

AGENCY AGREEMENT FOR COMMERCIAL PROPERTY (BUSINESS OPPORTUNITIES)



1. CONSIDERATION AND TERMS OF CONTRACT. In consideration of your agreement to use your best effort to find a buyer for the business described below, Seller hereby grants _____, the Broker, from _____ (date) to 12:00 midnight on _____ (date) the exclusive irrevocable right to sell all the business assets ("Business Assets") used to conduct business known as _____, including the good will, equipment and personal property used in connection with the business, other than the following Excluded Assets: _____

The Business being sold pursuant to this Agreement: DOES NOT include any interest in real property or DOES include (choose one): fee title leasehold (Seller owns real property) assignment/sublet of Seller's leasehold interest, in the following real property ("Real Property") located in the City Township Village of _____, _____ County, Michigan, commonly known as: _____ and legally described as _____

PP # _____. As used hereafter, "Business" includes the Business Assets and the Real Property described above, if any. Seller understands that any real estate agents who show the Business may not be acting as his/her agent; therefore, Seller understands that he/she should not disclose confidential information to any other real estate agents that he/she would not disclose to a buyer.

Approximate lot size and/or acreage of Real Property: _____.

Approximate building square footage offered: _____.

2. PRICE AND TERMS. Seller agrees to sell the Business for the sum of \$ _____; or with Seller's consent for a lesser sum. Seller agrees to sell the Business on the following terms (check all that apply): Cash Seller financing - please specify: _____

Other - please specify: _____

Seller will convey, or agree in writing to convey, by bill of sale and/or warranty deed, good and marketable title to all Business Assets and any Real Property to the buyer thereof.

In the event Seller's interest in the Real Property is a leasehold interest, Seller agrees to provide buyer with an assignment of such lease or a sublease from Seller. In the event Seller owns the Real Property but the Real Property is not being offered for sale hereunder, Seller agrees to lease the Real Property to buyer on the following terms: _____

In the event the Business includes an interest in Real Property, at closing, Seller will furnish a policy of title insurance insuring fee title or buyer's leasehold interest in the Real Property. Seller agrees not to execute any lease covering the Real Property during the listing period or to take any other action which would make such Business unavailable for sale. In the event of a sale, Seller agrees to pay all taxes against said Business to the date of closing of the sale.

3. BROKERAGE FEES. Seller agrees to pay Broker a brokerage fee of _____ of the sales price of the Business due and payable if: the Business is sold by Broker or by Seller or anyone else during the listing period (including sales pursuant to options granted or contracts executed during the listing period); or a prospective buyer ready, willing and able to purchase the Business on the terms specified herein or other terms acceptable to Seller is produced by Broker or any agent or person during the listing period; or the Business is sold within _____ months after expiration of the listing period (including sales pursuant to options granted or contracts executed within that period following expiration) to a buyer who had been introduced to or provided information regarding the Business during the listing period by Broker or Seller or any other agent or person, except that this provision shall not apply if the Business is sold pursuant to a valid listing agreement entered into with another member of an Association of Realtors® subsequent to the expiration of the listing period of this Agreement. The term "sale" shall be deemed to include any exchange or trade, stock or other equity interest transfer or other disposition to which Seller consents.

In addition to any brokerage fee owed in connection with the sale price, if, during the listing period, the Real Property is leased by Broker or Seller or anyone else, or if within _____ months after the expiration of the listing period, a lease is made to any person who has been introduced to or provided information regarding the Real Property during said listing period by Broker or Seller or anyone else, Seller agrees to pay Broker a brokerage fee of _____ of the aggregate rent due and payable under the term of the lease, except that this provision shall not apply if the Real Property is leased pursuant to a valid listing agreement entered into with another member of an Association of Realtors® subsequent to the expiration of the listing period of this Agreement.

If the Real Property leased hereunder is later purchased in whole or in part by the buyer/lessee or anyone acting on the buyer/lessee's behalf at any time during, and up until _____ months after the termination of the term of the lease or any renewals or extensions thereof, including, but not limited to month-to-month renewals and holdover tenancies, a brokerage fee of _____ of the purchase price shall be payable except that the sale commission shall be reduced in amount by that portion of the lease commission paid which is equal to the portion of the lease term or lease extension not completed by reason of the sale. Said brokerage fee shall be due and payable promptly after it is earned and in no event later than the closing of the transaction.

All brokerage fee(s) provided for herein shall be paid promptly after they are earned and in no event later than the closing of the sale of the Business or the signing of the lease of the Real Property.

Seller agrees that the brokerage fee(s) may be shared by the Broker with any cooperating broker who participates in the sale per the following compensation schedule: Subagent (of Seller) _____ of the sale price and _____ of the aggregate rent due and payable under the term of the lease; buyer's agent _____ of the sale price and _____ of the aggregate rent due and payable under the term of the lease; Transaction Coordinator _____ of the sale price and _____ of the aggregate rent due and payable under the term of the lease.

Seller represents and warrants that: (i) there are no obligations to pay brokerage fees to any person or entity except as specified in this Agreement; and (ii) there are no rights of first refusal or options to lease or purchase applicable to the Business. If these representations and warranties prove to be inaccurate, no such obligation shall diminish the obligation to pay the brokerage fee(s) specified herein, and the exercise of any right or option during, or within _____ months after the expiration of, the listing period shall obligate Seller to promptly pay the brokerage fee(s) specified in this Agreement.

Seller and Broker agree that Broker shall be entitled to payment of reasonable attorney's fees and costs incurred by Broker to collect any brokerage fee(s) owed under the terms of this Agreement. Seller agrees that interest shall accrue, and be paid to Broker, at the highest rate allowed by law on any unpaid balance, compounded monthly until paid.

4. **INVENTORY.** The sales price which is set forth above DOES DOES NOT include the inventory of merchandise. If the sales price herein set forth does not include the inventory, such inventory will be sold separately for cash at the time of closing of sale at a price calculated as follows: _____ or, with Seller's consent, for such lesser sum or upon such other terms as Seller may agree.
5. **OPTIONS.** In the event Seller grants an option to purchase the Business during the term of this listing, other than an option which is part of a lease, Seller agrees that the running of the term of this listing shall automatically be suspended for the duration of the option and, upon the expiration of the option, shall automatically recommence and continue for the remainder of said term so that the listing period before and after the option will total the original term of this listing.
6. **SHOWINGS/DUAL AGENCY.** Seller agrees that Broker can market the Business to, and obtain offers from, all prospective buyer(s), including buyer(s) with whom Broker has an agency relationship. In the event a buyer with whom Broker has an agency relationship shall become interested in the Business, Broker shall notify Seller and buyer of its intention to represent both and obtain both parties' consent to the dual agency. Broker will preserve any confidential information obtained during any other agency relationship and Seller agrees that such preservation of confidential information shall not constitute a breach of fiduciary duty owed by Broker to Seller. Seller also understands and agrees that Broker may show potential buyer(s) businesses other than Seller's Business and provide potential buyer(s) with information on selling prices of other comparable businesses.
7. **INDEMNIFICATION.** Seller shall indemnify and hold Broker and Broker's agents and subagents harmless from any and all liability for any reason as a result of injury to person(s) or damage to property arising out of a showing of the Real Property pursuant to this listing.
8. **POSSESSION.** Possession to be given _____ subject to rights of tenants, if any.
9. **MARKETING.** Broker is hereby authorized to photograph the Real Property and publish pictures, place a marketing sign on said Real Property and to remove all other marketing signs. Broker is also authorized to have access to said Real Property and all parts thereof for the purposes of showing same at reasonable hours and to promote this Business in any media it deems necessary.
10. **ADDITIONAL OFFERS.** In the event Seller enters into a sales contract, Broker shall not be obligated to present any other offers to Seller unless otherwise agreed in writing with Broker.
11. **PRICE AND TERMS.** Seller acknowledges that the purchase price and other sales information may be disclosed by the Broker to members of Associations of REALTORS[®], multiple listing services and/or commercial information exchanges.

- 12. **NON-DISCRIMINATION.** It is agreed by Broker and Seller, parties to this Agreement, that discrimination because of religion, race, color, national origin, age, sex, marital status, disability, or familial status in connection with the offer, sale or lease of real estate is prohibited by law.
- 13. **HEIRS AND SUCCESSORS.** This contract binds Seller, Broker, their personal representatives and heirs, and anyone succeeding to their interest in the Business.
- 14. **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 Seller, and Seller agrees to pay all costs of products or services obtained by Broker on Seller's behalf.
- 15. **OTHER CONDITIONS:** _____

- 16. **ACKNOWLEDGMENT.** 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. If Seller is an entity, the undersigned represents that he/she has full power and authority to enter into and perform this contract including the conveyance of title as specified above. Seller hereby acknowledges receipt of a completed copy of this contract. This contract shall be governed by Michigan law.

Listed by: _____
REALTOR® Broker

Entity: _____

through: _____
Agent

By: _____
(Please sign name as you wish it to appear on final documents.)

Printed Name of Signatory: _____

Its: _____

Type of Ownership: Sole Joint Other

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Seller's Initials

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