

## STANDARD LISTING AGREEMENT

This Agreement (herein so called) is entered into on this date between **Business Resource Group, LLC** (hereafter called "Broker" and \_\_\_\_\_ the owner(s) or authorized representative of the owner(s) and/or of the legal entity which owns the Business (herein so called) described below (hereafter called "Seller", whether one, more, or authorized representative).

In consideration of the mutual covenants contained in this Agreement and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereby agree as follows:

1. Seller hereby grants to Broker the EXCLUSIVE RIGHT TO SELL and authority to act as agent to arrange the sale of the Business or part thereof described as follows:

A. Name:

B. Location: \_\_\_\_\_

C. Form of Ownership (check one): ( ) Sole Proprietorship; ( ) Corporation; ( ) Partnership; ( ) Limited Partnership; ( ) Other (specify, e.g., Trust, etc.)

D. Owned by the Following:

E. Assets Included in Sale:

F. Liabilities to be Assumed:

G. Real Estate Included in Sale:

H. Sale Price: \$

(Subject to adjustment for variation in asset value at closing. Above Sale Price is based upon inventory, at cost, on hand of \$ \_\_\_\_\_ and other value(s), if any, of \_\_\_\_\_.)

Payable as Follows:

(1) Cash at Closing \$

(2) Assumption of Existing Indebtedness \$

(3) Seller Financing \$

(4) Other (specify) \_\_\_\_\_ \$

**SALE PRICE**

\$

2. Seller hereby grants the EXCLUSIVE RIGHT TO SELL to Broker for a primary period of ONE (1) year from the date of this Agreement. After the primary period, this Agreement shall continue until terminated by operation of law or upon TEN (10) days written notice to termination delivered by ONE (1) party to the other. If not otherwise terminated, this Agreement shall terminate on (Date).

3. If the Seller effects the sale of a Related Business during the existence of this Agreement or within TWO (2) years after the termination of this Agreement and such sale is made to any purchaser or prospective purchaser with whom Broker or any cooperating broker had any contact regarding the sale of the Business during the existence of this Agreement, Broker shall be entitled to a commission on the sale in accordance with Paragraph 10 hereof, (The term "Related Business" shall mean and include any property and/or business that is directly related to the Business described above, e.g., real estate or other property connected with the Business, etc., and that is owned in whole or part by the same persons or legal entities that own the Business. "Related Business" shall also mean and include other businesses and/or other locations if such other businesses and/or other locations are engaged in the same general business activities as the Business described above.)

4. In any sale hereunder, Broker is expressly authorized to represent and to receive compensation from any and all parties to the sale or exchange of the Business and the receipt or accrual of any such compensation to Broker from such parties, other than Seller, shall not diminish Seller's obligation under this Agreement. If Broker is engaged to represent or to receive compensation from any party to the sale of the Business, other than Seller, Broker will disclose such relationship to Seller, in writing, within a reasonable time after such relationship arises.

5. At all times during the existence of this Agreement, Seller shall cooperate with Broker in showing the Business, providing information to prospective purchasers and furnishing prospective purchasers reasonable information within Seller's knowledge or subject to Seller's control concerning all aspects of the Business. Seller shall refer to Broker all inquiries he may receive or be aware of, concerning the sale of the Business.

6. Seller represents and warrants that all information previously or hereafter furnished to Broker is true and correct and/or complete and accurate in all material respects. Seller understands and acknowledges that all information supplied to Broker as described above will be relied on by Broker when promoting the Business to prospective purchasers. Broker will make no independent investigation with respect to any and all claims, demands, causes of action or liability whatsoever, including costs, expenses and reasonable attorney's fees, arising out of a breach of the warranty to supply information as described above.

7. In the event Broker and/or its agents, employees, officers, directors, shareholders, co-brokers and affiliates procures a purchaser for the Business under the terms described above or any other terms acceptable to Seller, Seller agrees to thereupon execute a written letter of intent or an offer to purchase with the purchaser, which document shall contain the essential terms and conditions of the proposed sale.

Thereafter, Seller shall cause to be executed and delivered to the purchaser such documents as shall be necessary to vest in the purchaser good and marketable title to the Business.

8. In connection with the sale of the Business, the Seller, at the request of purchaser, shall execute a Covenant Not To Compete in a form reasonably acceptable to purchaser.

9. Upon the execution of this Agreement, Seller shall pay to Broker a non-refundable retainer in the amount of \$\_\_\_\_\_. If no commission is due to or earned by Broker, then Broker shall keep the retainer as compensation for services hereunder. However, in the event a commission is due or earned by Broker hereunder, neither the retainer, nor the retention thereof by Broker, will be considered liquidated damages, payment, waiver, estoppel, accord and satisfaction, release or other discharge of Seller's obligation to pay the commission otherwise due to or earned by Broker hereunder.

10. For services rendered by Broker under this Agreement, Seller shall pay to Broker a commission in cash of FIFTEEN PERCENT (15%) of the Sale Price as described in Paragraph 13, but in no event shall the commission payable to Broker be less than \$ (minimum commission).

11. The commission described in Paragraph 10 shall be earned by and payable to Broker, in cash, upon the occurrence of any of the following events:

A. The sale of the Business during the existence of this Agreement.

B. The sale of the Business at any time within two (2) years after the termination of this Agreement, if such sale is made to any purchaser or prospective purchaser with whom the Broker (or any cooperating broker), Seller, or any agent or employee of Seller had any contact regarding same during the existence of this Agreement.

C. Broker obtains an offer to purchase the Business upon terms and conditions specified in Paragraph 1 or upon other terms and conditions acceptable to Seller from a ready, willing and able prospective purchaser.

D. Seller accepts in writing an offer from a prospective purchaser and Seller then fails to complete the sale of the Business.

E. Seller violates the terms of this Agreement and/or breaches any material warranty or representation made herein, or withdraws the Business from the market and/or otherwise attempts to terminate this Agreement prior to its expiration date.

F. The sale of a Related Business as described in Paragraph 3.

12. The term "sale" is defined as any transfer, conveyance, merger, consolidation, exchange, creation of partnership, indenture or disposition of the Business, including, without limitation, the, sale, consignment, assignment, lease or hypothecation of the Business or a Related Business, its capital stock, assets, or any portion thereof (other than in the ordinary course of business), or the employment of a prospective purchaser introduced to Seller by Broker.

13. The term "Sale Price" shall mean any and all amounts of money or other consideration paid or conveyed to Seller, or for Seller's benefit, or paid or conveyed by a purchaser in connection with the sale of the assets or capital stock of the Business or a Related Business plus all liabilities and/or obligations assumed by purchaser. This shall include, without limitation, cash, stock, bonds, indentures, debentures, promissory notes, negotiable instruments, real or personal property, letters or lines of credit, loans, employment and consulting agreements, non-competition agreements, partnership agreements, rental agreements, lease agreements, options, payments pursuant to option agreements, capital investments, the assumption or discharge of liabilities, or any combination of the above or other such items of consideration or value. In addition, Sale Price shall specifically include any and all payments made or to be made by a purchaser that are contingent upon future events, such as license agreements, royalty agreements, payments based on future sales or profits and all other items of a contingent nature. Any portion of the Sale Price that is dependent upon such contingent payments shall be negotiated in good faith by the parties hereto and shall be based on reasonable expectations of payments to be received by the Seller.

14. Seller represents and warrants that Seller is duly authorized to represent all owners, direct or indirect, of the Business, and that such owners are bound by the terms and conditions of this Agreement. Further, Seller represents and warrants that Seller, the principals of Seller, or Seller's agents or representatives will not take any action which will impair the saleability or marketability of the property or Business that is the subject of this Agreement.

15. Seller represents and warrants that, except for Broker, Seller has not employed or agreed to compensate, and shall not employ or agree to compensate, any other broker, dealer, salesman or agent with regard to the subject sale for or during the term of this Agreement.

16. Seller hereby indemnifies and holds harmless Broker and its agents, employees, officers, directors, shareholders, co-brokers and affiliates against any and all losses, claims, damages, expenses or liabilities whatsoever, joint or several, which may arise out of or in connection with the performance of this Agreement, or the performance of Broker in connection with this Agreement. This indemnification and hold harmless agreement of Seller shall not apply to any intentionally wrongful acts of Broker or the gross negligence of Broker, its agents, employees, officers, directors, shareholders, co-brokers and affiliates. Further, the indemnity shall be cumulative and shall be in addition to any other liability which may be imposed upon Seller.

17. Seller agrees to notify Broker of the closing date, time and location at least three (3) days prior to such closing.

18. In no event shall Broker be required to participate in any evaluation of the Business, including, without limitation, any accounting, inventory, appraisal, audit, verification or other similar evaluation either for Seller or for a prospective purchaser, and Seller hereby expressly releases and discharges Broker from any responsibility or liability in connection with any such evaluation. Seller hereby accepts sole and final responsibility for the evaluation of the Business. Further, Seller hereby expressly releases and discharges Broker from any responsibility or liability in connection with the integrity, creditworthiness or actions of any prospective purchaser or purchaser of the Business.

19. The parties agree that any claim or action brought concerning this Agreement shall be brought in \_\_\_\_\_ County, \_\_\_\_\_ and agree to forebear from filing a claim in any other county or jurisdiction. The performance and construction of this Agreement

shall be governed by the laws of the State of \_\_\_\_\_. Any amount due which is not timely paid shall bear interest at the maximum rate permitted by law from the date due until paid.

20. This Agreement shall be binding upon all parties to this Agreement, their heirs, executors, successors, administrators, representatives or assigns.

21. If any term, provision or condition of this Agreement shall be held to be invalid, void or unenforceable, the remainder of the provisions hereof shall remain in full force and effect and this Agreement shall be construed as if such invalid, void or unenforceable provision has not been contained herein.

22. By signing below, the Seller represents and warrants that Seller has read and understands this Agreement. Further, if this Agreement is signed by more than one (1) person or representative, it shall constitute the joint and several obligation of each.

23 Seller acknowledges that Broker has not guaranteed the sale of the above Business. Broker will use best efforts to represent Seller as its exclusive agent with EXCLUSIVE RIGHT TO SELL the Business until this Agreement is terminated.

24. This Agreement sets forth the entire Agreement and understanding between the parties and cannot be modified, amended, supplemented or rescinded except in writing and executed by the parties hereto.

25. The parties hereby agree that a facsimile copy of this Agreement will be deemed an original for all purposes, and each hereby waives the necessity of providing the original copy of this Agreement to bind the other.

26. Seller hereby grants Broker an interest in the proceeds from the sale of Business to secure the payment of Broker's commission due under this Agreement. Seller authorizes and instructs any person or entity who may be handling the closing of the Business to pay and disburse out of the sale proceeds directly to Broker, an amount equal to the commission due under the terms of this Agreement. Such person or entity handling the closing of the sale of the Business is entitled to rely on the written instructions and directions of the Broker for the payment of the commission due hereunder as long as the person or entity handling the closing is given a copy of this Agreement. Seller and Broker jointly and severally covenant and agree to indemnify and hold harmless the person or entity handling the closing of and from any claim arising from or relating to the authorization contained in this paragraph.

27. If Real Estate is included in Paragraph 1 of this Agreement or is a part of any offer or sale included in Paragraph 11 of this Agreement, the term "Broker" herein also means the following Real Estate Agency:

Real Estate Showcase  
347 West Milltown Road  
Suite D  
Wooster, OH 44691  
L. Don Prince, Agent

28. Any controversy between the parties to this Agreement involving the construction or application of any of the terms, covenants or conditions of this Agreement, shall on written request of one (1) party served on the other, be submitted to binding arbitration. Such arbitration shall be under the provisions of Sections 2711.01 through 2711.16 of the Ohio Revised Code. Arbitration shall be before a three-person panel with each party naming one arbitrator and the two designated arbitrators mutually naming a third member. The arbitrators shall have no authority to change any provisions of this agreement; the arbitrator's sole authority shall be to interpret or apply the provisions of this Agreement. The expenses of arbitration conducted pursuant to this paragraph shall be born by the parties in such proportion as the Arbitrators shall decide. Arbitration shall be held in Wooster, Wayne County, Ohio, unless the parties agree in writing to another location.

29. Special conditions:

DATED this \_\_\_\_\_ day of \_\_\_\_\_, 2009

Broker:  
By: \_\_\_\_\_

Seller:  
BY: \_\_\_\_\_  
Owner (if sole proprietorship) or Name of owning entity

ACCEPTED BY:

BY: \_\_\_\_\_  
Owner or Duly Authorized Representative

\_\_\_\_\_  
Broker Title

\_\_\_\_\_  
Individually

\_\_\_\_\_  
Individually