

# LISTING AGREEMENT FOR SOLE AND EXCLUSIVE RIGHT TO SELL page 1

Business Name: \_\_\_\_\_ (“The Business”) Business Phone: \_\_\_\_\_

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

SELLER identified below (“SELLER”) hereby engages BROKER identified below (“BROKER”) the SOLE AND EXCLUSIVE RIGHT, to broker the sale, lease, trade or other disposition of all or any part of The Business described herein (either of which is hereinafter referred to as a “Disposition”), its tangible and intangible assets, including furniture, fixtures, equipment, inventory, trademarks, trade names, trade secrets, customer lists, telephone number and listing, customer deposits, goodwill, leasehold interest, and, if transferrable, permits or special licenses on the proposed terms set forth herein or for any other terms to which the Seller may agree during the term commencing on the date listed below and ending at 12 o'clock midnight \_\_\_\_/\_\_\_\_/\_\_\_\_ (the “Sole and Exclusive Period”) as follows:

1. BROKER hereby accepts the engagement and agrees to use its best efforts in the ordinary course of business.
2. SELLER grants to BROKER the right to show The Business during normal business hours, advertise it, and market it through cooperative arrangements with other brokers. SELLER agrees to review and respond in BROKER’S office to any offer to purchase The Business and BROKER need not advise SELLER of any subsequent offer(s) received for The Business after SELLER has accepted an offer to purchase The Business until after forfeiture by the purchaser or other nullification of the offer.
3. SELLER agrees to pay BROKER and BROKER agrees to accept the greater of \_\_\_\_\_ % of the total selling price set forth below or \$ \_\_\_\_\_ (“Transaction Fee”) immediately, if
  - A. During the Sole and Exclusive Period or any extension thereof BROKER procures a purchaser, ready, willing, and able to purchase the business on the proposed terms set forth below or SELLER sells, leases, trades, or otherwise disposes of all or any part of the business or its capital shares if a corporation, regardless of whether or not the BROKER was involved in or responsible for such disposition, or SELLER enters into a contract of sale independent of BROKER’S assistance, accepts a deposit, opens an escrow or records a notice of intention to sell or advertises The Business for sale independently of the BROKER’S action, or SELLER withdraws the business from sale, or purports to terminate this Agreement, or
  - B. SELLER fails or refuses to complete a sale, lease, trade, or otherwise disposes of all or any part of the business after entering into a written agreement to do so, or
  - C. Prior to two (2) years following the Sole and Exclusive Period, SELLER sells, leases, trades or otherwise disposes of all or any part of The Business (or any other business owned by SELLER) to any person, firm, or entity referred to The Business by BROKER, or who became aware of The Business through the efforts of BROKER during the Sole and Exclusive Period, or employs, merges with or otherwise forms a relationship with any person, firm, or entity referred to The Business by BROKER, or who become aware of The Business through the efforts of BROKER, or
  - D. SELLER willfully misrepresents facts, financial information or supporting documentation related to The Business which adversely affects the ability to cause a Disposition of The Business.
4. BROKER and SELLER hereby acknowledge that the transfer or other disposition of the lease (if applicable) for The Business’ premises is only incidental to the sale of the business. No part of the Transaction Fee payable hereunder is consideration for services rendered, if any, in connection to the lease transfer.
5. SELLER agrees to promptly provide information or documents reasonably requested by BROKER or a potential purchaser and to cooperate with potential purchaser in all due diligence investigations, SELLER understands and hereby acknowledges that all facts, figures, and additional supporting documentation pertaining to The Business has been provided to BROKER by SELLER, and that BROKER will rely upon SELLER’S representation of such facts, figures, and other information when describing and promoting The Business, without making an investigation of the accuracy of such representation by SELLER. Therefore, SELLER hereby represents and warrants that all such facts, figures, and all additional supporting documents including information contained in the “Supplemental Listing Information” sheet which is hereby made a part of this Agreement are true and accurate. SELLER represents and warrants that SELLER and The Business are now and shall remain, in full compliance with all local, state and federal laws, rules and regulations regarding the operation and sale of The Business and that SELLER shall continue to operate the business consistent with customary business practices including maintenance of historical inventory levels and maintenance of all equipment in good working order. SELLER hereby agrees to indemnify and hold harmless BROKER against any and all claims, demands, courses for actions, losses, damages, costs and expenses including reasonable attorney’s fees and fees on appeals arising out of breach of the warranty.
6. If the Supplemental Listing Information sheet is not completed and signed or the documents requested not made available in \_\_\_\_\_ days, then the term of this Agreement will be extended \_\_\_\_\_ days.
7. As agents for SELLER, BROKER, or any cooperating BROKER, or any other authorized escrow agent, is authorized to accept receipt for, and hold all money paid or deposited as a binder thereon in accordance with the law, and if such deposit shall be forfeited by the prospective purchase, BROKER may retain as BROKER’S compensation one-half of such deposit but not to exceed the total amount of the Transaction Fee.

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- 8. BROKER received on \_\_\_\_/\_\_\_\_/\_\_\_\_ from SELLER, a nonrefundable fee in the amount of \$\_\_\_\_\_ as partial compensation for BROKER'S efforts in packaging, valuing, and marketing SELLER'S business. Notwithstanding the nonrefundable nature of this fee, full fee will be deducted, in its entirety, from any and all success fees received by BROKER from SELLER at the time of closing.
- 9. SELLER agrees that the county in which BROKER'S office is located is proper venue to resolve any dispute between the parties and to reimburse BROKER for reasonable attorney's fees and all other costs and expenses incurred by BROKER in enforcing this Agreement in addition to payment of the Transaction Fee.
- 10. The consideration for this Agreement are the promises of and to, and detriments and benefits flowing to, the parties.

\_\_\_\_\_ Real property available per separate agreement

\_\_\_\_\_ Broker authorized to contact Landlord (if not checked, SELLER hereby warrants transferability at reasonable terms)

PROPOSED TERMS OF SALE:

\$\_\_\_\_\_ .00 Total Selling Price to be paid as follows:

\$\_\_\_\_\_ .00 Cash Down Payment paid at settlement or possession of Business by Purchaser, whichever occurs first (includes \$\_\_\_\_\_ BROKER'S fee)

\$\_\_\_\_\_ .00 Assumable Liens and Equipment Leases shown on "Supplemental Listing Information" sheet

\$\_\_\_\_\_ .00 New Note to SELLER, secured by assets of The Business, amortized over \_\_\_\_\_ months at \_\_\_\_\_% interest, with a monthly payment of approximately \$\_\_\_\_\_ and a balloon payment, if any, due after \_\_\_\_\_ months.

Other Terms and Conditions: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

THIS IS A BINDING AGREEMENT, PLEASE READ IT CAREFULLY BEFORE SIGNING.

I/we have read, understood and hereby agree to the terms and provisions of this Agreement and any Addendum hereto. The undersigned execute(s) this on behalf of SELLER and also personally represent(s) and warrant(s) that I/we constitute all of the owners/partners/shareholders of The Business listed herein, have good and marketable title to The Business and related property, and I/we are authorized to enter into this Agreement and will effect a corporate resolution, if necessary, and hereby severally personally guarantee performance of this Agreement.

Dated: \_\_\_\_\_

Dated: \_\_\_\_\_

SELLER:

BROKER:

Seller \_\_\_\_\_  
An (circle one) Individual Partnership Corporation

**CHARLESTON BUSINESS BROKERS LLC**  
**1156 Bowman Road, Suite 200**  
**Mount Pleasant, SC 29464**  
**(843) 416-1101**

Signature: \_\_\_\_\_  
Printed Name: \_\_\_\_\_ Title: \_\_\_\_\_

Engagement Accepted By (agent for BROKER):

Signature: \_\_\_\_\_  
Printed Name: \_\_\_\_\_ Title: \_\_\_\_\_

Signature: \_\_\_\_\_  
Printed Name: \_\_\_\_\_

Street \_\_\_\_\_

Broker Initials \_\_\_\_\_

City \_\_\_\_\_ State \_\_\_\_\_

Zip \_\_\_\_\_ Phone \_\_\_\_\_