

# BUSINESS OPPORTUNITY LISTING AGREEMENT

THIS IS AN EXCLUSIVE RIGHT LISTING AGREEMENT,  
DO NOT CLOSE A SALE OR LEASE, OR EXCHANGE THIS LISTING WITHOUT CONSULTING  
BULLDOG BROKERS, REAL ESTATE FEES ARE NOT SET BY LAW

## BUSINESS AND SELLER(S) INFORMATION:

Business Name: \_\_\_\_\_ Corporation / Partnership/LLC / Sole Proprietorship  
Business Address: \_\_\_\_\_ Business Hours: \_\_\_\_\_  
Type of Services: \_\_\_\_\_ Phone: \_\_\_\_\_ Fax: \_\_\_\_\_ Est: \_\_\_\_\_  
Seller(s): \_\_\_\_\_ Title: \_\_\_\_\_ Home Ph: \_\_\_\_\_  
Licenses or Franchises Required: \_\_\_\_\_ Employees: F/T \_\_\_\_\_ P/T \_\_\_\_\_  
Premises: Sq. Ft.: \_\_\_\_\_ Leased or Owned: \_\_\_\_\_ If owned, available for purchase for an additional \$: \_\_\_\_\_  
Annual Sales: \_\_\_\_\_ (verifiable by Seller): \$ \_\_\_\_\_ Adjusted Profit \_\_\_\_\_ (verifiable by Seller): \$ \_\_\_\_\_

## PROPOSED TERMS:

\$ \_\_\_\_\_ Total Purchase Price includes inventory, to be agreed upon prior to closing, of \$ \_\_\_\_\_.  
\$ \_\_\_\_\_ Cash down payment, subject to adjustment for closing costs and prorations.  
\$ \_\_\_\_\_ Promissory Note to be assumed by purchaser, payable to \_\_\_\_\_ providing for monthly payments of \$ \_\_\_\_\_ including interest at \_\_\_\_\_%.  
\$ \_\_\_\_\_ Promissory Note payable to Seller and executed by Buyer, providing for \_\_\_\_\_ monthly payments of \$ \_\_\_\_\_ including interest at 9% per annum. Additional terms: \_\_\_\_\_

## PROVISIONS:

1. "Seller", hereby employs "Bulldog Brokers" (hereinafter "Broker") and gives Broker the **SOLE AND EXCLUSIVE RIGHT** to sell, lease, trade or otherwise dispose of all or any part of the tangible and intangible assets of the business described above (hereinafter "Business"), on the Proposed Terms set forth above, or for any other price and terms to which the Seller may agree. Broker agrees to use its best efforts consistent with Broker's usual business practices, to sell or to otherwise dispose of the business. In the event any such deposit is forfeited, the Broker shall retain one-half of such a deposit, not to exceed the Broker's commission.
2. This exclusive listing (hereinafter "Agreement") shall commence immediately upon the execution of this Agreement by Seller, and continue for a period of 365 days (hereinafter "the Listing Period"). Seller understands that commencement of this Agreement includes the Seller's obligation to pay for Broker's services, as set forth in the following Paragraph 3, and that this Agreement, once executed, cannot be withdrawn by Seller without Seller's payment of the Broker's fees for said services. Any persons executing this Agreement on behalf of the Seller represent they have the Seller's authority to enter into this Agreement and that all parties necessary to make this Agreement binding with the Broker have executed this Agreement.
3. Broker is not an agent or an advocate of the Seller or Buyer, but is a Transaction Broker. The Broker's Services as a Transaction Broker consist of the following:
  - A. Broker shall exercise reasonable skill and care in providing his services to the Seller including, but not limited to:
    - i. presenting all offers to and from the Seller in a timely manner;

- ii. *advising the Seller and the Buyer to obtain expert advice as to material matters about which the Broker knows, but the specifics of which are beyond the expertise of the Broker;*
  - iii. *accounting in a timely manner for all money and property received;*
  - iv. *keeping the Seller fully informed with respect to the transaction;*
  - v. *assisting the Seller and the Buyer in complying with the provisions, terms and conditions of any contract for sale of the Business, including closing the transaction;*
  - vi. *disclosing to the Seller adverse material facts known by the Broker; and*
  - vii. *informing the Seller and the Buyer that, in their respective capacities, they shall not be vicariously liable for the acts of the Broker.*
- B. *Broker shall not disclose the following information without the written consent of the Seller:*
- i. *that the Seller is willing to accept less than the Total Purchase Price for the Business;*
  - ii. *the motivating factors for the Seller to sell the Business;*
  - iii. *that the Seller will agree to financing terms other than those offered;*
  - iv. *any material information about the Seller, unless the disclosure of such information is required by law or failure to disclose such information would constitute fraud or dishonest dealing; and*
  - v. *any facts or suspicions regarding circumstances which may negatively impact the Business pursuant to Montana law; and*
  - vi. *any information that the Seller indicates in writing to the Broker that is to be kept confidential.*
- C. *Broker shall disclose to any prospective Buyer all adverse material facts actually known by the Broker including, but not limited to, the following:*
- i. *adverse material facts pertaining to the title to the Business and the physical condition of the Business;*
  - ii. *any material defects pertaining to the Business; and*
  - iii. *any environmental hazards affecting the Business which pursuant to Montana law are required to be disclosed.*
- D. *Broker shall not disclose the following information without the written consent of the the Buyer:*
- i. *that the Buyer is willing to pay more than the offered total Purchase Price;*
  - ii. *the motivating factors for the Buyer to buy the Business; and*
  - iii. *any information that the Buyer indicates in writing to Broker that is to be kept confidential.*
4. *For Broker's Services pursuant to this Agreement, Seller agrees to immediately pay Broker, a fee equal to the greater of twelve percent (12%) of the Total Purchase Price of the Business, or a minimum of \$12,000, upon the occurrence of any of the following: a) Broker procures a ready, willing and able buyer to purchase the Business for the Proposed Terms set forth above; b) Seller sells, leases, trades, enters into such contract of sale, accepts a deposit, or provides notice of an intent to sell the Business, or otherwise disposes of all or any part of the Business during the Listing Period, whether or not the transaction subsequently closes or the Broker was involved in such transaction; c) Seller withdraws the Business from a sale, or purports to terminate this Agreement prior to the expiration of the Listing Period; or d) Seller fails or refuses to complete a sale, lease, trade or disposition of all or any part of the Business within twelve (12) months from the termination date of the Listing Period to any prospective buyer who was referred to the Business by the Broker, who received information about the Business from the Broker, who negotiated with Broker with respect to the Business during the term of the Listing Period, or who became aware of the Business through the efforts of Broker during the Listing Period. The Total Purchase Price, for purposes of this Agreement, shall be defined as, but not limited to, inventory,*

*cash, securities, infusion of capital funds, credit arrangements, assets, promissory notes, employment or consulting agreements which are in excess of an equivalent manager's compensation, covenants not to compete, royalty fees, performance payments, any liabilities of the Business, the Seller or any Business shareholder assumed by the Buyer, and any other such agreements intended to convey value to the Seller.*

5. *Seller acknowledges, warrants and agrees as follows: a) that the Business is and will remain during the term of the Listing Period, in full compliance with all federal, state and local laws, regulations and ordinances; b) that all information pertaining to the Business supplied by Seller to Broker is true and accurate, and that said information will not be independently verified by Broker and will be presented to prospective buyers in the course of selling the Business; c) that Seller will timely provide Broker with the complete financial data of the Business; d) to refer any and all inquiries about the Business from potential Buyers or other Brokers to Broker, and to conduct all negotiations with respect to the Business through Broker during the Listing Period; and e) that Seller has the authority to enter into this Agreement on behalf of the Business entity and that Seller has good, clear and marketable title to the Business assets and personally guarantees the performance of this Agreement.*
6. *Seller agrees to hold Broker harmless for all claims, losses, damages, expenses, including, but not limited to, reasonable attorney fees and costs, resulting from any misrepresentation or breach of this Agreement. This Agreement shall be governed and construed in accordance with the laws of the State of Montana. The jurisdiction of any legal action arising out of this Agreement, including any legal action filed to interpret or enforce the provisions, terms and conditions of this Agreement, shall be in the Eighteenth Judicial District Court, Gallatin County, Montana, and any parties to said legal action waive any and all right they may have to a trial by jury. In the event of any legal action arising out of this Agreement, the prevailing party shall be entitled to recover all costs and attorney's fees from the other party.*
7. *Seller shall cure, prior to the closing of this transaction, any condition that exists that will stop the effective transfer of the Business from Seller to Buyer at the closing of this transaction.*
8. *If any provision, paragraph, subparagraph, or clause of this Agreement is adjudged by the court to be invalid, illegal, void or unenforceable in whole or in part, this adjudication shall not affect the validity of the remainder of this Agreement, including any other provision, paragraph, subparagraph, or clause. Each provision, paragraph, subparagraph, or clause of this Agreement is separable from every other provision, paragraph, subparagraph and clause, and constitutes a separate and distinct covenant.*
9. *The foregoing constitutes the entire agreement between the parties and Seller hereby acknowledges reading, understanding and receiving a copy of this agreement.*

**IN WITNESS WHEREOF**, the parties have executed this Agreement as of the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

\_\_\_\_\_  
Seller  
Printed Name: \_\_\_\_\_  
Address: \_\_\_\_\_  
Phone: \_\_\_\_\_

\_\_\_\_\_  
Seller  
Printed Name: \_\_\_\_\_  
Address: \_\_\_\_\_  
Phone: \_\_\_\_\_

Accepted by: \_\_\_\_\_  
Title: \_\_\_\_\_

'BULLDOG BROKERS', 8332 Huffine Lane #3, Bozeman, MT 59718, (406) 570-5156