



**Virginia REALTORS®
COMMERCIAL LISTING AGREEMENT
(TO SELL OR LEASE)**

Firm Name _____
Address _____
City/State/Zip _____

1. EXCLUSIVE RIGHT: The undersigned owner (the "Owner") _____ hereby grants unto the above named firm as broker (the "Broker") for and in consideration of the services to be rendered by Broker, the exclusive and irrevocable right and privilege commencing on and terminating on _____ (the "Listing Period") to **[check all applicable]**: sell lease the property described herein for the price and upon the terms and conditions as set forth herein.

Property located in City/County _____, Virginia, commonly known as:
(Street Address) _____
(Legal Description) _____
together with all improvements thereon and fixtures attached thereto, and all easements, rights, and appurtenances thereunto belonging, including any right, title and interest of Owner in and to the adjacent streets, alleys or rights-of-way (the "Property"). Owner shall furnish Broker with all pertinent information relating to the Property.

2. LISTING PRICE AND TERMS:

A. Sale. If the Property is listed for sale with Broker, the sales price of the Property shall be \$ _____ or such other price, terms or conditions as may be hereafter agreed upon in writing by Owner. Possession of the Property shall be at settlement unless otherwise agreed by Owner and purchaser.

B. Lease. If the Property is listed for lease with Broker, the rental price for the Property shall be **[select one]**:
\$ _____ per square foot **or** \$ _____ per month, plus common area maintenance ("CAM") charges of \$ _____, if applicable. Real property taxes and property insurance shall be paid by _____. Other rental terms: _____

C. Agent for Collection of Rent. **[Check if applicable]**: Owner does hereby appoint Broker, its successors or assigns, as Owner's agent to collect all rent during the term of the Lease and/or any renewals or extensions thereof, upon the terms and conditions set forth in the lease. Broker shall deduct the compensation due to Broker as set forth in paragraph 4 below and remit the balance to Owner within thirty (30) days. In no event shall Broker be liable to Owner for any tenant's nonpayment of rent or other breach of lease.

3. EXTENSION: This Listing Period shall automatically extend and renew from month to month following the expiration of the Listing Period unless either party shall give the other written notice of termination at least thirty (30) days prior to the expiration of the Listing Period or any extension period, whichever is applicable.

4. COMPENSATION:

A. Commission. If, at any time during the term of this Listing Agreement, Owner sells, transfers or leases the Property or enters into a contract to sell, transfer or lease the Property to a purchaser or tenant, whichever is applicable, who is ready, willing and able to purchase or lease the Property on terms acceptable to Owner, or Owner receives an offer in writing signed by a purchaser or tenant by which such purchaser or tenant offers to purchase or lease the Property, whichever is applicable, on the terms and conditions set forth herein or otherwise acceptable to Owner, then Owner agrees to pay to the Broker a broker's commission of:

_____ percent (____%) of the gross purchase price or gross lease price, whichever is applicable,

if the Property is sold, transferred or leased solely by Broker or otherwise is sold, transferred or leased by Owner without Broker. If the Property is sold, transferred or leased in conjunction with a co-broker, buyer's agent or tenant's agent, then Owner agrees to pay to the Broker a broker's commission of:

_____ percent (____%) of the gross purchase price or lease price, whichever is applicable.

The compensation due to Broker pursuant to this paragraph (referred to herein as the "Fee") shall be payable to Broker in cash at settlement, if the Property is sold, or on the first day of each month during the lease term, if the Property is leased. Broker has advised Owner of Broker's general company policy regarding cooperating with and compensating other agents. If Owner withdraws the Property from the market or otherwise prevents Broker from selling or leasing the Property during the Listing Period or any extension thereof without written consent from Broker, Owner agrees to pay Broker the Fee for its services. As used herein, "gross lease price" shall mean: (i) the base rent of any lease plus amortized improvements, real estate taxes, insurance and CAM, if any, paid by the tenant during the entire term of the lease and any renewals or extensions of the lease; (ii) any new or replacement lease for the Property; and (iii) any other new or additional space and improvements later leased by the tenant in the same building, shopping center (including outparcels), warehouse or office complex as the Property.

B. Tenant's Purchase of Property. If any tenant in the Property, or its principals, directly or indirectly, purchases or otherwise acquires ownership of the Property during the lease term or any renewal or extension thereof, or during any new or replacement lease, or for a period of _____ (____) months thereafter, upon any terms, Broker, its successors or assigns, shall be deemed the procuring agent in the transaction and shall be paid a broker's commission of _____ percent (____%) of the gross purchase price at settlement by Owner. The foregoing provisions for the payment of the brokerage commission in connection with the Property are an integral part of any lease between Owner, as landlord, and the tenant, and a covenant which shall run with the Property, and shall be binding upon all successors or assigns of Owner and Owner's interest in the Property or any part thereof.

5. FEE AFTER EXPIRATION. Owner shall also pay the Fee to Broker if within one hundred eighty (180) days after the expiration of the Listing Period or any extension thereof the Property or any portion thereof is sold, transferred or leased to anyone: (i) with whom Broker or Owner has had contact during the Listing Period or any extension thereof regarding the sale or lease of the Property or any part thereof; or (ii) whose name appears on any list with whom Broker or Owner shall have had contact during the Listing Period or any extension thereof (the "Registration List"), provided Broker shall have provided such written Registration List to Owner within thirty (30) days following expiration of the Listing Period or extension thereof.

6. ADVERTISING AND ACCESS. Broker is authorized to advertise the Property and shall have the exclusive right to place a sign or signs on the Property if, in Broker's opinion, such would facilitate the sale or lease thereof. Owner agrees to make the Property available to Broker and real

estate brokers and salespersons employed by or affiliated with Broker at all reasonable hours for showing to prospective purchasers or tenants. Owner also agrees to refer to Broker all inquiries or offers which Owner may receive regarding the Property during the Listing Period or any extension thereof.

7. OWNER'S REPRESENTATIONS. Owner hereby warrants and represents unto Broker that: (a) Owner is the owner of the Property or has the legal authority to execute this Listing Agreement on behalf of the Owner; (b) no other person or entity has any right to purchase or lease the Property or any portion thereof by virtue of any agreement, authorization, option or right of first refusal; (c) the Property is not subject to the jurisdiction of any court in any bankruptcy, insolvency, conservatorship, receivership or probate proceeding; (d) Owner will cooperate fully with Broker in reviewing any agreements for the sale or leasing of the Property; (e) there are no other brokerage agreements between Owner and any other person or entity and that no potential purchasers or tenants have been in contact with Owner as the result of any prior brokerage agreement or similar commitment whatsoever; and (f) to the best of Owner's knowledge, no toxic or hazardous materials (as said terms are defined in any applicable federal or state laws) have been used, discharged or stored on or about the Property by the Owner, and to the best of the Owner's knowledge, no such toxic or hazardous materials are now or will be at settlement located on or below the surface of the Property. If any such toxic or hazardous materials are discovered at the Property contrary to the above warranty and representation, all costs of removal of same or expenses of defending any action brought against the Broker by any individual, entity or governmental authority because of same shall be borne by Owner.

8. INTERNET AND OTHER PUBLICATION: Owner is aware that Broker, as a member of a Multiple Listing Service ("MLS"), may file the Property and information regarding it with the local MLS and Commercial Information Exchange ("CIE") if applicable, maintained by such MLS and other Internet databases maintained by third-parties. Owner understands that the CIE is a central repository of data regarding commercial properties for sale, lease or development and that the primary objective of the CIE is to distribute information about commercial property listings to all of its members. Broker and/or CIE may distribute or post listing information on websites, magazines and other types of advertising media. By initialing here _____, Owner desires to opt-out of Internet publication.

9. RELATED BUSINESS AND SERVICES: The Listing Broker and Selling Broker may engage in mortgage loan, title insurance, real estate settlement and other real estate related businesses and services from which they receive compensation during the course of this transaction, in addition to the real estate brokerage fees.

10. BROKER'S LIABILITY: Broker's duties and activities pursuant to this Listing Agreement will be limited to entry upon the Property to show and exhibit same to prospective purchasers and tenants, and to provide information with respect to the Property and its condition based on Broker's actual knowledge thereof. Owner agrees, at its sole cost and expense, to indemnify, defend and hold harmless Broker and its officers, directors, employees, agents, independent contractors and sales persons, jointly and severally, from and against any and all claims, actions, proceedings, liabilities, injuries, judgments, damages, losses, settlements, costs and expenses, including, without limitation, attorney's fees and costs, relating in any manner to or arising out of any of the following: (i) all actions taken or omitted by Broker under this Agreement, except where Broker has been adjudged to have engaged in willful misconduct or has been grossly negligent with respect to the performance of its duties hereunder; (ii) the physical condition of the Property; (iii) the existence of any environmental contaminants, hazardous or toxic substances or products in, on or in proximity to the Property; and (iv) any failure or omission by Owner to provide Broker with complete or accurate information concerning the Property or its condition.

11. ENFORCEMENT: The Owner agrees that the Broker may take action to enforce this Listing Agreement or collect any associated costs, fees or damages. Owner agrees to reimburse, indemnify

or pay any Broker costs incurred in the enforcement of this Listing Agreement or collection costs, fees and damages, including incidental expenses and reasonable attorney's fees.

12. NOTICES: All written notices of any kind which either party may be required to serve on the other in connection with this Listing Agreement shall be delivered in person, sent via certified mail, return receipt requested, or by FEDEX (or any comparable overnight delivery service with signature required upon delivery) to the following addresses:

If to Broker: At the address set forth on page 1 of this Agreement

If to Owner: _____

Service of any such notice so made by mail shall be deemed to be complete on the earlier of the following to occur: (i) on the delivery date; or (ii) on the third day after mailing or deposit with an overnight delivery service. Either party hereto may, from time to time by notice in writing, serve on the other as aforesaid, designate a different mailing address or a different person to which all such notices or demands are thereafter to be addressed.

13. SALE OF PROPERTY. Upon the sale of the Property, Owner agrees to convey the Property to any purchaser or purchasers by general warranty deed with the usual English covenants of title and free and clear from all encumbrances, tenancies, and liens (for taxes or otherwise), but subject to applicable easements and restrictive covenants of record, and to the specific terms and conditions contained in the purchase agreement.

14. WAIVER OF CONFLICT. Owner hereby authorizes Broker to represent and serve as exclusive agent for any prospective purchaser of the Property or any part thereof, and Owner hereby waives any conflict of interest claim which might arise as a result thereof.

15. OTHER TERMS: _____

16. MISCELLANEOUS:

A. This Listing Agreement is not intended to be an offer to sell or lease to a third party, nor may any third party rely upon it as such an offer. Further, this Listing Agreement does not confer upon Broker the power or authority to either make or accept an offer or counteroffer to sell or lease the Property. The Property may be sold or leased only by a written agreement executed by Owner, or by an attorney-in-fact for Owner under a written power of attorney.

B. If, after a valid agreement for the purchase or leasing of the Property is executed by Owner and a purchaser or tenant, whichever is applicable, there is a default by such purchaser or tenant which prevents performance of such agreement through no fault of the Owner, Broker agrees that Owner will not be liable for the Fee of Broker and that Broker shall look to such defaulting purchaser or tenant for its Fee as compensation relating to such contract. Owner agrees that if such a default occurs, this Listing Agreement shall remain in effect between the Owner and Broker until its expiration and that payment of the Fee of Broker by such defaulting purchaser or tenant shall not satisfy an obligation which may arise if, subsequent to such default, another valid agreement for the purchase or leasing of the Property is brought about by Broker.

C. If, (i) after a valid agreement for the purchase or leasing of the Property is executed by Owner and a purchaser or tenant, whichever is applicable, there is a default by Owner which prevents performance of such agreement through no fault of Broker, or if (ii) Owner fails to fully perform the obligations of Owner set forth herein, Owner shall be liable to Broker for the Fee, as compensation for its services hereunder, and the reasonable attorneys' fees and expenses incurred by Broker, if any, in enforcing the terms and conditions hereof.

D. Owner understands and agrees that, in consideration of the use of the services of Broker and the MLS identified in paragraph 8, neither Broker, its officers, directors, brokers, real estate agents or employees, nor the MLS or REALTORS® association, their respective directors, officers and employees, shall be liable for any vandalism, theft or damage of any nature whatsoever to the Property or its contents during the Listing Period and any extension thereof, and Owner waives any and all rights, claims, and causes of action against any of them and holds them harmless for any property damage or personal injury arising from the use of or access to the Property by any person during the Listing Period and any extension thereof, but excluding property damage or personal injury arising out of their own willful negligence.

E. This Listing Agreement shall be construed and interpreted according to the laws of the Commonwealth of Virginia and may not be modified except by written instrument executed by the parties. This Listing Agreement shall not be assigned, except with the prior written consent of the other party, and shall inure to the benefit of the heirs, personal representatives, successors, and permitted assigns of the parties.

F. Use of Listing Content; Intellectual Property Assignment. Seller acknowledges and agrees that all photographs, images, graphics, video recordings, virtual tours, drawings, written descriptions, remarks, narratives, pricing information, and other copyrightable elements relating to the Property provided by Seller to Broker or Broker's agent, or otherwise obtained or produced by Broker or Broker's agent in connection with this Agreement, and any changes to such information (the "Listing Content"), may be filed with one or more multiple listing services, included in compilations of listings, and otherwise distributed, publicly displayed and reproduced. Seller hereby irrevocably assigns and transfers to Broker any and all copyright rights and other intellectual property rights, and all actions and causes of action related to the foregoing, and all damages, profits, and other recoveries related thereto, which Seller may have or acquire in and to any and all Listing Content. Seller represents and warrants to Broker that the Listing Content and this assignment of rights to Broker does not violate or infringe upon the rights, including any copyright rights, of any person or entity. Seller shall indemnify Broker against all damages, costs, and liabilities, including twenty-five percent (25%) attorney fees, arising from any claim that the Listing Content or any portion of the Listing Content infringes the rights of any third party.

Owner:

Name: _____

Date: _____

Title: _____

Accepted by:

Firm Broker: _____ Date _____

Supervising Broker: _____

Supervising Broker Contact Information: _____

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