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|  **STANDARD “EXCLUSIVE RIGHT OF SALE” LISTING AGREEMENT** |

 *Business Name: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ -Business Phone: (\_\_\_\_) \_\_\_\_\_-\_\_\_\_\_\_*

 *Business Address: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_*

 *Seller: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (Corporate name, if applicable)*

 *Business Description: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_*

 Total Price (excluding real estate): $\_\_\_\_\_\_\_\_\_ - Down Payment: $\_\_\_\_\_\_\_\_\_\_ - Financing: Months: \_\_\_\_ Interest: \_\_\_\_

 Price for Real Estate: $\_\_\_\_\_\_\_ - Down Payment: $\_\_\_\_\_\_\_- Financing: Months: \_\_\_\_ Interest: \_\_\_\_\_

 ***Seller’s”* ESTIMATED Value” of Assets and liabilities, and are they Included in the Total Price:**

|  |  |  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- | --- | --- |
|  Inventory . . . . . . . . . . . . $ |  | [ |  | ] (y/n) | Leasehold Improvements $ |  | [ |  | ] (y/n) |
|  Furn/Fix/Equip . . . . . . . . $ |  | [ |  | ] (y/n) | Real Estate . . . . …. $ |  | [ |  | ] (y/n) |
|  Accounts Receivable . . . $ |  | [ |  | ] (y/n) | Liabilities . . . . . . . . ………$ |  | [ |  | ] (y/n) |

**1.** In consideration of the services of **Empire Business Associates, Inc.** d/b/a  **Capital Business Solutions,** hereinafter referred to as ***Broker***, to market, advertise and otherwise attempt to find a buyer for this business through ***Broker***'s efforts, ***Seller*** hereby appoints and grants  ***Broker*** the full and exclusive right to sell, and/or if ***Seller*** agrees, to exchange, trade, lease or otherwise dispose of all or any part of the above named business (hereinafter referred to as ***Business***) which shall include the conveyance of all or any portion of its assets, rights, liabilities or property at the Total Price and terms set forth above, or for any other price and terms acceptable to ***Seller***. ***Seller*** and ***Broker*** acknowledge that this Agreement does not guarantee a sale. Total Price is defined as the amount paid for the ***Business***, including inventory and any liabilities, contingent liabilities and other obligations assumed by the Buyer, consulting agreements, management agreements and any other form of compensation paid by the Buyer.

 **2.** The *Listing* *Period* shall be from the date of Brokers Acceptance to midnight of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, \_\_\_\_\_\_\_ (if left

 blank, then for twelve months (12) from the date of Brokers Acceptance).

 **3.** ***Broker*** hereby accepts employment and promises to use its best efforts in its ordinary course of business to offer for

sale and to procure a ready, willing and able purchaser for ***Business***. ***Seller*** hereby authorizes ***Broker*** to present any and

 all offers ***Broker*** may receive, until such time as ***Seller*** accepts an offer to purchase. At such time ***Broker*** need not advise

 ***Seller*** of any subsequent offer received. If the purchaser whose offer has been accepted either defaults on his agreement or

 the purchase agreement is otherwise terminated, subsequent offers will be presented; and Broker reserves the right to determine

 if a default has occurred or the purchase agreement has been terminated. ***Seller*** grants to ***Broker*** the right to show ***Business***

 upon reasonable notification and to advertise ***Business*** at ***Broker***'s discretion. ***Seller*** agrees to refer all prospects regarding

 the business to ***Broker*** during the ***Listing Period***.

1. **4. S*eller*** shall pay to ***Broker*** as compensation or liquidated damages, whichever the case may be, an amount equal to\_\_\_

percent (**\_\_\_\_%**) of the total purchase price, with a minimum compensation of **$\_\_\_\_\_\_\_\_\_\_\_** and sales and use tax

 (if applicable) if any of the following occur:

* 1. ***Broker*** procures a Buyer ready, willing and able to purchase ***Business*** at the terms set forth above, or at any other

Price and/or Terms acceptable to ***Seller****;* **or**

* 1. ***Seller*** sells, leases, trades, or otherwise disposes of all or any part of the ***Business*** during the ***Listing*** ***Period***

 regardless of whether ***Broker*** was involved in or responsible for such disposition*;* **or**

* 1. ***Seller*** enters into a contract for sale, letter of intent, and/or accepts a deposit or causes an amount to be placed in

escrow for or said ***Business*** (commission shall be paid for and due at closing)*;* **or**

* 1. ***Seller*** withdraws the ***Business*** for sale, or seeks to terminate or terminates this Agreement prior to the termination

date of the ***Listing*** ***Period****;* **or**

**e.** If ***Seller,*** through no fault of Buyer***,*** fails or refuses to complete a sale, lease, trade or other disposition of  ***Business*** after entering into a written agreement to do so*;* **or**

 **f.** Should ***Seller*** misrepresent or be fraudulent in communicating any material information, including financial information to ***Broker*** and as a result thereof, a sale or contemplated sale or an “Offer to Purchase” is withdrawn, canceled or does not materialize*;* **or**

**g.** ***Seller*** sells, leases, trades or otherwise disposes of all or any part of ***Business*** within two (2) years from the termination date of the ***Listing*** ***Period*** to any person, firm, or entity referred to ***Seller*** by ***Broker***, or who became aware of ***Business*** through ***Broker’s*** efforts during the ***Listing*** ***Period***. An employment, merger, joint venture or partnership arrangement between ***Seller*** and a Buyer shall be deemed to be a disposition herein*;* **or**

**h.** The sale or transfer of any or all shares of stock in the selling corporation (if applicable) during the ***Listing Period***

shall be construed to be a sale of the ***Business*** assets at the listed price, and shall be otherwise construed according to the terms hereof*;* **or**

**i.** Should ***Seller*** fail, refuse or neglect to provide ***Broker*** with all reasonable financial information, including but

not limited to Balance Sheets, Profit and Loss Statements, Tax Returns, Leases, Equipment Lists and all other pertinent documentation and information within 21 days of the signature of this Agreement*;* **or**

 **j.** ***Seller*** agrees with a Buyer to cancel an executed sales contract.

The Compensation shall be due and payable immediately upon the occurrence of any of the acts or dispositions set forth herein. However, in the event of a sale, ***Broker*** may allow for payment of the compensation at closing. The ***Broker***, at ***Seller***’s expense, shall have the right to place an appropriate lien and encumbrance on the ***Business*** necessary to collect any compensation and this shall be the necessary authorization and consent..

If real property owned by ***Seller*** or any shareholder of ***Seller*** is leased or sold to a Buyer, such Seller, Lessor or shareholder will pay *Broker* a compensation equal to: \_\_\_\_\_\_ percent (\_\_\_%) of the gross rental over the entire term of the lease (lease amount) or \_\_\_\_\_\_\_ percent, (\_\_\_%) of the sales price of the real property (legal description to be attached.) Seller agrees that as consideration for Broker’s services, Broker is entitled to receive fifty percent (50%) of all deposits that Seller retains as liquidated damages for a Buyer’s default in a transaction, not to exceed the commission set forth in this paragraph.

 ***5. Seller*** represents and warrants the following:

1. ***Seller*** and such portion of ***Business*** operation as is applicable, is now, and shall otherwise remain, in full compliance

with all applicable laws, rules, and regulations regarding the commencement, operation and sale of ***Business***, and to the

best of the ***Seller***'s knowledge and belief there are no environmental or related matters which would adversely affect the

sale of the ***Business****;*

**b.** All facts, figures and other information set forth herein, and all additional supporting documents pertaining to the ***Business***

and as requested by the Buyer has been provided to ***Broker*** by ***Seller.*** ***Seller*** represents that all facts, figures and

other information provided are true and accurate; and

**c.** ***Seller*** shall provide proof of ownership of said business, as well as providing the authority required to execute any and

all documentation needed to affect the sale of said ***Business***.

**6.** Seller agrees to cooperate with Broker in carrying out the purpose of this Agreement, including referring immediately

to Broker all inquiries regarding the Business transfer, whether by purchase or any other means of transfer. Seller shall deliver

to ***Broker*** copies of any agreement between ***Seller*** and any prospective buyer of the ***Business*** within 5 days after the

execution and delivery of any such agreement or 5 days before Closing, if earlier; notify ***Broker*** of the date, time and place of

the Closing; and permit ***Broker*** or ***Broker***’s representative to be present at the Closing. ***Seller*** shall also notify the Closing

Agent that ***Broker*** or ***Broker***’s representative may be present. If ***Seller*** fails to notify the Closing Agent, ***Broker*** shall

be authorized to do so, and to authorize and instruct the Closing Agent to deduct any and all commissions due to ***Broker***

under this Agreement from the closing proceeds and to pay same to ***Broker*** at Closing.

 **7*. Seller*** understands and acknowledges that all information supplied to ***Broker*** pertaining to ***Business*** will be used for

promoting ***Business*** to potential purchasers. Seller further understands and acknowledges that Broker has not made

 any independent investigation of the accuracy of the information provided by Seller. ***Seller*** understands that such information

 will be relied upon by ***Broker***, potential purchasers and the actual purchaser of ***Business*** for the purpose of submitting an

 Offer to Purchase. ***Seller*** agrees to indemnify and hold ***Broker*** harmless against any and all claims, demands, causes of action,

 losses, damages and costs and expenses, including attorney's fees and expenses incurred by ***Broker***, regardless of whether a

 suit is filed or not, in the event ***Seller*** should breach any warranty, representation or obligation set forth herein. Any

 information attached hereto and/or acknowledged by the parties, shall be part of this Agreement. The

 Corporate Resolution to Sell (if a corporation), and the Owners Benefits Worksheet or Owners Cash

 Flow Analysis, shall be deemed to be a part of this Agreement.

 **8. *Broker,*** cooperating brokers and any Escrow Agent is authorized to accept, receipt for, and hold all sums paid or deposited

as an earnest money deposit; and if such deposit shall be forfeited as liquidated damages by mutual agreement between the

 parties, half shall be disbursed to ***Seller*** and half to the ***Broker***(s) involved, and this Listing Agreement between ***Seller*** and

 ***Broker*** shall continue in full force and effect until its termination date.

 **9.** This Contract shall be governed by the laws of the State of\_\_\_\_\_\_\_\_\_\_. Any breach of this Agreement shall result in the

prevailing party being entitled to receive from the other party all of its reasonable attorney’s fees, costs, and expenses incurred

 at both the trial and appellate levels. The parties hereby consent to personal jurisdiction and venue, for any action arising out

 of a breach or threatened breach of this Agreement exclusively in the Circuit Court in and for \_\_\_\_\_\_\_\_\_\_\_ County, \_\_\_\_\_\_\_\_\_\_

 and all actions shall be litigated in this County. The parties hereby agree that any controversy which may arise under this

 Agreement would involve complicated and difficult factual and legal issues. Therefore, any action brought by either party,

 alone or in combination with others, whether arising out of this Agreement or otherwise, shall be determined by a Judge

 sitting without a jury.

 **10.** The *Seller* and/or: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ agree to work in the Business at no compensation for a period of \_ days, in order to familiarize the Buyer with the *Business* and sign a non-compete agreement for \_ years within a \_ mile radius of the *Business.*

 **11.** The ***Seller*** authorizes and agrees that ***Broker***, in its sole discretion, may cooperate with other brokers or may refuse to do so. The ***Seller*** authorizes ***Broker*** to cooperate with any other broker regardless of their Agency Status. ***Broker*** may, in its sole discretion; share all or any portion of the total commission with such other broker(s).

 **12.** The ***Seller*** authorizes ***Broker*** and any other broker with whom ***Broker*** is cooperating, to disclose ***Seller***’s reason for

 selling the ***Business*** to any Buyer or prospective Buyer.

1. The “Agency Relationship” between ***Broker*** and ***Seller*** is a:
2. This Agreement constitutes the entire Agreement between the parties and it supersedes all negotiations, preliminary

agreements, and all prior and contemporaneous discussions and understandings between the parties and shall not be

modified except in writing executed by the parties. ***Seller*** expressly acknowledges reading, understanding and receiving a

copy of this Agreement. ***Seller*** agrees that should ***Broker*** mail a copy of this Agreement within 24 hours of the signature

of this Agreement by the ***Seller***, such mailing shall be deemed to be in compliance with local and State Statutes.

facsimile copy of this Agreement and any signatures shall be considered for all purposes to be original.

 If any paragraph, subparagraph, or provision of this Agreement is held invalid by a court of competent jurisdiction, the

 remainder of the Agreement and the application of such paragraph, subparagraph, or provision to persons or circumstances

 other than those with respect to which it is held invalid, shall not be affected. This Agreement is binding on Broker’s and

 Seller’s heirs, personal representatives, administrators, successors and assigns.

**The *Seller* acknowledges that there are no oral representations upon which *Seller* relied upon in entering into this Agreement.**

**THIS IS A LEGALLY BINDING CONTRACT. PLEASE READ IT CAREFULLY BEFORE SIGNING.**

TO BIND this agreement, a corporate officer of Capital Business Solutions, MUST SIGN BELOW.

 Accepted and agreed to be *on the \_\_\_\_\_\_\_\_\_\_\_ day of \_\_\_\_\_\_\_\_\_\_, \_\_\_\_*

***Seller*** or *Sellers*’ agent: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Send correspondence to: ( ) Home ( ) *Business*

 Signature

By:

Seller (Printed) Title

 By: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ who personally guarantees performance of this Agreement.

 Signature

Address:

 City: State: Zip Code:

 **FOR *Broker*:**

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

 Listing Agent’s Name (Printed) Listing Agent (Signature) Date

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

 Corporate Officer’s Acceptance Title Date

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

 Corporate Officer’s (Printed)

I hereby acknowledge having received a copy of this Agreement on the \_\_\_\_\_\_\_\_day of \_\_\_\_\_\_, \_\_\_\_\_

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Authorized Signature of *Seller* Title

**Empire Business Associates d/b/a Capital Business Solutions**

1525 NW 3rd Street Suite 9

Deerfield Beach, FL 33442

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