

This Listing Termination and Non-Agency Agreement (the "Agreement") is made to be effective on _____ (the "**Effective Date**") by and between Mokha Real Estate, ("Broker"), and _____, ("Seller"). This Agreement is made with respect to the following facts and circumstances which the Parties affirm as true and accurate:

- A. Broker has previously entered into a Residential Listing Agreement, dated _____ ("Listing") with Seller, regarding the property commonly known as _____ (the "Property").
- B. Seller acknowledges and is aware that _____ ("Buyer"), is a licensed Real Estate Agent associated with Broker who desires to make, or has made, an offer to purchase the Property. Because of Buyer's relationship with Broker, it may be **perceived** that Broker will not adequately represent Seller's best interest in any transaction between **this** Buyer and Seller.
- C. Seller desires to proceed to enter into such a transaction with the full knowledge and understanding that Broker and said Buyer shall **neither represent Seller nor have any duty or obligation to protect Seller's best interests as provided herein.**

NOW, THEREFORE, in consideration of the foregoing, it is hereby agreed as follows:

1. **TERMINATION OF LISTING.** Broker and Seller, do hereby terminate the Listing as of the "Effective Date" and terminate all agency relationships, duties and responsibilities with and to each other, subject to the terms and conditions specified in this Agreement.

- a) Notwithstanding Broker's cancellation of the Listing, and in partial consideration therefor, Seller agrees to pay Broker compensation in an amount of \$_____ if: (i) the property is sold to Buyer; (ii) the property is, within 360 days following the "Effective Date", sold to any party other than Buyer, or an entity owned or represented by such a party, who has physically entered into or was shown the property by Broker or any cooperating Broker prior to the "Effective Date" (iii) the Property is sold to any party who has submitted to Seller a signed written offer to acquire or obtain the Property prior to the "Effective Date"; or (iv) Seller enters into a listing agreement for the sale or lease of the Property with any other real estate broker within 180 days from the "Effective Date".
- b) The compensation set forth herein shall be due and payable to Broker upon occurrence of any of the events listed in Section 1(a) above.
- c) In the event the transaction with **Buyer** for any reason fails to close, **Seller** shall relist the Property for sale with **Broker** for a period of _____ days on the same terms and conditions set forth in the **Listing Cancellation**.

2. **NO REPRESENTATION OF SELLER BY BROKER.** Seller hereby represents, warrants, acknowledges and agrees that:

- a) **Seller has executed and entered into this Agreement prior to entering into any contract or obligation with Buyer;**
- b) **Broker hereby elects to represent Buyer exclusively as of the "Effective Date"**. All acts of Broker, even those that assist Seller in entering into a transaction or performing or completing any of Seller's contractual or legal obligations to or with Buyer, **are for the benefit of Buyer exclusively;**
- c) Any information that Seller reveals to Broker may be conveyed to Buyer;
- d) As of the "Effective Date", **Broker does NOT represent Seller and Broker will NOT be Seller's agent even though Broker may receive compensation from Seller as set forth above;**
- e) **Seller is not now represented by a real estate licensee** and Seller has the right to enter into an agency relationship with any real estate licensee, other than Broker, at any time during any negotiation or transaction regarding the Property. In such event, any amounts owed to Broker herein, shall not be reduced or diminished. Seller shall separately compensate such other real estate licensee as may be agreed to between them and shall notify such real estate licensee of the compensation and obligations of this agreement. In the event Seller elects not to be represented by any real estate licensee, Seller is hereby advised to seek independent legal, tax, insurance, title and all other desired assistance and or counsel from appropriate professionals prior to proceeding with any transaction.

Seller hereby acknowledges receipt of a statutory "Disclosure Regarding Real Estate Agency Relationships" form which has provided Seller additional information on the duties of a real estate broker to a buyer and seller in a transaction. **By execution of this agreement, Seller confirms Broker's agency election to represent Buyer exclusively.**

3. **BUYER AS PRINCIPAL ONLY.** Seller hereby acknowledges that Buyer shall be acting as a principal only, shall not be performing any services for which a real estate license is required and **Broker does not and shall not, in any transaction, warrant, or in any way guarantee, the activities or performance of either Buyer or Seller.**

4. **RELEASE.** In consideration for this cancellation and sale, it is hereby agreed that with respect to any actions, duties, or obligations arising out of or in any way connected to any transaction between **Buyer** and **Seller**, that both Buyer and Seller do hereby, jointly and severally on behalf of themselves, their heirs, successors, assigns and personal representatives, release, remise, relinquish, waive and discharge any and all claims, suits, causes of action, legal proceedings, demands, actual damages, punitive damages, losses, costs, remedies, liabilities, interest, set offs, attorney's fees and expense of whatever kind and nature, in law or equity, known or unknown, that any of them has ever had, now has or hereafter can or may have, acquire or possess against Broker, or its shareholders, officers, directors, employees, agents or representatives. It is the parties intent to acquire and grant the broadest possible release of all claims of the undersigned against Broker, whether known or unknown. Therefore, the undersigned hereby expressly waive the provisions and benefits of section 1542 of the California Civil Code which provides as follows:

“A general release does not extend to claims which the creditor does not know or suspect to exist in his or her favor at the time of executing the release, which if known by him or her must have materially affected his or her settlement with the debtor.”

5. **ATTORNEY'S FEES:** Seller and Broker hereby agree that in any action, proceeding, or arbitration of any kind arising from any transaction between any of Broker, Buyer or Seller, including, but not limited to, those for misrepresentation, breach of agency, negligence, fraud, breach of contract, or the failure of any party to perform, the prevailing party, **including Broker**, shall be entitled to reasonable attorney's fees and costs as the court may allow. In the event of any arbitration, including but not limited to those in which Broker may participate, the arbitrator shall render all awards in accordance with substantive California law and shall not have the power to commit errors of law or legal reasoning. Any and all awards may be vacated as corrected on appeal to a court of competent jurisdiction for any such error. It is hereby agreed that any and all arbitration awards and decisions shall, to the maximum extent allowed by law, be subject to judicial review, interpretation, confirmation, amendment, or reversal by applicable California Courts.

Except as otherwise provided herein, Broker and Seller mutually release each other from all obligations under the Listing and from all claims, actions and demands that each may have against the other by reason of the Listing.

I acknowledge that I have read and understand all the terms and conditions of this Agreement, including Broker's election to represent Buyer exclusively, and have received a copy.

Seller _____

Real Estate Broker (Firm) _____