

## REAL ESTATE MARKETING AGREEMENT

This agreement is made this the \_\_\_\_\_ day of \_\_\_\_\_, 2002 between The Ferguson Realty Company, Inc. ("Company") and \_\_\_\_\_ ("Seller"). In consideration of \$ 1.00 and other good and valuable consideration, the receipt and legal sufficiency of which is acknowledged, the parties agree as follows:

1. **Property.** Seller is the owner of real property ("Property") located at:

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2. **Service.** Company shall include a description of the Seller Property on the "Internet" services of The Ferguson Company under the following terms:

- a. **Seller's Information.** The information to be included in this description shall be taken by Company from the information provided by Seller on Exhibit A.
- b. **Accuracy.** Seller warrants to Company that the information on Exhibit A is accurate and complete.
- c. **Brief.** The Company shall determine in its sole discretion the text of the material to be provided on the "Internet Marketing" service. This information is called the "Brief."
- d. **Commencement.** The Brief shall be included in the "Internet Marketing" service beginning on \_\_\_\_\_.
- e. **Responses.** All responses to the Brief from prospective purchasers shall be transmitted to Company; and Company shall inform Seller of these responses within 48 hours after Company receives the response.
- f. **Termination.** Either party may terminate this agreement upon giving the other notice in writing.

(1) **By Seller.** If Seller desires to terminate this agreement, Company shall remove the brief within 36 hours after receiving that request. However, Company shall not refund to Seller any fees previously paid and shall not relieve Seller of any duty to pay fees owed under this agreement.

(2) **By Company,** If Company desires to terminate this agreement, Company shall remove the brief at its earliest opportunity after sending notice to the Seller.

3. **Fees.** Seller shall pay Real Estate Masters, Inc. a non-refundable fee in the amount of \$ 1.00 upon execution of this agreement

4. **Damages.** Company (including any of Company's representatives, including without limitation its broker and affiliate brokers and Real Estate Masters, Inc.) is not responsible for damages or losses to Seller or to any other parties for any reason whatsoever, other than Company's duty to refund fees to Seller under certain circumstances outlined below. The right to damages is waived by Seller and includes (without limitation) rights that might otherwise have arisen under the following situations:

- a. **Inaccuracy.** Seller shall review the Brief and inform Company of any inaccuracy. Company shall correct all inaccuracies. Company shall not be liable for any loss or damage to Seller or to any third party as a result of providing inaccurate information unless Company fails to correct the inaccurate information within a reasonable time after Seller notifies Company of the inaccuracy.
- b. **Failure to Provide Service.** If Company fails to provide the Brief, the monthly fee paid by Seller shall be reduced by the period of time in which the Brief did not appear during the month for which the fee was paid (calculated according to a division of the monthly fee by 30 to arrive at a per diem rate). However, Company shall not be liable for any other loss or damage to Seller or to any third party as a result of failing to provide service under this agreement.

5. **Indemnification.** If Company or any of Company's representatives (including without limitation its broker and affiliate brokers and Real Estate Masters, Inc.) suffer any monetary loss as a result of an inaccuracy in a Brief provided by Seller (such as, for example, if a buyer were misled about the condition of the Property and argues that Company is liable), Seller shall indemnify Company and its representatives and hold them harmless against such losses, including without limitation court costs and reasonable attorney fees incurred in defending the claims.
6. **Trademarks.** Seller has no rights to the trademarks "OurMove or Knoxville-TN" and shall not use these terms in marketing the Property or otherwise.
7. **Agency.**
- a. Real Estate Masters, Inc. is not acting as a real estate agent for the Seller in the sale of the Property.
  - b. Company and its agents may act as facilitators for the sale of the Property, and shall be compensated for that service under the terms of paragraph 8. However, this service shall not create an agency or other fiduciary relationship between the parties.
8. **Commission.** If Seller enters into a contract to sell the Property to a buyer who is presented to Seller by an agent of Company, seller shall pay to Company a commission in the amount of \_\_\_\_\_ % of the purchase price. The duty to pay this commission shall continue for a period of one year—regardless of whether this agreement has terminated before the expiration of one year—from date the buyer is first presented to the Seller, as to any buyers presented to Seller while this agreement is in effect. A buyer shall be considered to have been "presented to" Seller by Company if the buyer obtained any information about the property from Company or its agents or otherwise discussed the Property with an agent of Company. Company shall notify Seller of any inquiry that Company receives about Seller's property from any prospective buyer.
9. **Purchase Price.** Seller agrees to offer the Property for sale at a price of \$ \_\_\_\_\_. Seller shall not offer to sell the Property for a lower price to a buyer or prospective buyer who approaches Seller without the assistance of a real estate agent solely because that transaction would not result in payment of a commission.
10. **Miscellaneous.** Time is of the essence in this agreement. Any paragraph titles or captions in this agreement are for convenience only and are not part of the agreement itself. This agreement contains the entire understanding among the parties, and there are no prior or contemporaneous written or oral agreements pertaining to the subject matter. This agreement will be governed by and construed under the laws of the state of Tennessee. The singular includes the plural in references to the Seller, if appropriate. If any provision of this agreement is held invalid, the other provisions are unaffected and remain valid as if the invalid portions were not a part of the agreement.

This agreement is binding on and benefits the parties and their heirs, successors, and assigns. This agreement may be amended only by a written amendment signed by all parties.

As evidence of their agreement, the parties have executed this document on the date recited above.

The Ferguson Company, Inc. by: \_\_\_\_\_

Seller: \_\_\_\_\_

Seller: \_\_\_\_\_