



VermontRealtors®



## EXCLUSIVE RIGHT TO MARKET AGREEMENT Non-Designated Agency Firm

THIS IS A LEGALLY BINDING CONTRACT. IF NOT UNDERSTOOD, LEGAL, TAX OR OTHER COUNSEL SHOULD BE CONSULTED BEFORE SIGNING

Owner: Verde Acres, LLC c/o Brendan O'Reilly      Owner: \_\_\_\_\_

Owner: \_\_\_\_\_      Owner: \_\_\_\_\_

Property Address: TBD Maggies Way (house package on Lot 1)      Waterbury Center      VT 05677      Price \$625,000  
Street      City      State/Zip

1. **Type of Property.**    ☒ Residential    ☐ Land Only    ☐ Multi-Family (duplex, triplex, etc.)    ☐ Commercial    ☐ Condominium/Townhouse  
   ☐ Time Share/Fractional    ☐ Homestead    ☒ Non-Homestead    ☐ Other (describe) \_\_\_\_\_

2. **Property Description.**

- A. Owner's deed is recorded in Volume 396      at Page 94-95      of the Waterbury      Land Records;  
B. Parcel ID # \_\_\_\_\_;  
C. SPAN# 69622110611 \_\_\_\_\_;  
D. Approximate lot size: 5.12 +/-      Acres, or 2510 +/-      Square Feet  
    Source: ☒ Survey    ☐ Owner's Deed    ☐ Tax Bill    ☐ Lister's Card    ☐ Other Source \_\_\_\_\_;  
E. Other Description: \_\_\_\_\_

3. **Grant of Exclusive Right to Market to Listing Agency.** Owner hereby agrees that Pall Spera Company Realtors, LLC, as Listing Agency, is hereby given for the period set forth herein, the sole and exclusive right, power and authority to act as Owner's real estate agent for the listing, marketing, sale or exchange of the Property described in this Agreement (the "Property"). This Agreement prohibits the listing and marketing of the Property with any other broker or salesperson or the offering of the Property for sale at auction during the period set forth herein. Owner agrees to direct all inquiries concerning this Property from whatever source to Listing Agency during the period of this Agreement which shall include inquiries from the general public and all other real estate agents. Any failure to do so shall constitute a substantial breach of this Agreement. Owner agrees to fully cooperate with Listing Agency in the marketing of the Property.

4. **Compensation to Listing Agency.** Owner acknowledges that the compensation to be paid under this Agreement is solely and entirely a matter of negotiation between Owner and Listing Agency and is not in any way controlled, fixed or pre-established. Owner agrees to pay Listing Agency a commission for its services in the following manner:

- A. 5 \*      % of the amount of the sale price;  
B. A fee determined as follows: \*Commission shall be 5% for a contract price of \$600,000 and above, 4% for a contract price below \$600,000.  
C. Compensation Addendum Attached: ☐ Yes    ☒ No

5. **Listing Agency as a Non-Designated Agency Firm.** Listing Agency provides real estate brokerage services exclusively as a Non-Designated Agency Firm. As such, Listing Agency and all brokers and salespersons in the Firm represent all of the Firm's clients as a Non-Designated Agency Firm. Listing Agency and all of its brokers and salespersons owe Owner the duties of a fiduciary. Listing Agency provides brokerage services to both sellers and buyers and enters into agreements with buyers to provide brokerage services as a buyer's agency. Owner acknowledges and consents to such representation. However, Listing Agency shall not act as the real estate agency for both Owner and any buyer of the Property with whom Listing Agency has a buyer agency agreement. In the event a buyer with whom Listing Agency has a buyer agency agreement develops an active and substantial interest in Owner's Property, the differing interests of Owner and the prospective buyer concerning the same property creates a conflict of interest for Listing Agency. If this occurs, Listing Agency is required to terminate either this Agreement or its buyer agency agreement with that buyer.

6. **Additional Provisions regarding Compensation.** Owner agrees to pay Listing Agency the above commission if, during the term of this Agreement, the Property is sold or exchanged or Owner enters into an agreement for the sale or exchange of the Property and all closing contingencies under such agreement or any amendment or modification thereof are satisfied. The commission shall also be due whether the closing of such agreement or any amendment or modification thereof occurs during the term of this Agreement or thereafter. Owner also agrees to pay Listing Agency the commission set forth in this Agreement if the Property is subject to a right of first refusal or option to purchase, and is sold to the holder of the right of first refusal or option to purchase as a result of Listing Agency presenting Owner with an offer to purchase the Property or as a result of any other marketing efforts by Listing Agency. In addition, if, prior to the Expiration Date of this Agreement, Listing Agency presents an offer at or above the price stated herein or at any other

Owner's Initials



that the contract deposit may nonetheless be placed in a pooled interest bearing trust account and the interest remitted to VHFA for the benefit of affordable housing programs in Vermont. In the event any contract deposit or portion thereof is paid to **Owner** as a result of a breach or claimed breach of a Purchase and Sales Contract by a contract Purchaser, **Listing Agency** shall be entitled to receive, as a liquidated and agreed upon sum, one-half of the deposit, together with one-half of any interest accrued thereon to which **Owner** is entitled, provided the total amount paid to **Listing Agency** shall not exceed the full commission which would otherwise be due under this Agreement. It is agreed that this allocation of any contract purchaser's forfeit of a deposit is a liquidated damage provision which is solely intended to compensate **Listing Agency** for reasonably estimated losses, costs and expenses and is neither a penalty for a purchaser's breach nor an incentive to **Owner** or purchaser to perform any purchase agreement.

**12. Accuracy of Information Concerning the Property.** **Owner** has furnished **Listing Agency** with all of the information about the Property contained in this Agreement or in any attachment or addendum hereto, including, if applicable, the Disclosure of Information and Acknowledgment of Lead-Based Paint and/or Lead-Based Paint Hazards. **Owner** represents to **Listing Agency** that, to the best of **Owner's** knowledge, such information is complete, correct, accurate, not misleading and does not leave out any material information about the Property. **Owner** agrees to indemnify and hold **Listing Agency**, any Broker's Agent and any MLS to which a listing of the Property is submitted harmless from any and all loss, damage, claim or liability, including attorney's fees, arising out of any inaccurate, misleading or undisclosed information or facts about the Property whether made by **Owner** in this Agreement or made by **Owner** during the course of **Listing Agency's** marketing efforts. The provisions of this section shall apply to and include information in any Seller's Property Information Report. **Owner** further warrants and represents that this Agreement contains the signatures of all **Owners** of the Property or their legally authorized agents and that the person(s) signing this Agreement as **Owner** constitute all of the persons required to enter into a Purchase and Sale Contract for the Property and to convey all interests in the Property to a purchaser.

**13. Limitation of Liability.** *In recognition of the relative risks, rewards and benefits of this Agreement to **Owner** and **Listing Agency**, **Owner** agrees that **Listing Agency**, its agents, associates or affiliates, together with any other brokers, salespersons or brokerage firms acting as Broker's Agents pursuant to this Agreement shall in no event shall be liable to **Owner** either individually or jointly and severally in an aggregate amount in excess of the compensation to be paid to such (agent(s) or broker(s) pursuant to this Agreement or Five Thousand Dollars (\$5,000), whichever is greater, by reason of any act or omission, including breach of this Agreement, negligence, misrepresentation, error or omission, breach of any undertaking or any other cause of action or legal theory unless such act or omission amounts to willful or intentional misconduct.*

**14. Non-Discrimination in Marketing.** **Owner** authorizes and instructs **Listing Agency** to market the Property without respect to any person's race, sex, sexual orientation, gender identity, age, marital status, religious creed, color, national origin or handicap of a person, or because a person intends to occupy the Property with one or more minor children, or because a person is a recipient of public assistance. **Owner** further authorizes and directs **Listing Agency** to market the Property in compliance with all laws and regulations relating to non-discrimination in the sale of real estate.

**15. Tax and Land Use Permits.** **Owner** is advised by **Listing Agency** to seek competent legal, accounting or other professional assistance to determine the tax and other legal obligations imposed by any sale of the Property including, but not limited to, federal and state income tax (including capital gains tax), Foreign Investment in Real Property Tax Act (FIRPTA), Vermont Land Gains Tax, Vermont Non-Resident Income Tax Withholding and all land use permits and disclosures including those required by Act 250. **If Owner is a non-resident of Vermont or a foreign citizen, the provisions of the Vermont Non-Resident Income Tax Withholding and/or FIRPTA may require withholding of portions of Closing proceeds and payment of taxes to federal and Vermont taxing authorities.** **Owner** is advised to seek legal or accounting advice concerning the impact of these laws prior to entering into any agreement for the sale of the Property.

**16. Owner's Disclosure Responsibilities Concerning Lead-Based Paint.** **Owner** acknowledges that if the Property includes a residential dwelling built before 1978, **Owner** must disclose to the purchaser **Owner's** actual knowledge of lead-based paint or lead-based paint hazards and must provide purchaser with any records, test results or other information in **Owner's** possession related to lead-based paint. **Owner** agrees to complete appropriate portions of the Disclosure of Information and Acknowledgment form concerning lead-based paint.

**17. Term of Agreement/Binding Effect/Severability.** This Agreement shall not be for a period in excess of twelve (12) months. It cannot be cancelled or terminated prior to the Expiration Date unless **Owner** and **Listing Agency** mutually agree to such cancellation or termination in writing or **Listing Agency** is required to terminate this Agreement due to a conflict of interest as is explained in Section 5. However, if **Owner** directs or insists that **Listing Agency** market the Property in a manner that would, in the judgment of **Listing Agency**, violate applicable law or subject **Listing Agency** to civil or regulatory liability, **Listing Agency** shall have the right to terminate this Agreement by written notice to **Owner** whereupon all obligations of **Listing Agency** under this Agreement shall terminate and **Listing Agency** shall have no further responsibility in any manner whatsoever to **Owner**. This Agreement is binding upon and shall inure to the benefit of the parties hereto, their heirs, executors, personal representatives and assigns. If any provision of this Agreement shall be determined by a court to be invalid or unenforceable, the validity and enforceability of all other provisions of this Agreement shall not be affected thereby.

**18. Dispute Resolution System/Fees and Costs to Prevailing Party.** **Listing Agency** recommends the use of a dispute resolution system that utilizes mediation as an alternative to litigation in the event of any dispute or claim arising out of or relating to this Agreement. In the event of any litigation or lawsuit between **Owner** and **Listing Agency** arising out of or relating to this Agreement, or to the services provided to **Owner** by **Listing Agency**, the substantially prevailing party shall be entitled to the costs and expenses thereof, including reasonable attorney's fees.

**19. Execution of Agreement/Amendments.** This Agreement and all modifications, amendments or changes thereto, including any changes in the listed price, shall be in writing signed by **Owner** and authorized agent of **Listing Agency**. This Agreement may be entered into, and all modifications or changes to it, may be made by facsimile transmission (fax) of a signed document or by a scanned, signed document sent by electronic means. **Other means of electronic transmission, including e-mails without scanned, signed documents are not adequate to enter into this Agreement or to modify, amend or change this Agreement.**

Owner's Initials

