

Vacant Land Listing Agreement



1 This Exclusive Right of Sale Listing Agreement ("Agreement") is between
2* LYNN McBRAIRTY FITZGERALD REVOCABLE TRUST dated June 21, 2012 ("Seller")
3* and REMAX Realty Team ("Broker").

4 1. Authority to Sell Property: Seller gives Broker the EXCLUSIVE RIGHT TO SELL the real and personal property
5 (collectively "Property") described below, at the price and terms described below, beginning
6* April 27, 2021 and terminating at 11:59 p.m. on April 27, 2022 ("Termination Date"). Upon
7 full execution of a contract for sale and purchase of the Property, all rights and obligations of this Agreement will
8 automatically extend through the date of the actual closing of the sales contract. Seller and Broker acknowledge
9 that this Agreement does not guarantee a sale. This Property will be offered to any person without regard to race,
10 color, religion, sex, handicap, familial status, national origin, or any other factor protected by federal, state, or local
11 law. Seller certifies and represents that she/he/it is legally entitled to convey the Property and all improvements.

12 2. Description of Property:
13* (a) Street Address: 716 NW 37TH AVE, CAPE CORAL FL 33993

14
15* Legal Description: CAPE CORAL UNIT 59 BLK 4181 PB 19 PG 152 LOTS 45 + 46
16* See Attachment

17 (b) Personal Property, including storage sheds, electrical (including pedestal), plumbing, septic systems, water
18 tanks, pumps, solar systems/panels, irrigation systems, gates, domestic water systems, gate openers and
19 controls, fencing, timers, mailbox, utility meters (including gas and water), windmills, cattle guards, existing
20* landscaping, trees, shrubs, and lighting:
21* See Attachment

22 (c) Occupancy:
23* Property is [X] is not currently occupied by a tenant. If occupied, the lease term expires

24 3. Price and Terms: The property is offered for sale on the following terms or on other terms acceptable to Seller:

25* (a) Price: \$59,900.00

26* (b) Financing Terms: [X] Cash [] Conventional [] VA [] FHA [] USDA [] Other (specify)
27* [] Seller Financing: Seller will hold a purchase money mortgage in the amount of \$
28* with the following terms:

29* [] Assumption of Existing Mortgage: Buyer may assume existing mortgage for \$ plus
30* an assumption fee of \$. The mortgage is for a term of years beginning in
31* , at an interest rate of % [] fixed [] variable (describe)

32* Lender approval of assumption [] is required [] is not required [] unknown. Notice to Seller: You may
33 remain liable for an assumed mortgage for a number of years after the Property is sold. Check with your
34 lender to determine the extent of your liability. Seller will ensure that all mortgage payments and required
35 escrow deposits are current at the time of closing and will convey the escrow deposit to the buyer at closing.

36* (c) Seller Expenses: Seller will pay mortgage discount or other closing costs not to exceed % of the
37 purchase price and any other expenses Seller agrees to pay in connection with a transaction.

38 4. Broker Obligations: Broker agrees to make diligent and continued efforts to sell the Property until a sales
39 contract is pending on the Property.

40 5. Multiple Listing Service: Placing the Property in a multiple listing service (the "MLS") is beneficial to Seller
41 because the Property will be exposed to a large number of potential buyers. As a MLS participant, Broker is
42 obligated to timely deliver this listing to the MLS. This listing will be promptly published in the MLS unless Seller
43 directs Broker otherwise in writing. Seller authorizes Broker to report to the MLS this listing information and price,
44 terms, and financing information on any resulting sale for use by authorized Board / Association members and
45 MLS participants and subscribers unless Seller directs Broker otherwise in writing.

46 6. Broker Authority: Seller authorizes Broker to:

47 (a) Advertise the Property as Broker deems advisable including advertising the Property on the Internet unless
48 limited in (6)(a)(i) or (6)(a)(ii) below.

49 (Seller opt-out) (Check one if applicable)

50* (i) [] Display the Property on the Internet except the street address.

51* (ii) [] Seller does not authorize Broker to display the Property on the Internet.

Seller (LMB) () and Broker/Sales Associate (WDC) (WDC) acknowledge receipt of a copy of this page, which is Page 1 of 4.

Electronically Signed using eSignOnline™ [Session ID : bcbe13c0-7beb-44d6-92fb-42a0ec5c5fff]

Seller understands and acknowledges that if **Seller** selects option (ii), consumers who search for listings on the Internet will not see information about the Property in response to their search.

SMJ _____ **Initials of Seller**

- (b) Place appropriate transaction signs on the Property, including "For Sale" signs and "Sold" signs (once **Seller** signs a sales contract) and use **Seller's** name in connection with marketing or advertising the Property.
- (c) Obtain information relating to the present mortgage(s) on the Property.
- (d) Provide objective comparative market analysis information to potential buyers.
- (e) **(Check if applicable)** Use a lock box system and/or gate code to show and access the Property. A lock box or gate does not ensure the Property's security. **Seller** is advised to secure or remove valuables. **Seller** agrees that the lock box or gate is for **Seller's** benefit and releases **Broker**, persons working through **Broker**, and **Broker's** local Realtor Board / Association from all liability and responsibility in connection with any damage or loss that occurs. Withhold verbal offers. Withhold all offers once **Seller** accepts a sales contract for the Property.
- (f) Act as a transaction broker unless a different relationship is or has been established in writing.
- (g) **Virtual Office Websites:** Some real estate brokerages offer real estate brokerage services online. These websites are referred to as Virtual Office Websites ("VOWs"). An automated estimate of market value or reviews and comments about a property may be displayed in conjunction with a property on some VOWs. Anyone who registers on a VOW may gain access to such automated valuations or comments and reviews about any property displayed on a VOW. Unless limited below, a VOW may display automated valuations or comments and reviews about this Property.
 - Seller** does not authorize an automated estimate of the market value of the listing (or a hyperlink to such estimate) to be displayed in immediate conjunction with the listing of this Property.
 - Seller** does not authorize third parties to write comments or reviews about the listing of the Property (or display a hyperlink to such comments or reviews) in immediate conjunction with the listing of this Property.

7. Seller Obligations and Representations: In consideration of **Broker's** obligations, **Seller** agrees to:

- (a) Cooperate with **Broker** in carrying out the purpose of this Agreement, including referring immediately to **Broker** all inquiries regarding the Property's transfer, whether by purchase or any other means of transfer.
- (b) Provide **Broker** accurate information about the Property of which **Seller** may be aware, including but not limited to utility availability, presence of or access to water supply, sewer or septic system, problems with drainage, grading or soil stability, environmental hazards, commercial or industrial nuisances (noise, odor, smoke, etc.), utility or other easements, shared driveways, encroachments from or on adjacent property, zoning, wetland, flood hazard, tenancies, cemetery/grave sites, abandoned well, underground storage tanks, presence of protected species, or nests of protected species.
- (c) Provide **Broker** access to the Property and make the Property available for **Broker** to show during reasonable times.
- (d) Inform **Broker** before leasing, mortgaging, or otherwise encumbering the Property.
- (e) Indemnify **Broker** and hold **Broker** harmless from losses, damages, costs, and expenses of any nature, including attorney's fees, and from liability to any person, that **Broker** incurs because of (1) **Seller's** negligence, representations, misrepresentations, actions, or inactions; (2) the use of a lock box or gate code; (3) the existence of undisclosed material facts about the Property; or (4) a court or arbitration decision that a broker who was not compensated in connection with a transaction is entitled to compensation from **Broker**. This clause will survive **Broker's** performance and the transfer of title.
- (f) Perform any act reasonably necessary to comply with FIRPTA (Section 1445 of the Internal Revenue Code).
- (g) Make all legally required disclosures, including all facts that materially affect the Property's value and are not readily observable or known by the buyer. **Seller** certifies and represents that **Seller** knows of no such material facts (local government building code violations, unobservable defects, etc.) other than the following:

Seller will immediately inform **Broker** of any material facts that arise after signing this Agreement.

- (h) Consult appropriate professionals for related legal, tax, property condition, environmental, foreign reporting requirements, and other specialized advice.
- (i) **Seller** represents that **Seller** is not aware of any notice of default recorded against the Property; any delinquent amounts due under any loan secured by or other obligation affecting the Property; any bankruptcy, foreclosure, insolvency, or similar proceeding affecting the Property; any litigation, arbitration, administrative action, government investigation, or other action that affects or may affect **Seller's** ability to transfer the Property; any current, pending, or proposed special assessments affecting the Property; any planned public improvements which may result in special assessments; or any mechanics' liens or material supplier liens against the Property.

Seller (*SMJ*) (_____) and Broker/Sales Associate (*ADC*) (*ADC*) acknowledge receipt of a copy of this page, which is Page 2 of 4.

- 109 **8. Compensation:** Seller will compensate Broker as specified below for procuring a buyer who is ready, willing,
 110 and able to purchase the Property or any interest in the Property on the terms of this Agreement or on any other
 111 terms acceptable to Seller. Seller will pay Broker as follows (plus applicable sales tax):
 112* (a) 6% of the total purchase price plus \$0.00 OR \$ _____, no
 113 later than the date of closing specified in the sales contract. However, closing is not a prerequisite for Broker's
 114 fee being earned.
 115* (b) _____ (\$ or %) of the consideration paid for an option, at the time an option is created. If the option
 116 is exercised, Seller will pay Broker the Paragraph 8(a) fee, less the amount Broker received under this
 117 subparagraph.
 118* (c) _____ (\$ or %) of gross lease value as a leasing fee, on the date Seller enters into a lease or
 119 agreement to lease, whichever is earlier. This fee is not due if the Property is or becomes the subject of a
 120 contract granting an exclusive right to lease the Property.
 121 (d) Broker's fee is due in the following circumstances: (1) If any interest in the Property is transferred, whether by
 122 sale, lease, exchange, governmental action, bankruptcy, or any other means of transfer, regardless of whether
 123 the buyer is secured by Seller, Broker, or any other person. (2) If Seller refuses or fails to sign an offer at the
 124 price and terms stated in this Agreement, defaults on an executed sales contract, or agrees with a buyer to
 125* cancel an executed sales contract. (3) If, within _____ days after Termination Date ("Protection Period"),
 126 Seller transfers or contracts to transfer the Property or any interest in the Property to any prospects with whom
 127 Seller, Broker, or any real estate licensee communicated regarding the Property before Termination Date.
 128 However, no fee will be due Broker if the Property is relisted after Termination Date and sold through another
 129 broker.
 130* (e) **Retained Deposits:** As consideration for Broker's services, Broker is entitled to receive _____% (50% if
 131 left blank) of all deposits that Seller retains as liquidated damages for a buyer's default in a transaction, not to
 132 exceed the Paragraph 8(a) fee.
- 133 **9. Commercial Real Estate Sales Commission Lien Act:** The Florida Commercial Real Estate Sales Commission
 134 Lien Act provides that when a broker has earned a commission by performing licensed services under a brokerage
 135 agreement with you, the broker may claim a lien against your net sales proceeds for the broker's commission. The
 136 broker's lien rights under the act cannot be waived before the commission is earned.
- 137 **10. Cooperation with and Compensation to Other Brokers: Notice to Seller:** The buyer's broker, even if
 138 compensated by Seller or Broker, may represent the interests of the buyer. Broker's office policy is to cooperate
 139 with all other brokers except when not in Seller's best interest and to offer compensation in the amount of
 140* 3% of the purchase price or \$ _____ to a single agent for the buyer; 3% of the
 141* purchase price or \$ _____ to a transaction broker for the buyer; and 3% of the purchase
 142* price or \$ _____ to a broker who has no brokerage relationship with the buyer.
 143* None of the above. (If this is checked, the Property cannot be placed in the MLS.)
- 144 **11. Conditional Termination:** At Seller's request, Broker may agree to conditionally terminate this Agreement. If
 145 Broker agrees to conditional termination, Seller must sign a withdrawal agreement, reimburse Broker for all direct
 146* expenses incurred in marketing the Property, and pay a cancellation fee of \$NONE plus
 147 applicable sales tax. Broker may void the conditional termination, and Seller will pay the fee stated in Paragraph
 148 8(a) less the cancellation fee if Seller transfers or contracts to transfer the Property or any interest in the Property
 149 during the time period from the date of conditional termination to Termination Date and Protection Period, if
 150 applicable.
- 151 **12. Dispute Resolution:** This Agreement will be construed under Florida law. All controversies, claims, and other
 152 matters in question between the parties arising out of or relating to this Agreement or the breach thereof will be
 153 settled by first attempting mediation under the rules of the American Mediation Association or other mediator
 154 agreed upon by the parties. If litigation arises out of this Agreement, the prevailing party will be entitled to recover
 155 reasonable attorney's fees and costs, unless the parties agree that disputes will be settled by arbitration as follows:
 156* **Arbitration:** By initialing in the space provided, Seller (MS) (____), Sales Associate (DC), and Broker (DC)
 157 agree that disputes not resolved by mediation will be settled by neutral binding arbitration in the county in which
 158 the Property is located in accordance with the rules of the American Arbitration Association or other arbitrator
 159 agreed upon by the parties. Each party to any arbitration (or litigation to enforce the arbitration provision of this
 160 Agreement or an arbitration award) will pay its own fees, costs, and expenses, including attorney's fees, and will
 161 equally split the arbitrator's fees and administrative fees of arbitration.
- 162 **13. Miscellaneous:** This Agreement is binding on Seller's and Broker's heirs, personal representatives,
 163 administrators, successors, and assigns. Broker may assign this Agreement to another listing office. This
 164 Agreement is the entire agreement between Seller and Broker. No prior or present agreements or representations

Seller (MS) (____) and Broker/Sales Associate (DC) (DC) acknowledge receipt of a copy of this page, which is Page 3 of 4.

165 will be binding on **Seller** or **Broker** unless included in this Agreement. Electronic signatures are acceptable and
166 will be binding. Signatures, initials, and modifications communicated by facsimile will be considered as originals.
167 The term "buyer" as used in this Agreement includes buyers, tenants, exchangors, optionees, and other categories
168 of potential or actual transferees.

169* **14. Additional Terms:** The listing will be entered into the MLS within 3 days from execution of this listing agreement.
170 The Listing Date in the MLS will be the date of input.

171 _____
172 Broker understands that Agent has reduced the transaction fee from \$495 to \$0 due to Seller is a long time
173 customer and that Agent will pay any difference.

174 _____
175 Seller instructs Broker to enter the wording: "Title Company shall be: Fidelity National Title of Florida, Inc. 2301
176 Del Prado Blvd S, Ste 650, Cape Coral FL 33990. Phone 239.945.6790, fax: 239.945.4853, email:
177 Danielle.Sheppard@fnf.com." under Buyer Agents confidential instructions. This can be changed at anytime by
178 written instructions from Seller.

179 _____
180 Seller instructs Broker to include the following wording on the listing under the 'Agent to Agent confidential
181 remarks': "All offers shall be on Florida Realtor Vacant Land Contract".

182 _____

183* **Seller's Signature:** Lynn M. Fitzgerald Date: 05/03/2021

184* Home Telephone: _____ Work Telephone: _____ Facsimile: _____

185* Address: _____

186* Email Address: _____

187* **Seller's Signature:** _____ Date: _____

188* Home Telephone: _____ Work Telephone: _____ Facsimile: _____

189* Address: _____

190* Email Address: _____

191* **Authorized Sales Associate or Broker:** Deborah Cullen Date: 05/13/2021

192* Brokerage Firm Name: _____ REMAX Realty Team Telephone: 239-242-2000

193* Address: _____ 2326 Del Prado Blvd S, Cape Coral FL 33990

194* Copy returned to **Seller** on 05/13/2021 by email facsimile mail personal delivery.

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