

MLS FLAT FEE LISTING

EXCLUSIVE LISTING AGREEMENT & AGENCY DISCLOSURE (PART A)

THIS IS A LEGALLY BINDING AGREEMENT
READ CAREFULLY BEFORE SIGNING



THIS AGREEMENT is an **Exclusive Listing Agreement** entered into by and between **Town & Country Apollo Properties, LLC**, (the "Company"), and _____ (the "Seller") and **Lynn C. Fillmore** (the "Broker"), and Agent of the Seller.

1. Term of Listing. This contract BEGINS on the date of execution of this Listing Agreement, for a period of 3 6 9 12, months, and ENDS at 5:00 P.M. at the end of term period noted above (the "Listing Period") If not noted above 6 months, Granting the Company an Exclusive Listing Agreement to Sell, Lease, or Exchange certain real property owned by the Seller, described as, TAX ID # _____ located at: _____ (the "Property"), at the price and terms stated on the MLS Listing Input Form, or at such other price and terms to which the Seller may agree in writing.

1.1 Sellers Termination. Seller may terminate this Exclusive agreement upon at least 5 days prior written notice to BROKER; provided there are not FEE's due or a contract pending, including referred or identified potential Buyers by Broker, thus entitling compensation to be paid under the contract terms herein.

2. BROKERAGE FEE & TERMS. The Property will be listed over the Multiple Listing Service, (herein the MLS), with Broker as agent of the Seller. The Fixed Listing Fee is due upon posting to MLS. Once posted to MLS, this Fee is NON-REFUNDABLE.

Unpaid Fees considered late after 5 business days.

(please select one).

Plan A \$295 Flat Fee Listing: As per Utah Code Ann. Section 61-2-27, (5/05) the Broker will: **(a) Accept and present offers to seller, (b) Advise seller on offers, and (c) Assist seller with preparing and communicating counter-offers.**

Plan B \$795 Flat Fee Listing with Full Representation. **In addition to the services noted above, Broker will (d) Assist in arranging Agent and or Buyer appointments for Seller and (e) Participate on the seller's behalf in contract & repair negotiations & documentation between Seller and Buyer or Seller and Buyer Broker/Agent.** This added option is available for an additional \$500.00 fee and covers ALL offers and contracts for the duration of the listing.

An additional Company Closing fee in the amount of \$ 95.00 will be due from Sellers proceeds at Closing, payable to the Company for, closing confirmation, posting of closing data to the Multiple Listing Service (MLS) and file documentation.

(If prepaid check here. amount \$ _____ to whom: _____).

2.1. Commissions / Compensation. If during the listing period, the Seller (*see Un-represented Buyers*), the Broker or any Cooperating Broker/Agent locates a party who is ready, willing and able to buy, lease, or exchange the Property, or any part thereof, at the listing price and terms contracted or any other price and terms to which the Seller may agree to in writing. The Seller will pay through Broker at closing a **BUYER AGENT COMMISSION (the BAC)** of (\$) _____ or _____ (%) of such acquisition price. This contracted (BAC) amount will be offered as incentive to Utah Licensed Broker/Agents.

2.2. Unrepresented Buyers. (See 11.4 Dual/Variable Rate Commission) It is EXPRESSLY UNDERSTOOD and AGREED that if the SELLER locates an Unrepresented Buyer; The BROKER will reduce to 0% the above BAC portion of the Brokerage Fee at closing. As required by all Licensed Agents, SELLER must inquire of Buyers Representation Status at introduction. NOTE: A signed "Unrepresented Buyer Disclosure" is required for this BAC waiver. **Without this addenda signed by the Un-represented Buyer, the Buyer Agent Commission noted above will be due to Listing Brokerage at closing.** Seller may, after introducing the property to the Buyer, refer the Un-represented Buyer to Listing Broker. Broker would be due 50% of the above BAC from Seller for Limited Agency. (See 11.3 Limited Agency) Buyer must agree to Limited Agency and allow Broker to assist in negotiations between Seller and Buyer.

2.3. Seller's obligations under this agreement are to provide the Broker with this **LISTING AGREEMENT** and a **MLS LISTING INPUT FORM**. Property will be posted and a copy of the Listing will be forwarded to Seller. The Seller will be responsible to confirm the accuracy of this data, including the description of the Property. **Seller may request updated copies of Realtor Listing Display from Broker in order to make modifications to data information in writing.** Seller will have the property available for reasonable showings and will be diligent in communications with Broker and Licensed Agents. Seller will inform Broker as to any change in Property Status, allowing the Broker to update the MLS listing in a timely manner. Seller will deliver or cause to be delivered to Broker a completed copy of any accepted **UTAH REAL ESTATE PURCHASE CONTRACT, the "REPC"** pertaining to the Property, **including addenda & required disclosures.** Broker may withdraw Sellers listing from MLS by failing to comply with these obligations. Seller will inform Broker regarding scheduling of the closing with the Title Company. Seller will direct Title Company to provide a copy of the **SETTLEMENT/CLOSING STATEMENT** to the Broker **prior to closing** for review; Broker is authorized to disclose the final terms and sales price of the Property to the Multiple Listing Service.

2.4. Broker's obligations under this agreement are to list the property information supplied by the Seller on the Multiple Listing Service (MLS), provide the services noted in Section 1 **and those additional services contracted for under the terms of this contract**

3. ADDITIONAL MARKETING SERVICES. The Broker offers, at the Seller's option, additional Marketing Services. All Marketing services are available at cost or reduced costs to Seller. (see company website www.apolloprop.com "Marketing Services" to view)

3.1 For Sale Signs. **MLS Prohibits any "For Sale" signs other than those of the Listing Broker. Only the "For Sale" signs of the Listing Broker may be placed on a property which is the subject of a Listing.** Seller agrees to use either the **COMPANY SIGN** or **NO SIGN** on the property. **Sellers failure to abide by this MLS stipulation will be cause for the removal of the Seller's listing from the MLS and all subsidiary sites. Seller will be responsible for fine imposed for violation prior to reinstatement of listing**

DISPOSABLE COMPANY SIGN:*(corrugated plastic)* **(INCLUDED WITH MLS LISTING)** SELLER DOES DOES NOT request a Disposable Company Sign to be delivered. *Blank Area on Sign for the display of Sellers contact information.*

4. DEFAULT. Sellers failure to meet terms described in this agreement shall authorize the Listing Broker to conditionally withdraw the property from the active market. If in default, this agreement shall remain in force indefinitely, not withstanding the term noted above. Broker may cease marketing the Property on behalf of the Seller. Seller agrees that such conditional withdrawal shall not relieve the Seller from the obligation to pay for the services already rendered by Broker. All unpaid funds (listing fee, closing fee, marketing services, contracted commissions, etc.) contracted herein are subject to collection by an outside agency.

5. SELLER WARRANTIES & DISCLOSURES. The Seller warrants that the individuals or entity listed above as the "Seller" represents all of the record owners of the Property and/or has authority to act in their behalf. The Seller warrants that he/she has marketable title and an established right to sell, lease, or exchange the Property. The Seller agrees to execute the necessary documents of conveyance. The Seller agrees to furnish Buyer with good and marketable title, and to pay at Settlement, for a standard coverage owner's policy of title insurance for the buyer in the amount of the purchase price. The Seller agrees to fully inform the Buyer's Agent regarding the Seller's knowledge of the condition of the Property. The Seller agrees to personally complete and sign a Seller's Property Condition Disclosure form. Seller will order or cause to be ordered a preliminary title report for Buyer as noted in the Utah Real Estate Purchase contract .

5.1 AS-IS Condition of Property. The Utah Real Estate Purchase Contract "REPC" states; (Sec 10.1 & 10.2) Condition of Property/Buyer Acknowledgments. Buyer acknowledges and agrees that in reference to the physical condition of the Property: (a) Buyer is purchasing the Property in its "As-Is" condition without expressed or implied warranties of any kind; (b) Buyer shall have, during Buyer's Due Diligence as referenced in Section 8.1, an opportunity to completely inspect and evaluate the condition of the Property; and (c) if based on the Buyer's Due Diligence, Buyer elects to proceed with the purchase of the Property, Buyer is relying wholly on Buyer's own judgment and that of any contractors or inspectors engaged by Buyer to review, evaluate and inspect the Property. (Sec 10.3) Condition of Property/Seller Acknowledgments. Seller acknowledges and agrees that in reference to the physical condition of the Property, Seller agrees to: (a) disclose in writing to Buyer defects in the Property known to Seller that materially affect the value of the Property that cannot be discovered by a reasonable inspection by an ordinary prudent Buyer; (b) carefully review, complete, and provide to Buyer a written Seller property condition disclosure as stated in section 7a; and (c) deliver the Property to Buyer in substantially the same general condition as it was on the date of Acceptance, as defined in Section 23, ordinary wear and tear excepted. The provisions of Sections 10.2 and 10.3 shall survive Closing.

6. PROFESSIONAL ADVICE. The Broker and the Agent are trained in the marketing of real estate. Neither the Broker nor the Agent are trained to provide the Seller or any prospective buyer with legal or tax advice, or with technical advice regarding the physical condition of the Property. If the Seller desires advice regarding : (i) legal or tax matters; (ii) the physical condition of the Property; (iii) this Commission Agreement; or (iv) any transaction for the acquisition of the Property, the Broker and the Agent **STRONGLY RECOMMEND THAT THE SELLER OBTAIN SUCH INDEPENDENT ADVICE.**

7. EQUAL HOUSING RULES. SELLER and BROKER agree to comply with Federal, State, and local fair housing laws.

8. FAXES/EMAIL. Facsimile (fax) transmission or emailed photo copy of a signed copy of this Listing Agreement, and retransmission of a signed fax or signed photo copy, shall be the same as delivery of an original. If this transaction involved multiple owners this Listing Agreement may be executed in counterparts.



9. EARNEST MONEY DEPOSITS. As part of an offer to purchase the Property, a potential buyer will typically deliver an Earnest Money Deposit to the brokerage which assists the buyer in preparing that offer., and to hold in its trust account, any Earnest Money Deposit delivered to the Broker by a potential buyer represented and to hold in its trust account by the Broker. In the event that the transaction fails, and the Earnest Money Deposit becomes non-refundable, and after all contract contingencies have been removed, these funds shall be distributed in accordance to the terms of the REPC.

10. State, Broker Associations, MLS and Independent Web Sites (herein: Governing Bodies): Seller acknowledges and accepts that the Governing Bodies involved in Real Estate Marketing, establish policies and procedures controlling Broker's ability to market Real Property. Included, but not limited to signage, photos, text descriptions, contact info etc. It is EXPRESSLY UNDERSTOOD and AGREED by Seller to be subject to the terms of use as established by these Governing Bodies. Further, Broker SHALL NOT be responsible for any subsequent changes in those policies or services which may render the nature of the services offered herein or discontinue to offer such options to Seller of which BROKER has no control. Including but not limited to, membership status, license agreements, suspensions, terminations etc.. Payments hereunder WILL NOT be refunded or prorated in any such event.

11. AGENCY RELATIONS. It is understood and agreed by the Seller in regards to the nature of agency relationships between the Seller, the Buyer, the Company and the real estate agents involved in the sale of this Property the following.

11.1 Requirement of Written Agreement. To represent a seller, a buyer, or both, a written agreement is required. Except as provided below, the Principal Broker also represents whomever the agent represents; and regardless of whom the agent represents, the agent owes a duty of honesty and fair dealing to all parties to the transaction.

11.2 Principal Broker. Every real estate agent must affiliate with a real estate broker. The broker is referred to as a Principal Broker or a Branch Broker (if the brokerage has a branch office). The broker is responsible for operation of the brokerage and for the professional conduct of all licensed agents in that brokerage. **An Agent** may represent, through a brokerage, a seller who wants to sell property or a buyer who wants to buy property.

11.3 Limited Agent. A Limited Agent represents both seller and buyer in the same transaction and works to assist in negotiating a mutually acceptable transaction, without compromising either the seller or buyers position

11.4 Dual/variable rate commission: A dual or variable rate commission is one in which the seller agrees to pay a specified commission if the property is sold by the listing broker without assistance and a different commission if the sale results through the efforts of a cooperating broker; or one in which the seller agrees to pay a specified commission if the property is sold by the listing broker either with or without the assistance of a cooperating broker **and a different commission if the sale results through the efforts of a seller.**

11.5 Protection Period. If within thirty (30) days after the termination or expiration of this Listing Agreement, the Property is acquired by any party to whom the Property was introduced by the Company, the Seller, the Seller's Agent, or another real estate agent during the Listing Period, the Seller agrees to terms stated in Section 2, unless the Seller is obligated to pay a brokerage fee on such acquisition to another brokerage based on another valid listing agreement entered into after the expiration or termination date of this Listing Agreement.

11.6 Limitation of Liability. In the event that a dispute arises between the Seller and Buyer or Buyer's Broker, regarding any acts or omissions, negligence or other liability on the part of the Seller, the Seller agrees to hold the Company, it's officers, agents and broker harmless from said liability. The Seller hereby expressly agrees to limit the Company, it's officers, agents and broker's liability to an equal amount to the fixed listing fee noted in section 2 as liquidated damages with respect to any and all such liability.

12. ADDITIONAL TERMS. There ARE ARE NOT addenda to this Contract containing additional terms. If there are, the terms of the following addenda are incorporated into this Contract by this reference: Addendum No.____, Other (specify)

13. ENTIRE AGREEMENT. The terms of this Listing Agreement and the MLS Listing Input form, contain the entire agreement between the parties relating to the subject matter of this Listing. This Listing Agreement may not be modified or amended except in writing signed by the parties hereto

THE UNDERSIGNED Seller does hereby agree to the terms of this Listing Agreement.

(Seller/s Signature)

(Date)

THIS LISTING AGREEMENT shall become effective only upon acceptance by the Company as evidenced by its signature below.

ACCEPTED by the Company.

by: _____

(Lynn C. Fillmore, Principal Broker)

(Date)

(Licensed Agent)

(Date)

SELLERS CONTACT INFORMATION:

EMAIL (ADDRESS) EMAIL _____ @ _____ . _____

MAILING ADDRESS _____

CONTACT PHONE #'S # 1 (_____) _____ # 3 (_____) _____

2 (_____) _____ FAX (_____) _____

Notices:

The Fair housing laws require the PROPERTY to be shown and made available for sale to all persons without regard to race, color, religion, national origin, sex, disability or familial status. **If the PROPERTY was built before 1978**, federal law requires that before a buyer is obligated under a contract to buy the PROPERTY, the Seller shall:

(1) provide the buyer with a lead hazard information pamphlet (as prescribed by EPA); (2) disclose the presence of any known lead base paint or hazards (including providing the buyer with any lead hazard evaluation report available to Seller); and (3) permit the buyer to conduct a risk assessment or inspection for the presence of lead base paint hazards. A contract for the sale of PROPERTY built before 1978 must contain a statutorily prescribed Lead Warning Statement to the buyer.

SB56 or Senate Bill 56: Utah Code Ann. Section 61-2-27 provides that all exclusive brokerage agreements entered into by principal real estate brokers include certain minimum services.

Real Estate Commissions are negotiable and are not established by law.

www.UtahBroker.net

UtahBroker@comcast.net

Toll Free FAX (801) 224-1559



Town & Country Apollo Properties, LLC | A Licensed Utah Real Estate Brokerage

Help us grow in the right direction

8/24/09

How did you here about our services?

- Referral (by whom) _____
- Internet Search Engine Google Yahoo Web Site Name: www. _____
- Company Sign Other Source _____

**See our website for our Buyer Agent Commission credit offer, on the purchase of a replacement property*