



# AGENCY AGREEMENT FOR COMMERCIAL PROPERTY (EXCLUSIVE BUYER/TENANT)



AGREEMENT made and entered into effective as of the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_ (the "Effective Date")  
by and between \_\_\_\_\_ (the "Broker") and  
\_\_\_\_\_ (the "Client").

In consideration of the mutual promises hereinafter set forth, Broker and Client **AGREE:**

- TERM:** This Agreement shall commence on the Effective Date and shall remain in full force and effect through \_\_\_\_\_ (month/date/year) (the "Expiration Date").
- EXCLUSIVE REPRESENTATION:** Client hereby appoints Broker as Client's exclusive real estate agent during the term of this Agreement for the purpose of assisting Client in the location, negotiation, and closing of a transaction within the scope of agency described in paragraph 3 below. Client agrees to refer to Broker all inquiries received in any form from prospective sellers/landlords and sellers'/landlords' representatives, real estate licensees or any other source, and to conduct related negotiations through Broker during the term this Agreement.
- SCOPE OF AGENCY:** This Agreement covers any purchase and/or lease transaction with respect to any commercial real estate and/or business opportunity (the "Property"), irrespective of a source of the transaction, including Property which is located or identified by Client that is situated, in whole or in part, within the geographic area described as \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Exceptions and/or additions: \_\_\_\_\_  
\_\_\_\_\_

- CONFLICT OF INTEREST (BUYERS/TENANTS):** Client acknowledges that Broker may represent other clients desirous of purchasing/leasing property similar to the Property. Client acknowledges and agrees that Broker may show more than one client the same property, and may prepare offers on the same property for more than one client. Broker shall preserve any confidential information disclosed by any client and shall not disclose the existence of, or the terms of, any offer prepared on behalf of one client to another client. In the event Broker works for two competing clients in connection with any specific property, Broker will be working equally for both clients and without the full range of fiduciary duties owed by a buyer's agent to a buyer or a tenant's agent to a tenant. In this situation, the competing clients are giving up their rights to undivided loyalty and will be owed only limited duties of disclosure, obedience and confidentiality.
- CONFLICT OF INTEREST (SELLERS/LANDLORDS):** In the event Client elects to make an offer on real estate and/or business opportunity listed by Broker (check as applicable):
  - This Agreement shall automatically terminate only with regard to that real property (but shall continue as to all other real property) and Broker shall continue the agency relationship with the owner of the real property listed by Broker. Any fees previously paid to Broker by Client pursuant to this Agreement shall be returned to Client at the closing where the agency relationship was terminated pursuant to this paragraph.
  - Broker shall act as disclosed dual agent of both Client and the owner of the real property listed by Broker pursuant to a written agreement in the form attached hereto between Broker, Client and the owner of the real property listed. In such event, Broker shall be entitled to any fees owed by Client pursuant to this Agreement.
  - Broker shall act as a transaction coordinator to facilitate the transaction, and not as an agent for either the Client or the owner of the real property listed by Broker. In such event, Broker shall be entitled to any fees owed by Client pursuant to this Agreement.
- CONFIDENTIALITY:** Broker acknowledges that Client may disclose confidential information to Broker in connection with performance of services under this Agreement, and Broker agrees to preserve such information in confidence and not to disclose any such information to the detriment of Client in connection with any transaction described herein. Similarly, Client acknowledges that Broker may have received confidential information in the past from a party on the opposite side of a proposed transaction with Client, and Client agrees that Broker's faithful maintenance of such information in confidence will not be a breach of any duty to Client.
- SCOPE OF SERVICES:** Broker's services may include, but are not limited to:
  - (a) Consulting with Client to assist in determining particular needs.
  - (b) Conducting a search of available property to obtain one or more choices that most closely matches Client's needs.
  - (c) Evaluating any preferred property located or identified by Client.
  - (d) Assisting in the preparation of the appropriate documents for the transaction under such terms and conditions as may be directed by Client.
  - (e) Negotiating offers for lease/purchase with the Property owners or representatives in an effort to obtain the optimum terms and conditions on behalf of Client.
  - (f) Assisting in the process of closing the transaction.

\_\_\_\_\_  
\_\_\_\_\_

Client's Initials.

- 8. **NOT INCLUDED:** The following additional professional services are not included under this Agreement. At Client's request, Broker may provide these services for a separate fee pursuant to a separate agreement:
  - (a) Solicit for financing or refinancing
  - (b) Assist with zoning issues
  - (c) Alternative investment analysis/financial analysis
  - (d) Debt restructuring
  - (e) Portfolio analysis
  - (f) Lease analysis and renegotiation of existing lease

Other: \_\_\_\_\_

- 9. **PROFESSIONAL ADVICE:** Broker hereby advises Client to consult competent professionals with respect to the following matters: legal, accounting, tax, inspection services of Property components and systems, environmental, marketability of title, and survey, and Client agrees not to seek or rely on advice from Broker or Broker's agents regarding such matters.

- 10. **AUTHORITY OF THE PARTIES:** Broker has no right or authority to commit or otherwise obligate Client to purchase or lease any Property unless expressly authorized in a separate writing. The undersigned party who has signed this Agreement on behalf of Client represents and warrants that the undersigned is authorized to sign this Agreement on behalf of Client and to bind Client to the requirements of this Agreement.

- 11. **COST OF SERVICES OF PRODUCTS OBTAINED FROM OUTSIDE SOURCES:** Broker will not obtain or order products or services from outside sources (e.g. surveys, environmental tests, title insurances, inspections, etc.) without the prior written consent of Client, and Client agrees to pay all costs of products or services obtained by Broker on Client's behalf.

- 12. **NONDISCRIMINATION:** The parties hereby acknowledge that discrimination in the sale, lease or exchange of property on account of race, sex, color, creed, national origin, age, marital status, familial status, or disability is prohibited by law.

- 13. **COMPENSATION TO BROKERS:** Client agrees to compensate Broker as follows:

A. **COOPERATIVE SALE:** Client acknowledges that brokerages representing owners of Property may offer to cooperate and share compensation with Broker, and any such shared compensation  shall be applied  shall not be applied to reduce the compensation due from Client to Broker under this Agreement. In addition to other payment obligations covered under this Agreement, Client shall compensate broker as follows:

- 1) \_\_\_\_\_ percent of the purchase price, or \$ \_\_\_\_\_, whichever is greater.
- 2) \_\_\_\_\_ percent of the aggregate lease payments for \_\_\_\_\_ years, or \$ \_\_\_\_\_, whichever is greater; and \_\_\_\_\_ percent of the aggregate lease payments for each successive \_\_\_\_\_ year period, or \$ \_\_\_\_\_; whichever is greater; and if the Property is purchased, in whole or in part, directly or indirectly, by Client prior to expiration of the lease term, (including renewals, extensions, options or holdovers), the compensation specified in 1.) above shall be due and payable except that the purchase compensation shall be reduced in amount by that portion of the lease compensation paid which is applicable to the portion of the lease term, renewal, extension or holdover not completed by reason of the purchase.

Other: \_\_\_\_\_

B. **UNLISTED PROPERTY:** For unlisted property, Client authorizes Broker to receive and/or negotiate the following compensation to be paid by the Seller/Landlord.

Such compensation  shall be applied  shall not be applied to reduce the compensation due from Client to Broker under this Agreement. In addition to other payment obligations covered under this Agreement, Client shall compensate Broker as follows:

- 1) \_\_\_\_\_ percent of the purchase price, or \$ \_\_\_\_\_, whichever is greater.
- 2) \_\_\_\_\_ percent of the aggregate lease payments for \_\_\_\_\_ years, or \$ \_\_\_\_\_, whichever is greater; and \_\_\_\_\_ percent of the aggregate lease payments for each successive \_\_\_\_\_ year period, or \$ \_\_\_\_\_; whichever is greater; and if the Property is purchased, in whole or in part, directly or indirectly, by Client prior to expiration of the lease term, (including renewals, extensions, options or holdovers), the compensation specified in 1.) above shall be due and payable except that the purchase compensation shall be reduced in amount by that portion of the lease compensation paid which is applicable to the portion of the lease term, renewal, extension or holdover not completed by reason of the purchase.

Other: \_\_\_\_\_

Client's Initials

14. **OTHER COMPENSATION ISSUES:**

- A. Any compensation to Broker in excess of Client's commission obligations pursuant to paragraphs 13A and B above shall be disclosed to Client and paid to Broker.
- B. Broker is authorized to divide compensation with other brokers in any manner acceptable to Broker; however, Broker shall have no obligation to pay any commission or fees. credited
- C. Broker acknowledges receipt of a nonrefundable retainer fee of \$ \_\_\_\_\_ which  shall  shall not be toward any other compensation due to Broker under this Agreement.
- D. In the event Client elects not to lease or purchase Property during the term hereof, Client agrees to pay Broker a fee in the amount of \$ \_\_\_\_\_, not later than the Expiration Date.

15. **PRICE AND TERMS.** Client acknowledges that the sale/lease terms may be disclosed by Broker to members of Associations of REALTORS®, multiple listing services and/or commercial property information exchanges.

16. **EARNED COMPENSATION/PROTECTION PERIOD:** Compensation hereunder shall be deemed to have been earned with respect to any Property as of the time a purchase agreement and/or lease has been executed and the material obligations of the parties are not subject to any contingency, or the buyer/tenant is entitled to possession, whichever occurs first. Compensation shall be paid promptly after it is earned, but not later than any applicable closing. In the event Client enters into an agreement within \_\_\_\_\_ days after the Expiration Date (the "Protection Period"), with respect to a Property that was considered by Client during the term of this Agreement (a "Considered Property"), then compensation shall be due and payable pursuant to the terms of this Agreement to the same extent as if the Agreement was entered into prior to the Expiration Date. In the event Client obtains an option to purchase or lease a Considered Property during the term of this Agreement, or during the Protection Period, then the Protection Period shall be extended for a period equal to the duration of the option.

17. **MISCELLANEOUS:** This contract contains all of the terms and conditions of the agreement between the parties with respect to its subject matter and there are no representations, warranties, conditions or promises except those expressly set forth in this contract. This contract may be modified only by a writing signed by the parties. Client hereby acknowledges receipt of a completed copy of this contract. This contract shall be governed by Michigan law.

18. **OTHER:** \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Date: \_\_\_\_\_

Date: \_\_\_\_\_

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

Client: \_\_\_\_\_

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

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

Its: \_\_\_\_\_

Its: \_\_\_\_\_

Address: \_\_\_\_\_

Address: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Telephone: \_\_\_\_\_

Telephone: \_\_\_\_\_

Fax: \_\_\_\_\_

Fax: \_\_\_\_\_

Disclaimer: This form is provided as a service of the Michigan Association of REALTORS®. Please review both the form and details of the particular transaction to ensure that each section is appropriate for the transaction. The Michigan Association of REALTORS® is not responsible for use or misuse of the form, for misrepresentation, or for warranties made in connection with the form.

Client's Initials