



# Johnstone & Johnstone EXCLUSIVE RIGHT TO SELL OR LEASE CONTRACT



Johnstone & Johnstone \_\_\_\_\_ Seller Name: \_\_\_\_\_  
 Address of Firm: \_\_\_\_\_ Seller Name: \_\_\_\_\_  
 \_\_\_\_\_ Seller Address: \_\_\_\_\_  
 Office Phone: \_\_\_\_\_ Seller Primary Phone: \_\_\_\_\_  
 Office Fax: \_\_\_\_\_ Seller Email: \_\_\_\_\_

1. **TERM OF CONTRACT:** This Exclusive Right to Sell or Lease Contract ("Contract") is entered into this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, by and between Johnstone & Johnstone ("**Broker**") and \_\_\_\_\_ Seller or Landlord ("**Seller**").

In consideration of the agreement of Broker to market the property and to use the best efforts to find a buyer, the Seller grants to Broker the exclusive right to sell or lease the Property from \_\_\_\_\_ to 11:59 P.M. on \_\_\_\_\_.

2. **PROPERTY DESCRIPTION:** This  Residential  Condominium  Multi-Family  Commercial/Industrial  Vacant  Other: \_\_\_\_\_ property is located in the  Village  Township  City of \_\_\_\_\_, County of \_\_\_\_\_, Michigan and commonly known as (street address) \_\_\_\_\_ (zip code) \_\_\_\_\_.  
 The legal description is: \_\_\_\_\_

\_\_\_\_\_ . This property is being sold or leased together with all improvements and appurtenances, if any, now in or on the premises including all buildings, fixtures, built in appliances, all window treatments including hardware, attached floor coverings, attached fireplace doors, screens, gas logs, garage door openers and controls, screens, storm windows and doors, landscaping, fences and mailboxes, all ceiling fans, alarm systems, radio and television antennas, rotors and controls, water softener (unless rented), water pumps, pressure tanks, fuel in tanks, incinerator, if any, and gas, oil and mineral rights owned by Seller, and \_\_\_\_\_ (collectively, the "**Property**").

Seller excludes the following items from the Property: \_\_\_\_\_

3. **PRICE/TERMS:** Seller agrees to sell the Property for the sum of \$ \_\_\_\_\_ or lease the Property for the sum of \$ \_\_\_\_\_ per month to be paid on such terms and conditions as Seller may agree to in writing.

4. **COMPENSATION.** The parties agree to the following compensation terms:

a. **Sale.** The following terms apply to the sale of the Property:

i. **Sale Commission.** Seller shall pay Broker the following amounts for its marketing, negotiation and consultation services: \_\_\_\_\_ % of the gross sale price of the Property or \$ \_\_\_\_\_ ("**Sale Commission**"), whichever is greater.

ii. **Payment.** The Commission is due and payable by Seller to Broker upon the consummation of the sale of the Property to a buyer or tenant obtained by anyone, including Seller, during the term of this Contract. The Sale Commission is also due and payable if:

- (1) during the term of this Contract, Seller refuses to sell to a ready, willing and able buyer who offers to purchase the Property for Seller's full price and terms;
- (2) Seller sells or agrees to sell the Property, directly or indirectly, within a period of one hundred eighty days from the termination of this Contract, to a buyer who was shown or learned of the Property during the term of this Contract unless the Property is sold through another licensed real estate broker which is paid a commission during this protection period; or
- (3) the Property is sold to a tenant, directly or indirectly, during or following the term of a lease agreement between Seller and tenant executed during the term of this Contract; or

(Initials) Seller \_\_\_\_\_ / \_\_\_\_\_

- (4) Seller refuses or is unable to consummate the sale of the Property pursuant to the terms of a fully-executed purchase agreement;
- b. Lease.** If the Property is leased to a tenant obtained by anyone, including Seller, during the term of this Contract, Seller shall pay Broker, upon execution of the lease by Seller and tenant, an amount equal to \_\_\_\_\_ % of the total rent due from tenant to Seller under the terms of the lease or \$ \_\_\_\_\_, (collectively, the "**Lease Commission**"), whichever is greater. The Lease Commission shall also be due and payable by Seller to Broker if:
- i. during the term of this Contract, Seller refuses to lease to a ready, willing and able tenant who offers to lease the Property for Seller's full price and terms; or
  - ii. Seller leases the Property, directly or indirectly, within a period of one hundred eighty days from the termination of this Contract, to a tenant who was shown or learned of the Property during the term of this Contract unless the Property is leased through another licensed real estate broker which is paid a commission during this protection period.
- c. Broker Administrative Fee.** A Broker Administrative fee in the amount of \$250 to be paid at closing.
- d. Forfeiture.** Seller agrees that if a transaction is not consummated because of the buyer's or tenant's failure to perform and an earnest money deposit is forfeited, \_\_\_\_\_ % of the forfeited amount, up to the amount of compensation due to Broker from Seller upon consummation of the transaction, shall be paid to Broker for services rendered in connection with the transaction.
- e. Cooperation.** Seller acknowledges and agrees that Broker will offer cooperation to subagents, buyer/tenant agents, and/or brokers acting in legally recognized non-agency capacities and that buyer/tenant agents and brokers, even if compensated by Broker or Seller, will represent the interests of their buyer/tenant clients. Seller further acknowledges and agrees that the compensation paid to a cooperating broker is within the sole discretion of the Broker.
- f. Security.** Broker may, in its sole and absolute discretion, record a lien against the Property to secure its right to receive the compensation set forth above.
- g. Sale Defined.** The Parties agree that the word "sale" shall also include an option, trade or exchange. In the event of a trade or exchange, a commission will be due from Seller to Broker at the agreed upon amount or percentage of the exchange or trade value, as the case may be, and that in the event of a trade or exchange, Broker is authorized to receive a commission from both parties to the transaction provided disclosure thereof is made to all parties.
- h. Negotiation.** Seller and Broker acknowledge that they have negotiated the agreed upon compensation between themselves and that it was not fixed, controlled, recommended or maintained by any other person(s) or entity not a party to this Contract.
5. **MULTI-LIST/COOPERATION:** The Seller acknowledges that the assistance of one or more Multiple Listing Service(s) (MLS), and the Broker's offer of cooperation and compensation to other participants has been fully explained and Broker is authorized to multiple list the Property in the appropriate MLS(s). The Seller authorizes Broker to distribute information about the Property in the MLS(s) and internet web sites that are appropriate for the most effective exposure for the Property to potential buyers and tenants. The MLS(s) and web sites are authorized to disseminate the information so provided to its participants according to its rules and regulations and Seller holds both the MLS(s), web sites and Broker harmless from any liability for errors and omissions in the listing information so disseminated and from claims arising from or pertaining to the dissemination of information about the Property.
6. **CANCELLATION:** This contract can be cancelled or revoked only by mutual consent of both Broker and Seller in writing.
7. **TITLE:** Seller represents and warrants that:

(Initials) Seller \_\_\_\_\_ / \_\_\_\_\_

- a. Seller is the exclusive holder of the interest to be conveyed pursuant to the terms of this Contract or that Seller is the duly authorized agent of the holder of such interest and is specifically empowered to enter into this Contract and to convey such interest; and
- b. Title to the Property is good and marketable and Seller will execute and deliver a warranty deed, land contract, lease or such other instruments of assignment or conveyance as shall be required by Seller's agreement with a buyer or tenant. Such deed shall have full covenants of warranty and conveyance thereunder and shall be free of all encumbrances and liens except restrictions, easements, reservations and covenants of record and (e.g. special assessments): \_\_\_\_\_ . Seller acknowledges receipt of Broker's Affiliated Business Arrangement Disclosure prior to his referral to Broker's affiliated businesses. Seller shall furnish such owner's title insurance policy without standard exceptions certified to the date of closing as is required by an agreement to sell the Property through the following title company: \_\_\_\_\_ .
8. **SHOWING/SIGNS:** Broker is hereby authorized to photograph the Property and publish such photographs, retain a key, and cause a sign to be erected on the Property and to remove all other "for sale" signs. Broker shall have access to the buildings on the Property for the purpose of showing the same at reasonable hours to prospective buyers and tenants.
9. **LOCK BOX:** Broker  is  is not authorized to attach a lock box to the Property to be used for the purposes of storing key(s) that provide access to the Property by authorized persons.
10. **MARKET:** Upon Seller's written acceptance of an offer to purchase or lease the Property, Broker shall discontinue its efforts to market the property and shall not present to Seller any other offers received after the time of Seller's acceptance.
11. **REFERRAL:** Seller shall refer to Broker all inquiries concerning the property during the period of this Contract.
12. **DESIGNATED AGENCY:** Broker and Seller hereby designate \_\_\_\_\_ as the Seller's Designated Agent(s) and \_\_\_\_\_ as Supervisory Broker(s). If a potential buyer or tenant is represented by another Designated Agent within the Real Estate One Family of Companies, the Designated Agent(s) named above will continue to represent you. Dan Elsea, President, Brokerage Services, and all named Supervisory Broker(s) shall be deemed disclosed consensual dual agents for that real estate transaction pursuant to MCL 339.2517(7) and Seller acknowledges that representation of a potential buyer or tenant by another Designated Agent within the Real Estate One Family of Companies does not create any other dual agency relationship.
13. **CITIZENSHIP:** Seller  is  is not a United States citizen.
14. **BINDING CONTRACT:** This Contract shall bind and inure to the benefit of the heirs, personal representatives, executors, administrators, successors and assigns of the parties.
15. **NON-DISCRIMINATION:** Broker and Seller acknowledge and agree that discrimination because of religion, race, color, national origin, age, sex, sexual orientation, disability, familial status, or marital status on the part of Broker, Designated Agent or Seller is prohibited.
16. **SELLER'S COMPLIANCE:** Seller shall comply with all applicable federal, state and local laws, rules and regulations and shall make timely, accurate and complete disclosure to Broker and any prospective buyer or tenant of all material information about the Property.
17. **HOME PROTECTION PLAN:** Seller  declines or  agrees to provide buyer Real Estate One Home Warranty Plan at the time of closing at a cost of \$ \_\_\_\_\_. Seller will receive limited warranty coverage during the listing period as a benefit. Limited seller coverage will become effective immediately upon processing and will expire upon termination of the listing.
18. **YEAR BUILT:** Seller represents and warrants that the Property  was  was not built before 1978.

(Initials) Seller \_\_\_\_\_ / \_\_\_\_\_

19. **REGULATORY NOTICE:** Seller acknowledges notice that Broker and its licensees may accept a fee or other consideration for the placement of an abstract, mortgage, loan, life, fire, theft, flood, title or other casualty or hazard insurance or home warranty arising from this transaction and expressly consents thereto as required by Board of Real Estate Brokers and Salespersons Rule 339.22321, 1997 AACRS R 339.22321.
20. **RELEASE:** Seller acknowledges and agrees that the sale of the Property encompasses many professional disciplines and, while Broker possesses considerable general knowledge, Broker and its licensees are not experts in the areas of law, tax, financing, insurance, surveying, structural conditions, hazardous materials, infestations, fungi, engineering, appraisal and other pertinent topics. Seller acknowledges that Broker advised him to seek professional advice from experts in these and other areas of professional expertise at Seller's expense and Seller relieves Broker and its licensees from any liability in such areas. In the event that Broker or its licensees provides Seller with names or sources for such advice and assistance, Seller acknowledges and agrees that Broker and its licensees do not warrant or guarantee the services or products.
21. **ADVICE OF COUNSEL:** Seller acknowledges Broker's recommendation that Seller retain an attorney to advise him regarding this Contract and the sale or lease of the Property.
22. **DEFENSE AND INDEMNIFICATION:** Seller shall defend, indemnify and hold Broker and its licensees harmless from and against all claims related to the Property except for liability for damages resulting from the sole or gross negligence of and intentional misconduct by Broker and its licensees.
23. **COSTS OF COLLECTION:** Seller agrees to pay or reimburse Broker for all costs and expenses incurred in enforcing the terms of this Contract, including actual attorneys' fees, together with all other expenses incurred by Broker due to Seller's default.
24. **ENTIRE AGREEMENT:** Seller and Broker agree that there are no agreements, representations, statements or understandings which have been relied upon by the parties which are not stated in this Contract. This Contract is the final and complete agreement of the parties with regard to subject matter of the Contract. All prior written and oral negotiations, representations, agreements, and warranties related to or pertaining to this Contract and the subject matter of this Contract are superseded by and merged into this Contract. Seller and Broker agree that this Contract may not be altered, amended, modified or otherwise changed, except by a duly executed written agreement between the parties.
25. **EFFECTIVE DATE:** The effective date of this Contract shall be the date as of which the Contract has been signed by Seller.
26. **ACKNOWLEDGEMENT:** Seller acknowledges that he has read and received a copy of this Contract.
27. **ADDITIONAL TERMS:**

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\_\_\_\_\_  
**Seller**

**Johnstone & Johnstone**

**Dated:** \_\_\_\_\_

**By** \_\_\_\_\_  
**Licensee**

\_\_\_\_\_  
**Seller**

**Dated:** \_\_\_\_\_

**Dated:** \_\_\_\_\_