

LESSEE-BROKER EXCLUSIVE REPRESENTATION AGREEMENT

1. BASIC PROVISIONS.

1.1 Date for reference purposes only: _____.

1.2 Lessee: _____ ("Lessee"), whose address is _____,
telephone number _____, email address _____.

1.3 Broker: _____ ("Broker"), whose address is _____,
telephone number _____, email address _____.

1.4 **Property Characteristics** (*complete as many as appropriate*): specific real property located at (*complete address, parcel number, etc.*) _____ and/or real property with the following characteristics:

Type: ☐ industrial, ☐ office, ☐ retail, ☐ vacant land, ☐ hospitality, ☐ residential mobile home, or ☐ _____.

Building type: ☐ single tenant building, ☐ multi-tenant building, ☐ multi-family residential (5+ units), ☐
multi-family residential (2-4 units), ☐ single family residential (including condominiums and manufactured homes), or
☐ _____.

General location: _____.

Approximate building size: _____.

Approximate land size: _____.

Base Rent range: _____.

Operating Expenses: ☐ Net, ☐ Gross, ☐ Base Year, or ☐ _____.

Lease start date: _____.

Length of Lease Term: ____ years; ____ option(s) to extend term of lease, each option for ____ years.

Use: _____.

Other: _____ (the foregoing, "**Property Characteristics**").

1.5 **Excluded Property** (*identify any property which Lessee desires to exclude, and any property which if leased by Lessee would entitle anyone else to compensation from Lessee as Lessee's broker, salesperson or representative*)

("Excluded Property"): _____.

Notice: If Lessee is bound by a valid representation agreement with any other broker and Lessee leases a Property, then Lessee may owe Compensation to Broker under this Agreement and compensation to such other broker under the other representation agreement, even if such other broker is not involved.

1.6 **Term**: Commences on _____ and expires at 5:00 p.m. on ____ (as extended, "**Term**").

1.7 **Protection Period**: Three (3) months or (*applicable only if completed*) ____ days after end of Term (as extended, "**Protection Period**").

1.8 **Compensation**: (*complete as appropriate*) ☐ percent (____ %) of the total rent and other consideration payable under a Lease (as herein defined); ☐ in accordance with the attached compensation schedule ("**Compensation Schedule**"); or ☐ ____ ("**Compensation**"). **Notice: The amount or rate of real estate commissions is not fixed by law. They are set by each broker individually and may be negotiable between Lessee and Broker.**

1.9 **Lessor to Pay**: (*Applicable only if checked*) ☐ Broker and Lessee intend owner or sublessor of a Property ("**Lessor**") to pay 100% or (*applicable only if completed*) ____ % of the Broker's Compensation due under Paragraphs 3.1(a) or 4.2(a) below ("**Lessor's Share**"). If the percentage of Lessor's Share is less than 100%, then Lessee shall pay the balance of Broker's Compensation.

1.10 **Agency Disclosure**: Lessee acknowledges receipt of Disclosure Regarding Real Estate Agency Relationship.

2. EXCLUSIVE REPRESENTATION.

2.1 By this Lessee-Broker Exclusive Representation Agreement ("**Agreement**"), Lessee hereby employs Broker as Lessee's exclusive agent to represent Lessee to locate, assist in negotiation of terms for and facilitate Lessee's lease or sublease of real property (other than Excluded Property) which satisfies the material Property Characteristics (or different characteristics hereafter expressed or accepted by Lessee) ("**Property**"). Any Offer (as herein defined) for Lessee to Lease a Property and all negotiations for Lessee's Lease of a Property shall be conducted by Broker on behalf of Lessee. Lessee shall promptly disclose and refer to Broker all written or oral inquiries or contacts Lessee receives from any source regarding a Property.

2.2 Broker shall use reasonably diligent efforts to locate a Property for Lessee's consideration. Lessee acknowledges that Broker is not assuring Lessee that Broker will in fact be able to locate a Property which satisfies

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material Property Characteristics, that will be acceptable to Lessee or that Lessee will be able to Lease. Lessee acknowledges that Broker may represent Lessor, other lessees, lessors, or others regarding a Property or competing properties of interest to Lessee or competitors to Lessee. Lessee agrees to timely and in good faith review, consider and respond to Broker regarding a Property submitted for Lessee's consideration.

2.3 Lessee shall, promptly after Broker's request (but not later than five (5) days), provide to Broker information, documents and materials reasonably necessary for qualifying Lessee to Lease a Property, including, but not limited to, documents reasonably substantiating Lessee's financial condition and proof of funds to pay Broker's Compensation, and if Lessee fails to do so, then Broker shall have the right to terminate this Agreement upon five (5) days' written notice.

2.4 Lessee authorizes Broker on Lessee's behalf to solicit information on listed and unlisted properties, submit and obtain responses to requests for proposals from third parties, transmit information concerning Lessee and any desired Property to brokers, owners, governmental agencies and at Lessee's direction, submit offers and deposits. If Lessee fails to, at the time of providing any communications or information to Broker, in writing advise Broker that such communications or information are confidential, then Broker may disclose the same as Broker may deem necessary or appropriate.

3. COMPENSATION.

3.1 Lessee shall pay Broker's Compensation upon earliest of the following events: (a) subject to Paragraph 1.9, whether as a result of the efforts of Broker, Lessee or anyone else, and even if another broker is entitled to compensation for representing Lessee in connection therewith, during the Term of this Agreement Lessee or Lessee's Affiliates (as herein defined) enter into an agreement for Lease of a Property ("**Lease Contract**") and thereafter (even after end of the Term of this Agreement) such Lease is consummated; (b) during the Term of this Agreement Lessee or Lessee's Affiliates enter into a Lease Contract but such Lease is not consummated due to breach of such Lease Contract by Lessee (or Lessee's Affiliate); or (c) Lessee breaches, terminates, cancels, rescinds or repudiates this Agreement.

3.2 Lessee shall have no right, without Broker's written consent, to change the time of, amount of, or the conditions to payment of the Compensation. If Broker also represents Lessor, then the amount Lessor pays Broker for representing such Lessor shall not be credited towards Broker's Compensation due for representing Lessee under this Agreement.

3.3 This Paragraph applies only if Paragraph 1.9 is checked. Lessee shall support and assist Broker to secure Lessor's written agreement to pay Lessor's Share. Lessee shall include in any Offers and Lease Contracts a provision for Lessor to pay Lessor's Share. If, during the Term of this Agreement, as a result of the efforts of Broker, Lessee or anyone else, Lessee or Lessee's Affiliates make an Offer to Lease a Property but Lessor does not agree to pay Lessor's Share in full, then Broker may thereafter, in Broker's sole discretion, elect to (a) accept the Lessor offered amount in lieu of Lessor's Share; or (b) refuse to accept the Lessor offered amount in which event Lessee shall either (i) in writing agree to pay Broker the difference between the Lessor offered amount and Lessor's Share, or (ii) until one (1) year after end of the Term of this Agreement, refuse further consideration of such Property, during which time neither Lessee nor any of Lessee's Affiliates shall directly or indirectly Lease or negotiate to Lease such Property.

3.4 When Compensation is due under Paragraphs 3.1(a) or 4.2(a) below, then the Compensation shall be paid to Broker in accordance with the Compensation Schedule, or if a Compensation Schedule is not a part of this Agreement, then upon the later of the execution of the Lease by Lessor and Lessee or satisfaction of the conditions, if any, to the start of the term of such Lease.

3.5 "**Offer**" shall mean a written, signed offer, letter of intent, letter of interest, proposal, memorandum of terms, term sheet or a counter to any of the foregoing. "**Lease**" shall mean lease or sublease (in either case, as the term thereof may be extended), assignment of lease or sublease, license, acquisition of any right, option, right of first refusal or right of first offer to use or occupy, acquisition of any interest in Lessor, or forming a corporation, limited liability company or partnership ("**Entity**") or joint venture with Lessor. "**Affiliate**" of Lessee shall mean any Person (as herein defined) who is a successor or assign of Lessee, is related to, affiliated with or controlled by Lessee, acquires any right, title or interest in the Property for, on behalf of or at the request or direction of Lessee, or in which Lessee has any right, title or interest. "**Person**" shall mean individual, Entity or any other legal entity.

4. INTRODUCED PROPERTY.

4.1 Broker has the right to Compensation under Paragraphs 4.2 and 4.3 only if Broker, within five (5) days after the end of the Term of this Agreement, in writing provides Lessee a list of Properties for which during the Term hereof Broker submitted to Lessor (or Lessor's agent) an Offer to Lease by Lessee or Lessee's Affiliates ("**Introduced Property**").

4.2 If, during the Protection Period, Lessee or Lessee's Affiliates enter into a Lease Contract for an Introduced Property, then Lessee shall, subject to Paragraph 1.9, pay Broker the Compensation; provided, however, if the term of such Lease does not start due to breach of the Lease Contract by Lessee (or Lessee's Affiliate), then Lessee shall pay Broker the Compensation.

4.3 If Lessee enters into an exclusive or non-exclusive listing, representation or agency agreement ("**New Listing**") with any other real estate broker ("**New Broker**") for Lease of an Introduced Property for which Compensation would be payable to Broker under this Agreement, then Lessee shall provide the New Broker with a list of the Introduced Properties and provide in the New Listing that the New Broker shall not be entitled to any of the Compensation payable to Broker under this Agreement for Lessee's Lease of an Introduced Property.

5. LESSEE'S REPRESENTATIONS. Lessee represents and warrants to Broker that:

5.1 Each person executing this Agreement on behalf of Lessee has the full right, power and authority to execute

this Agreement as or on behalf of Lessee; Lessee has the full right, power and authority to Lease a Property as provided herein, and to perform Lessee's obligations hereunder.

5.2 If Lessee is an Entity, then such Entity is duly organized, validly existing, and in good standing, is qualified to conduct business in the state where the Property is located and has the requisite power and authority to enter into this Agreement, to perform all of its obligations hereunder, and to consummate the transactions contemplated hereby.

5.3 The execution, delivery and performance of this Agreement by Lessee and all agreements, instruments, and documents to be executed by Lessee do not violate the organizational documents of Lessee, or any contract, agreement, commitment, order, judgment, or decree to which Lessee is a party, and have been duly authorized by all appropriate and necessary corporate action on the part of Lessee.

5.4 There are no pending, and to the best of Lessee's knowledge, threatened actions, suits, arbitrations, claims or proceedings in which Lessee is or will be a party arising from Lessee's failure to pay any commission, fee or compensation due to a real estate broker or salesperson.

5.5 There are no effective, valid or enforceable exclusive or non-exclusive representation or listing agreements to which Lessee is a party with any other broker, salesperson, finder or others for any Property (other than an Excluded Property), and there are no other restrictions, impediments or limitations on Lessee's right, ability and capacity to Lease a Property or for Broker to be paid the Compensation as provided in this Agreement.

5.6 Lessee is not the subject of a pending or threatened bankruptcy, insolvency, probate or conservatorship proceeding.

6. LESSEE'S ACKNOWLEDGEMENTS.

6.1 Except to the extent arising from Broker's gross negligence or willful misconduct, or Broker's failure to disclose or perform its obligations under applicable law, Broker shall not be liable to Lessee for any (a) claims for personal injury, property damage, or loss in value of a Property arising from or related to the physical condition of a Property, including, without limitation, any soils, structural, or design problems; (b) claims or action arising from or due to any inaccuracy in information known or unknown by Lessor, or furnished or unfurnished by Lessor; (c) agreement entered into by Lessee with respect to a Property; (d) dispute or action concerning or arising from Lessee's decision to consummate or not consummate the Lease of a Property; (e) claims, disputes or actions or services including, but not limited to, the inspection, financing or Lease of a Property; and (f) any responsibility for the completion of repairs to a Property, including, but not limited to, structural pest control work.

6.2 Lessee acknowledges that Lessee has been advised by Broker to consult and retain experts to advise and represent Lessee concerning the legal, financial and tax effects of this Agreement and/or leasing a Property, as well as the condition of a Property and/or the legality of a Property's uses and Lessee's intended uses of the Property, including, but not limited to, a Property's improvements, equipment, soil, tenancies, title and environmental aspects. Broker shall have no obligation to investigate any such matters unless expressly otherwise agreed to in writing by Lessee and Broker. Lessee further acknowledges that in determining the desirability of any prospective Property, Lessee will rely solely upon Lessee's own investigation, notwithstanding Broker's assistance in gathering any information.

7. MISCELLANEOUS.

7.1 This Agreement shall not be construed for or against Lessee or Broker, but shall be interpreted, construed and enforced in accordance with the mutual intent of the parties ascertainable from the language of this Agreement. Signatures to this Agreement accomplished by means of electronic signature or similar technology shall be legal and binding. This Agreement may be executed in counterparts.

7.2 All payments by Lessee to Broker shall be made in lawful United States currency. If Broker is not paid any amount when due under this Agreement, then such amount shall bear interest at the rate of 15% per annum or the maximum rate allowed by law, whichever is less.

7.3 In the event of litigation or arbitration between Lessee and Broker arising under or relating to this Agreement or a Property, the prevailing party shall be paid its attorneys' fees and costs by the losing party. The term, "**Prevailing Party**" shall include, without limitation, one who substantially obtains or defeats the relief sought, as the case may be, whether by compromise, settlement, judgment, or the abandonment by the other party of its claim or defense. The attorneys' fees awarded shall not be computed in accordance with any court fee schedule, but shall be in an amount to fully reimburse all reasonably incurred attorneys' fees.

7.4 Except as may be caused by Broker's grossly negligent acts or omissions, Broker shall not be liable for any loss, damage, or injury to the person or property of Lessee or Lessee's employees or business partners during Broker's transportation of such individuals to any property or to any meeting or while Broker is showing any property or site whatsoever.

7.5 Lessee agrees that no lawsuit or other legal proceeding involving any breach of duty, error or omission relating to the services to be performed by Broker pursuant to this Agreement may be brought against Broker more than one year after end of the Term of this Agreement and that the liability (including court costs and attorney's fees) of Broker with respect to any such lawsuit and/or legal proceeding shall not exceed any fee received by Broker pursuant to this Agreement; provided, however, that the foregoing limitation on liability shall not be applicable to any gross negligence or willful misconduct of Broker.

7.6 This Agreement shall be governed and construed in accordance with the laws of the state in which the Broker is licensed as a broker or salesperson. Venue for any legal action between the parties under this Agreement shall be the

county in which the Property is located.

7.7 Each party shall execute and deliver such additional documents, instruments, conveyances, and assurances and take such further actions as may be reasonably required to carry out the provisions of this Agreement and give effect to the transactions contemplated hereby.

7.8 This Agreement cannot under any circumstance be modified or amended orally and no agreement shall be effective to waive, change, modify, terminate, or discharge this Agreement, in whole or in part, unless such agreement is in writing and is signed by the parties.

7.9 No waiver by any party of any of the provisions hereof shall be effective unless explicitly set forth in writing and signed by the party providing the waiver. No waiver by either party of any failure or refusal to comply with any obligations under this Agreement shall be deemed a waiver of any other or subsequent failure or refusal to so comply.

7.10 If any term or provision of this Agreement is invalid, illegal, or unenforceable in any jurisdiction, such invalidity, illegality, or unenforceability shall not affect, invalidate, or render unenforceable any other term or provision of this Agreement. Upon such determination that any term or other provision is invalid, illegal, or unenforceable, the parties hereto shall negotiate in good faith to modify this Agreement so as to effect the original intent of the parties as closely as possible in a mutually acceptable manner in order that the transactions contemplated by this Agreement be consummated as originally contemplated to the greatest extent possible.

7.11 Capitalized or defined terms used in this Agreement shall have the meanings as defined throughout the Agreement. Unless the context indicates otherwise, the singular will include the plural and the plural will include the singular. If text is completed in any of the optional spaces, then such text shall apply and override the pre-printed text, even if the pre-printed text is not stricken.

7.12 All prior discussions, negotiations and agreements between the parties concerning the subject matter of this Agreement are superseded by this Agreement, which constitutes the entire contract and a complete and exclusive expression of their agreement and may not be contradicted by evidence of any prior agreement or contemporaneous oral agreement.

7.13 All notices required or permitted by this Agreement or applicable law shall be in writing and may be delivered in person (by hand or by courier) or may be sent by regular, certified or registered mail or U.S. Postal Service Express Mail, with postage prepaid, or by facsimile transmission, or by email, and shall be deemed sufficiently given if served in a manner specified in this Paragraph. The addresses noted in this Agreement shall be that party's address for delivery or mailing of notices. Either party may by written notice to the other specify a different address for notice. Any notice sent by registered or certified mail, return receipt requested, shall be deemed given on the date of delivery shown on the receipt card, or if no delivery date is shown, the postmark thereon. If sent by regular mail the notice shall be deemed given 72 hours after the same is addressed as required herein and mailed with postage prepaid. Notices delivered by United States Express Mail or overnight courier that guarantees next day delivery shall be deemed given 24 hours after delivery of the same to the Postal Service or courier. Notices delivered by hand, or transmitted by facsimile transmission or by email shall be deemed delivered upon actual receipt. If notice is received on a Saturday, Sunday or legal holiday, it shall be deemed received on the next business day.

7.14 If a salesperson or broker-associate enters into this Agreement on Broker's behalf, then Broker shall have the right to terminate this Agreement within the first five (5) days' of the Term of this Agreement upon written notice thereof to Lessee.

8. **Additional Provisions.** Additional provisions of this Agreement may be set forth on the following lines or in an addendum attached hereto (if there are no additional provisions, write "NONE", if an addendum is attached, check this box ☐): _____

LESSEE

Date: _____

By: _____

Name Printed: _____

Title: _____

BROKER

Date: _____

By: _____

Name Printed: _____

Title: _____

Broker (Firm) License #: _____

Broker License #: _____