

**EXCLUSIVE COMMERCIAL REAL ESTATE
LISTING AGREEMENT**



This *Exclusive* Commercial Listing Agreement (“Agreement”) is made and entered into by _____ (“Owner”) and _____ (“Broker”).

- 1. **Term.** This Agreement shall begin on _____, 20____, and expire at 11:59 P.M. on _____, 20____. The term of this Agreement shall automatically extend to the closing or mutual release by the parties of a contract for sale that is pending at the time of expiration or termination of this Agreement. The same extension applies to a pending offer until its conclusion.
- 2. **Broker Exclusivity.** Owner grants Broker the exclusive right to list for (check all that apply)
 Sale Lease

the property located at _____ (street address) in the City of _____ County of _____, Texas (“Property”) which Property belongs to Owner.

Property legal description: _____
_____.

“Sale” includes an exchange or transfer of any kind.
“Lease” would include a sublease if so stated as a sublease in 3.B. below.

- 3. **List Price/Lease Terms.**
 - A. If listed for sale, then list price is: \$ _____ or as otherwise decided by Owner at time of sale between Owner and a purchaser.
 - B. If listed for lease, then under the following rental charge per month \$ _____ with the following terms _____

_____ or at a price of \$ _____.

- 4. **Fee To Broker.**
 - A. Fee shall be deemed earned and Owner shall pay the fee to Broker of _____ percent (____%) of the selling price of the Property, when the Property, during the term of this Agreement, is:
 - (1) sold, transferred or exchanged;
 - (2) under contract to sell, transfer or exchange;
 - (3) the subject of a written offer on the terms provided herein or otherwise acceptable to Owner submitted by a purchaser; or if this Agreement is:
 - (4) breached by Owner.

- B. Fee shall be deemed earned and Owner shall pay the fee to Broker of _____ percent (_____%) of the gross rent due during the lease term when the Property is:
- (1) Leased/lease executed;
 - (2) under contract to lease;
 - (3) the subject of a written offer to lease on the terms provided herein or otherwise acceptable to Owner and submitted by tenant; or if this Agreement is:
 - (4) breached by Owner.

NOTE: The amount of Broker's compensation is not prescribed by law or established by any membership organization with which the Broker may be affiliated. The fee to Broker has been determined as a result of negotiations between Broker and Owner.

NOTE: Compensation for a broker representing a buyer or tenant by Owner, if at all, will be determined during the course of a transaction negotiation or as otherwise directed in writing by Owner.

5. **Statutory Lien.** Owner acknowledges Broker's right to claim a lien on the Property under this Agreement pursuant to Chapter 62 of the Property Code for Texas.
6. **Marketing of Property.** Owner authorizes Broker to place its sign(s) on or at the Property concerning its sale or lease. Broker is authorized to place information about the Property on any public exchange such as the Internet and media outlets to advertise and promote the Property at Broker's discretion. Owner represents, to the best of Owner's knowledge, that the information regarding the Property set forth in this Agreement is true and accurate.
7. **Broker Representation.** Broker will use its efforts to obtain a satisfactory purchaser or tenant for the Property at a sale price or lease rate on such terms that are acceptable to Owner. Broker will negotiate the terms of any sale or lease agreement on behalf of Owner and in Owner's best interest, subject to Owner's review and final approval, except as otherwise directed by Owner. Broker will cooperate with other licensed real estate brokers and agents.
8. **Owner Representations.** Owner represents to Broker that Owner is the record owner of the Property and that Owner has legal authority to engage Broker under this Agreement. All negotiations pertaining to the sale of the Property shall be done solely and exclusively by and through Broker. Owner shall cooperate with Broker and refer to Broker any and all inquiries received by Owner from any source with respect to the Property. Owner shall provide Broker with all available information about the Property including site plans, floor plans, renderings, to which Owner represents that it has the legal rights to share with and be used by Broker to market the Property. Access to the Property for showings is a high priority, thus the Property shall be available for showings as scheduled by Broker during regular business hours. Owner will cooperate with Broker and accommodate showings outside of regular business hours as needed.

Intermediary Relationship. (check one):

- Authorized:** Owner authorizes Broker to show the Property to buyers or tenants represented by Broker. If a buyer or tenant wishes to purchase or lease the Property, then Owner authorizes Broker to act as an intermediary between Owner and the buyer or tenant. Broker will appoint one of its licensed agents to assist Owner and another of its agents to assist buyer or tenant in the transaction.
- Not Authorized:** Owner does not authorize Broker to act as an intermediary. Owner agrees that Broker will not show the Property to a buyer or tenant represented by Broker.

A broker and any broker or sales agent appointed to act as an intermediary may not:

- A. disclose to the buyer or tenant that the seller or landlord will accept a price less than the asking price, unless otherwise instructed in a separate writing by the seller or landlord;**
- B. disclose to the seller or landlord that the buyer or tenant will pay a price greater than the price submitted in a written offer to the seller or landlord, unless otherwise instructed in a separate writing by the buyer or tenant;**
- C. disclose any confidential information or any information a party specifically instructs the broker or sales agent in writing not to disclose, unless:**
 - (1) the broker or sales agent is otherwise instructed in a separate writing by the respective party;**
 - (2) the broker or sales agent is required to disclose the information by this chapter or a court order; or**
 - (3) the information materially relates to the condition of the property;**
- D. treat a party to a transaction dishonestly; or**
- E. violate the Real Estate License Act.**

9. **Indemnity.** Owner shall INDEMNIFY and HOLD HARMLESS Broker from all demands, claims, disputes, lawsuits, litigation, damages and attorneys’ fees incurred by Broker or its agents arising from Owner’s providing of any incorrect information, conduct in relation to the Property, breach of this Agreement, failure to comply with laws and ordinances pertaining to the Property, and from any property damage to the Property or from personal injury arising from the use of, or access to Property, by any person during the term of this Agreement.

10. **Notice.** Notices required by this Agreement shall be in writing and effective upon delivery by a commercial courier that provides a receipt for delivery and the same notice must also be sent by email. All notices and other written communications under this Agreement shall be addressed as indicated below, or as specified by subsequent written notice.

To Broker:

Attn: _____

email: _____

To Owner:

Attn: _____

email: _____

11. LIMITATION OF LIABILITY. BROKER'S MAXIMUM LIABILITY FOR DAMAGES TO OWNER AND OWNER'S EXCLUSIVE REMEDY FOR ANY CLAIM AGAINST BROKER RELATED TO THIS AGREEMENT OR FOR ANY TYPE OF CLAIM IS LIMITED TO ACTUAL MONEY DAMAGES INCURRED BY OWNER AND NOT TO EXCEED THE AMOUNT OWED OR PAID BY OWNER TO BROKER UNDER THIS AGREEMENT.

12. Miscellaneous.

- A. Property Reserve. As set forth in Paragraph 4 of this Agreement, and in no way limiting Broker's right to its fee, Owner shall pay a fee to Broker if the Property is sold, exchanged, transferred or leased, or a contract is entered into for the sale, exchange, transfer or lease within _____ (____) days ("Property Reserve") after the expiration of this Agreement (or any extension thereof) to any person(s) or entity with whom Broker has received contact or inquiry or to whom Broker has submitted the Property prior to expiration of this Agreement, provided Broker notifies the Owner of the name of such person(s) or entity in writing within _____ (____) days after expiration of this Agreement (or any extension thereof).
- B. Tenant Purchase. If any tenant in the Property, or its affiliates, 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, or its successors, shall be deemed to have earned a fee and shall be paid a fee of _____ percent (____%) of the gross purchase price by Owner at closing or transfer of the Property.
- C. Tenant Extension. A fee to Broker shall be deemed earned upon any renewal, additional space added, extension, or holdover of or to the lease of the Property, including, without limitation, any amendment to the lease or execution of a new lease with the tenant or an affiliated individual or entity. Owner shall pay Broker a fee of _____ percent (____%) of the aggregate rent, under such renewal, extension, holdover, amendment, new lease or expansion, which fee shall be due and payable at the commencement of each new term or execution of the applicable document, whichever occurs first.
- D. Renewal. This Agreement shall automatically extend and renew from month to month following the expiration of the Term unless either party shall give the other written notice of termination at least thirty (30) days prior to the expiration of the Term or any extension.
- E. Default. Owner conduct each evidencing an event of default are as follows:
(1) Failure to complete an agreed transaction to sale or lease.
(2) Enter contract for sale or lease of the Property not negotiated by Broker.
(3) Withdraws Property from market without Broker consent.
(4) Failure to abide by terms of this Agreement.
Any event of default shall be considered a breach of this Agreement, with Broker entitled to remedies and damages as provided in this Agreement and at law.
- F. Attorneys' Fees. In the event of any legal actions arising out of or in relation to this Agreement, the prevailing party shall be entitled to recover from the non-prevailing party reasonable attorneys' fees and costs of court.
- G. Governing Law. It is the intent of the parties hereto that all claims related to this Agreement and any questions with respect to the construction of this Agreement shall be governed by and constructed in accordance with the laws of the State of Texas. The terms and conditions of this Agreement shall be performable in Harris County, Texas. Thus, the parties submit themselves to the exclusive jurisdiction and venue of the state courts at Harris County, Texas, with respect to any claim or issue related to this Agreement.

Disclaimer: This form is provided as a service of commgate.com. Please have your attorney prepare or review the completed form to ensure that each paragraph is appropriate for the transaction. Commgate.com is not liable to Broker or Owner for: your use of the form, the terms of the form or any legal inadequacy with the form.

AGREED as to all the items set forth herein above by:

OWNER

By: _____

Printed Name

Title

Date: _____

BROKER

By: _____

Printed Name

Title

Date: _____