

EXCLUSIVE RIGHT TO REPRESENT – BUYER/LESSEE

Added paragraph 2.6 to read as follows: “Buyer/Lessee understands that Agent may also represent lessors/sellers and other buyer/lessees with regard to competing properties of interest to this Buyer/Lessee.”



EXCLUSIVE RIGHT TO REPRESENT BUYER/LESSEE FOR PURCHASE OR LEASE OF REAL PROPERTY

(Non-Residential/Allows for Dual Agency)

1. BASIC PROVISIONS ("BASIC PROVISIONS").

1.1 **Parties:** This agency Agreement ("**Agreement**"), dated for reference purposes only as of ____, is made by and between ____ ("**Buyer/Lessee**"), whose address is ____, telephone number ____, Fax No. ____, and ____ ("**Agent**"), whose address is ____, telephone number ____, Fax No. ____.

1.2 **Requirements:** Buyer/Lessee intends to purchase or lease, preferably purchase lease, a property having the following characteristics: ____

General location: ____

Approximate building size: ____

Approximate land size: ____

Other: ____ ("**Requirements**").

1.3 **Term of Agreement:** The term of this Agreement commences on ____, and, unless extended, expires at 5:00 p.m. on ____ ("**Term**"). (See Paragraph 3)

1.4 **Transaction:** Agent shall use reasonably diligent efforts to find a property which meets the Requirements for Buyer/Lessee to purchase or lease (a "**Transaction**"). However, Buyer/Lessee is under no obligation to consummate any such Transaction.

2. EXCLUSIVE EMPLOYMENT AND RIGHTS.

2.1 Buyer/Lessee hereby employs Agent as Buyer/Lessee's sole and exclusive agent to represent Buyer/Lessee in the Transaction and to find a property meeting the Requirements. Agent shall use reasonably diligent efforts to find and submit properties for Buyer/Lessee's consideration. All negotiations and discussions for a Transaction shall be conducted by Agent on behalf of Buyer/Lessee. Buyer/Lessee shall promptly disclose and refer to Agent all written or oral inquiries or contacts it receives from any source regarding a possible Transaction.

2.2 Buyer/Lessee authorizes Agent to:

- (a) Solicit information on listed and unlisted properties ("Property" or "Properties") on Buyer/Lessee's behalf;
- (b) Submit and obtain responses to requests for proposals from third parties;
- (c) At Buyer/Lessee's direction, submit offers and deposits on Buyer/Lessee's behalf; and
- (d) Transmit information concerning Buyer/Lessee's Requirements to other brokers, owners of potentially

suitable property, governmental agencies, municipalities, and to participants in THE MULTIPLE of AIR CRE ("**MULTIPLE**" and "**AIR**") and/or any other appropriate local commercial multiple listing service. Buyer/Lessee shall identify to Agent as "confidential" any communications or information provided to Agent that Buyer/Lessee considers confidential and desires not to be disclosed by Agent. All other communication and information provided by Buyer/Lessee may be disclosed by Agent as Agent may deem appropriate or necessary. In the event Agent acts as a dual Agent, the terms of Paragraph 2.5 shall be applicable.

- (e) Agent is not, however, authorized to, in any way, bind Buyer/Lessee to buy or lease a particular property.

2.3 Agent shall comply with the Rules of Professional Conduct of the AIR, if a member or if not, the Rules of Professional Conduct of the Society of Industrial and Office Realtors.

2.4 Agent shall cooperate with participants in the MULTIPLE and may, at Agent's election, cooperate with other Real Estate Brokers (the "**Cooperating Brokers**"). If a Cooperating Broker represents the owner of a property, then Agent shall act as agent for Buyer/Lessee only, the Cooperating Broker shall act as Agent for the property owner only, and the Cooperating Broker shall not be Buyer/Lessee's agent. A Cooperating Broker shall not be an agent of Buyer/Lessee or a subagent of Agent.

2.5 IF AGENT ALREADY HAS, OR SUBSEQUENTLY OBTAINS, WRITTEN CONSENT TO DUAL AGENCY FROM THE OWNER OF A PROPERTY WHICH BECOMES THE SUBJECT OF A TRANSACTION, AGENT SHALL NOTIFY BUYER/LESSEE IN WRITING

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OF SUCH DUAL AGENCY AND OF SUCH OWNER'S CONSENT. BUYER/LESSEE AGREES TO CONSENT IN WRITING TO SUCH DUAL AGENCY AT THE TIME OF SUCH NOTIFICATION. IN SUCH A DUAL AGENCY SITUATION, THE AGENT HAS THE FOLLOWING AFFIRMATIVE OBLIGATIONS TO BOTH THE OWNER AND BUYER/LESSEE: A) A FIDUCIARY DUTY OF UTMOST CARE, INTEGRITY, HONESTY AND LOYALTY IN THE DEALINGS WITH BOTH OWNER AND BUYER/LESSEE, AND B) OTHER DUTIES INCLUDING:

(1) DILIGENT EXERCISE OF REASONABLE SKILL AND CARE IN PERFORMANCE OF THE AGENT'S DUTIES;

(2) A DUTY OF HONEST AND FAIR DEALING AND GOOD FAITH;

(3) A DUTY TO DISCLOSE ALL FACTS KNOWN TO THE AGENT MATERIALLY AFFECTING THE VALUE OR DESIRABILITY OF THE PROPERTY THAT ARE NOT KNOWN TO, OR WITHIN THE DILIGENT ATTENTION AND OBSERVATION OF, THE PARTIES.

AN AGENT IS NOT OBLIGATED TO REVEAL TO EITHER PARTY ANY CONFIDENTIAL INFORMATION OBTAINED FROM THE OTHER PARTY WHICH DOES NOT INVOLVE THE AFFIRMATIVE DUTIES SET FORTH ABOVE. AS SUCH, THE AGENT MAY NOT, WITHOUT THE EXPRESS PERMISSION OF THE RESPECTIVE PARTY, REVEAL THAT OWNER WILL ACCEPT A PRICE/RENTAL RATE THAT IS LESS THAN ADVERTISED OR THAT BUYER/LESSEE WILL PAY A GREATER PRICE/RENTAL RATE THAN THE PRICE/RENTAL RATE THAT IS OFFERED. THE ABOVE DUTIES OF THE AGENT IN A DUAL AGENCY SITUATION DO NOT RELIEVE THE PARTIES FROM THE RESPONSIBILITY TO PROTECT THEIR OWN INTERESTS. BUYER/LESSEE AND OWNER SHOULD CAREFULLY READ ALL AGREEMENTS TO ASSURE THAT THEY ADEQUATELY EXPRESS THEIR UNDERSTANDING OF THE TRANSACTION. BUYER/LESSEE IS ADVISED TO CONSULT COMPETENT PROFESSIONALS IF LEGAL, FINANCIAL OR TAX ADVICE IS DESIRED.

I HAVE READ AND UNDERSTAND THE PRECEDING PARAGRAPH AND AGREE TO CONSENT TO SUCH DUAL AGENCY AS DESCRIBED IN THIS PARAGRAPH 2.5.

Buyer/Lessee's Initials

2.6 Buyer/Lessee understands that Agent may also represent lessors/sellers and other buyer/lessees with regard to competing properties of interest to this Buyer/Lessee.

3. EXTENSION OF TERM.

3.1 If the Transaction includes the purchase of a property, and it is not consummated for any reason after Buyer/Lessee's offer to purchase the Property ("**Sale Agreement**") is accepted, then the expiration date of the Term of this Agreement shall be extended by the number of days between the date Buyer/Lessee executed the Sale Agreement and the date the Sale Agreement is terminated or the date that title to the Property is transferred to Buyer; provided, however, unless otherwise agreed to in writing, the Term shall not be extended beyond one year from the date the Term would have otherwise expired.

3.2 If the Transaction is a lease, and it is not consummated for any reason after Buyer/Lessee's offer to lease the Property is accepted ("**Accepted Offer to Lease**"), then the expiration date of the Term of this Agreement shall be extended by the number of days between the date Buyer/Lessee executed the Lease and the date on which the Accepted Offer to Lease is terminated or the date Owner is able to give Lessee occupancy of the Property, whichever generates the longer extension; provided, however, unless otherwise agreed to in writing, the Term shall not be extended beyond one year from the date the Term would have otherwise expired.

4. COMPENSATION.

4.1 Agent shall be entitled to be paid a commission in the amount of ___ in accordance with the commission schedule attached hereto ("**Agreed Commission**") if a Transaction is consummated by Buyer/Lessee or by anyone having an ownership interest in Buyer/Lessee, eg. a shareholder. Said Agreed Commission is payable without regard to whether the Transaction is consummated as a result of the efforts of the Agent, owner, lessor, Buyer/Lessee, or any other person or entity. Agent shall endeavor to have the owner/lessor of the property which is the subject of the Transaction ("**Owner**") pay the commission owed to Agent for the Transaction. Agent may elect, at Agent's sole discretion, to accept Owner's standard commission schedule in lieu of the Agreed Commission. Buyer/Lessee hereby agrees to use its best efforts to support and assist Agent in collecting such brokerage commission from Owner.

4.2 In the event Owner or Owner's agent insists on a commission amount or commission terms less than or

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