive Right-to-Sell Agreement at any time, with or without cause, by providing written notice to Seller. In the event of cancellation by Listing Firm, Seller shall not be responsible for compensation to Listing Firm, unless: (i) Seller shall have breached the terms of this Exclusive Right-to-Sell Agreement or (ii) Listing Firm is entitled to compensation pursuant to Paragraphs 7 and 9.

**11. TYPES OF AGENCY:** Seller fully understands the agency options available below, and agrees that Listing Firm will be the agent of Seller and will market the Property utilizing the agency options selected below; however, Listing Firm will present to Seller all offers received regardless of agency options selected.

In addition to Listing Firm marketing the Property to prospective buyers, Seller chooses to allow Listing Firm to use the following options (Choose as many options as desired to market Property):

- A. SUBAGENCY:** Seller hereby authorizes Listing Firm to offer Subagency to real estate licensees other than Listing Firm and acknowledges that Seller may be responsible for the actions of Listing Firm and any subagents who accept the offer of Subagency. Listing Firm will provide disclosures and information about the Property necessary to assist Listing Firm and any subagents in performing their duties and responsibilities to Seller. Seller authorizes Listing Firm to pay from Listing Firm's fee agreed upon in Paragraph 7 a share deemed competitive, Listing Firm's policy having been explained to and hereby acknowledged by Seller.

**NOTE:** Seller understands if Subagency is the only option selected any prospective buyers represented by Listing Firm will not be shown the Property. Seller further understands that real estate licensees other than Listing Firm may forego presenting the Property to their clients.

- B. BUYER AGENCY:** Seller acknowledges Listing Firm is employed by Seller and Selling Firm is employed by Buyer. All licensees associated with Selling Firm are employed by, represent, and are responsible to the Buyer. Seller authorizes Listing Firm to make payment as set forth in Paragraph 7.
- C. AGENT REPRESENTS BOTH:** Seller hereby consents that Listing Firm may represent both Buyer and Seller. Should Listing Firm represent both Seller and Buyer, Seller agrees to the following:
  - (i) Listing/Selling Firm shall not be required to and shall not disclose to either Buyer or Seller any personal, financial or other confidential information concerning the other party without the express written consent of that party; however, Buyer and Seller agree Listing/Selling Firm shall disclose to Buyer information known to Listing/Selling Firm related to defects in the Property and such information shall not be deemed "confidential information." Confidential information shall include but not be limited to any price Seller is willing to accept that is less than the Offering Price or any price Buyer is willing to pay that is higher than that offered in writing.
  - (ii) By selecting this option 11C, Seller acknowledges that when Listing Firm represents both Seller and Buyer a possible conflict of interest exists, and Seller agrees to forfeit individual rights to receive the undivided loyalty of Listing Firm.
  - (iii) Any claim now or hereafter arising out of any conflicts of interest from Listing Firm's representation of both Seller and Buyer is waived.

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**12. EARNEST MONEY:** Seller authorizes and instructs Listing Firm to accept and deposit in Listing Firm's trust account all Earnest Money received. Should a deposit of Earnest Money be forfeited, the money shall be divided as follows: Payment shall first be made of all direct expenses incurred in connection with the contemplated transaction, and the balance shall be divided one-half to Listing Firm and one-half to Seller, but in no event shall Listing Firm receive an amount in excess of the fee that would have been received if the sale had been consummated. If a dispute between Seller and any other person or entity arises concerning the Earnest Money, Seller authorizes Listing Firm to interplead the disputed Earnest Money in a court of law or to an arbitrator and to have Listing Firm's costs and attorney's fees paid from the funds entered for interpleading. Seller acknowledges and understands that Listing Firm is not responsible for obtaining good funds regarding Earnest Money tendered by prospective or actual buyers.

**13. FAIR HOUSING:** Seller agrees Listing Firm will market the Property to interested persons without regard to race, color, religion, sex, national origin, handicap, or familial status. Additionally, Seller agrees that Listing Firm and Seller must comply with all state and federal laws while performing this Exclusive Right-to-Sell Agreement.

**14. LEAD-BASED PAINT DISCLOSURE:** Seller agrees to provide a Lead-Based Paint Disclosure (as required by Federal Law) if the subject Property or any of the improvements were constructed prior to 1978.

**15. SELLER WARRANTY, REPRESENTATION AND AUTHORIZATION:** Seller warrants and represents to Listing Firm that no other exclusive representation or exclusive agency agreement is in force. Seller understands that if the warranty representation contained herein is not true, Seller is strongly encouraged to seek legal advice concerning the possibility of liability for two or more commissions before signing this Exclusive Right-to-Sell Agreement. Unless otherwise specified, Seller warrants, represents and authorizes Listing Firm to take the following actions:

- A. in response to inquiries from potential buyers or cooperating brokers, Listing Firm shall, with Seller's approval, divulge the existence of offers on the Property;
- B. display a For Sale and Sold sign as deemed appropriate by Listing Firm;
- C. use a key or lock box for entry when Seller is absent, and access the Property by using a keyed or keyless lock-box system;
- D. offer the Property in a multi-list or co-op brokerage, subject to the options selected in Paragraph 11, and comply with all rules and regulations associated with multi-list or co-op brokerage;
- E. acquire loan, utility and other financial information reasonably necessary to market the Property;
- F. add or change descriptive information when necessary to market the Property;
- G. use reasonable effort to distribute to all prospective buyers any disclosure form provided unless contrary wishes are conveyed to Listing Firm by a prospective buyer;
- H. use reasonable efforts to discover other information that has a material effect on the value or desirability of the Property (Seller agrees that any disclosure form, if provided, contains all information that has a material effect on the value or desirability of the Property to Seller's knowledge);
- I. hold an Open House or advertise the Property when Listing Firm believes it is advantageous in marketing the Property;
- J. photograph, videotape or reproduce the image of the interior and exterior of all Property described herein by any prospective buyer (including those produced by sub-agents or agents representing a person or entity other than Seller).
- K. engage, at no cost to Seller, the services of a centralized appointment scheduling service to contact Seller for the purpose of scheduling appointments to view the Property to assist Listing Firm (and sub-agents thereof) and agents for persons interested in viewing the Property. Seller acknowledges such service will not be performed by licensed real estate agents or persons licensed with or employed by Listing Firm.

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**16. HOME-WARRANTY PLANS:** Seller understands the benefits of a home-warranty contract, which may include coverage for most major appliances, plumbing, electrical, heating and air-conditioning systems. The home-warranty contract covers unexpected mechanical failures due to wear and tear and is subject to a per-claim deductible. The availability of a home-warranty contract, cost and applicable deductible have been explained to Seller and Seller chooses:

- A. No home-warranty contract concerning the condition of any real or personal Property to be conveyed from Seller to Buyer for any period after the closing or for Seller during the Listing Period.
- B. A limited home-warranty plan will be provided to Buyer concerning the condition of the Property and will be paid for by Seller at a cost not to exceed \$ \_\_\_\_\_ plus sales tax. This home-warranty contract will not imply any warranty by Seller after closing, and the items covered by said home-warranty contract will be agreed to by a separate agreement between Seller, Buyer and warranty company. Coverages vary and the coverage received will be solely set forth in the home-warranty documents between Buyer and Home-Warranty Company, \_\_\_\_\_, and no representation or explanation will be provided by Seller, Selling Firm or Listing Firm, Buyer being solely responsible to determine the extent and availability of coverage. Listing Firm and/or Selling Firm may receive compensation from the warranty company.
- C. Other Warranty: \_\_\_\_\_

**17. FIXTURES AND ATTACHED EQUIPMENT:** Unless specifically excluded herein, Listing Firm may represent to the public that all fixtures and attached equipment, if any, are included in the Offering Price set forth in Paragraph 3. Such fixtures and attached equipment shall include but not be limited to the following: dishwasher, disposal, trash compactor, ranges, ovens, water heater, exhaust fans, heating and air-conditioning systems, plumbing and septic systems, electrical system, intercom system, ceiling fans, window air conditioners, carpeting, indoor and outdoor light fixtures, window and door coverings and related hardware, gas or electric grills, awnings, mail boxes, garage door openers and remote controls, water softeners, antennas, television satellite receiving equipment, propane and butane tanks, fireplace inserts, \_\_\_\_\_ and all items bolted, nailed, screwed, buried, or otherwise attached to the Property in a permanent manner, except the following:

**18. SELLER'S STATEMENT:** Seller warrants that all information furnished to Listing Firm concerning the Property, including without limitation the information set forth in any disclosure form that may be attached hereto and incorporated herein, is complete and accurate to Seller's knowledge and that no material facts have been withheld from Listing Firm. Unless a potential buyer desires not to obtain a copy of a disclosure form (as evidenced by an oral statement or in a Real Estate Contract), Listing Firm is authorized to use reasonable effort to disclose to any member of the public interested in the Property any disclosure form that may be attached hereto, or any other material information known or made known to Listing Firm about the Property, including without limitation any defects relating to the Property. Seller agrees to defend, indemnify, save and hold Listing Firm harmless from all liability or claims arising from Seller's incorrect or undisclosed information. Seller agrees to notify Buyer and Listing Firm in writing of any changes in any disclosure form or otherwise concerning the Property that become known to Seller.

**19. LIMITATION OF RESPONSIBILITY:** Listing Firm shall not be responsible for the maintenance, repair or condition of the Property or for damage of any nature affecting the Property, unless such responsibility is assumed by Listing Firm by separate agreement. Seller hereby covenants and agrees to indemnify Listing Firm and hold Listing Firm harmless from any and all liability, obligations or demands made by third parties against Listing Firm as a result of Listing Firm's marketing of the Property, including but not limited to any and all liability, including reasonable attorney's fees incurred by Listing Firm as a result of damage or injury to Property or persons. Listing Firm encourages Seller to maintain insurance coverage to adequately protect the Property and those individuals who may be on the Property. Seller understands Listing Firm does not insure the Property in any way.

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## 20. SPECIAL CONDITIONS:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**21. ENTIRE AGREEMENT, MODIFICATION LIMITED:** This Exclusive Right-to-Sell Agreement constitutes the entire agreement concerning the subject matter hereof between Seller and Listing Firm and supersedes any previous oral or written agreement or understanding concerning the Property. This Exclusive Right-to-Sell Agreement may not be modified except in writing executed by both Seller and Listing Firm. Any contract entered into by Seller and Buyer shall not affect this Exclusive Right-to-Sell Agreement.

**22. TIME:** Seller and Listing Firm agree time is of the essence with regard to all times and dates set forth in this Exclusive Right-to-Sell Agreement. Further, all times and dates set forth in this Exclusive Right-to-Sell Agreement refer to Arkansas Central time and date.

**23. COUNTERPARTS:** This Exclusive Right-to-Sell Agreement may be executed in multiple counterparts each of which shall be regarded as an original hereof but all of which together shall constitute one in the same.

THIS IS A LEGALLY BINDING AGREEMENT WHEN SIGNED BY THE PARTIES BELOW. READ IT CAREFULLY. YOU MAY EMPLOY AN ATTORNEY TO DRAFT THIS FORM FOR YOU. IF YOU DO NOT UNDERSTAND THE EFFECT OF ANY PART, CONSULT YOUR ATTORNEY BEFORE SIGNING. REAL ESTATE AGENTS CANNOT GIVE YOU LEGAL ADVICE. THE PARTIES SIGNED BELOW WAIVE THEIR RIGHT TO HAVE AN ATTORNEY DRAFT THIS FORM AND HAVE AUTHORIZED THE REAL ESTATE AGENT(S) TO FILL IN THE BLANKS ON THIS FORM.

THIS FORM IS PRODUCED AND COPYRIGHTED BY THE ARKANSAS REALTORS® ASSOCIATION. THE SERIAL NUMBER BELOW IS A UNIQUE NUMBER NOT USED ON ANY OTHER FORM. THE SERIAL NUMBER BELOW SHOULD BE AN ORIGINAL PRINTING, NOT MACHINE COPIED, OTHERWISE THE FORM MAY HAVE BEEN ALTERED. DO NOT SIGN THIS FORM IF IT WAS PREPARED AFTER DECEMBER 31, 2008.

**FORM SERIAL NUMBER: 000000-000000-000000**

The above Exclusive Right-to-Sell Agreement is executed on  
(month) \_\_\_\_\_ (day) \_\_\_\_\_, (year) \_\_\_\_\_, at \_\_\_\_\_ (a.m.)(p.m.).

Signature: \_\_\_\_\_

Printed Name: \_\_\_\_\_  
Principal or Supervising Broker

Signature: \_\_\_\_\_

Printed Name: \_\_\_\_\_  
Assigned Associate

Signature: \_\_\_\_\_

Printed Name: \_\_\_\_\_  
Seller

Signature: \_\_\_\_\_

Printed Name: \_\_\_\_\_  
Seller

Listing Firm \_\_\_\_\_

Seller's Address \_\_\_\_\_

City, State Zip \_\_\_\_\_

Seller's Phone \_\_\_\_\_