



PROFESSIONAL SERVICES AGREEMENT Exclusive Right to Lease – Commercial

PLAIN ENGLISH FORM APPROVED BY THE ELMIRA-CORNING REGIONAL BOARD OF REALTORS®, INC. FOR USE BY ITS MEMBERS. THIS IS A LEGAL DOCUMENT; SIGNING THIS PURCHASE OFFER GIVES RISE TO BINDING LEGAL RESPONSIBILITIES. IF NOT UNDERSTOOD, WE RECOMMEND YOU SEEK LEGAL ADVICE BEFORE SIGNING.

This Exclusive Right to Lease listing agreement for the Lease of Real Property is made this _____ day of _____, 20____ by and between _____ (Broker) herein after referred to as “Broker” and _____ (Owner)(s) herein after referred to as “Owners”.

1. OWNER’S AUTHORIZATION

Owner grants to the Broker the Exclusive Right to Lease the property identified herein at a price and on the terms listed below or upon any other price or terms to which Owner may consent. Owner grants permission to Broker to post a sign on the property. Broker is authorized to list the property on any available database and to cooperate with all other Brokers to secure a tenant as quickly as possible. Broker may share commission with any other cooperating agent authorized under law to receive a commission. Owner agrees to refer any and all inquiries about the property to the Broker.

2. BROKER’S AUTHORITY

Broker is licensed by New York State as a Real Estate Broker and will act as the limited agent of the owner with respect to the negotiation for the lease of the property.

Broker, in consideration of this Exclusive Right to Lease Agreement, will develop an appropriate marketing approach for the leasing of subject property and utilize its best efforts to find a Tenant for the listed premises.

Broker may use the listing information and lease price and terms upon closing for Broker’s Market Evaluation, Networking and Appraisal purposes, and for disclosing to other persons as Broker may deem desirable, including disclosing the information in a computer on-line property network.

Broker’s firm represents both Landlords (Owners) and Tenants. This means that it is possible that a Tenant whom Broker represents will want to lease a property owned by a Landlord whom Broker represents. A real estate firm or agent may represent more than one party in the same transaction, known as “Dual Agency”, only with the knowledge and informed consent of all parties for whom the agent acts. Owner acknowledges Broker may act as a “Dual Agent.”

In the event a Tenant is interested Owner’s property, both Landlord and such Tenant will be promptly notified and mutual consent by both clients will be required before proceeding with such proposed transaction. If mutual consent is not given the option to (I) elect customer status as to the listed property or (II) terminate the Tenant/ Client agency agreement as to the listed property.

3. PROPERTY

Address: _____

Legal Description: _____

4. LEASE, TERMS AND CONDITIONS. See Commercial Lease Information Form, attached hereto and made a part hereof.

5. TERMS OF AGREEMENT

A) This Listing Agreement shall begin upon execution of this Agreement. This Listing Agreement shall expire at 11:50 pm on _____.

B) EARLY TERMINATION. Owner agrees that if the Listing Broker's authority is terminated prior to the expiration of this term, the Listing Broker shall retain its contract rights to a commission and recovery of advertising expenses and any other damages incurred by reason of said early termination of this Agreement.

C) SALE OR EXCHANGE BY OWNER. In the event of a sale or exchange of the property or the assignment of the Lease by Owner, Owner shall obtain from the purchaser or assignee a signed Assumption Agreement in recordable form whereby such purchaser or assignee agrees to pay a Broker all commissions payable hereunder and shall deliver a fully executed counterpart thereof to Broker on the date of closing of the sale of the property or assignment of the Lease. Owner expressly agrees that Owner will not transfer, convey or sell the property or assign the lease without first obtaining from the purchaser or assignee such signed Assumption Agreement. The form of such Assumption Agreement shall be furnished to the Broker at the time Owner enters into any contract for the sale of the property or assignment of the Lease.

6. PROFESSIONAL SERVICE FEE (COMMISSIONS)

A) LEASE OF PROPERTY. If during the term of this agreement, or any other extension thereof, a lease of the property or any portion thereof is made, effected or agreed upon with anyone, the owner agrees to pay the broker a commission of _____% . Other terms, if any, _____

If within 90 (ninety) days after the expiration of this agreement the property is leased to or with any person or party to whom the property was shown during the term of the listing, Owner agrees to pay Broker the commission set forth herein as if the Broker had made the lease.

B) RENEWAL EXPANSION OR PURCHASE.

1. *Renewal or Expansion by Tenant.* If, pursuant to the terms of any lease executed by Owner with respect to the property for which Owner is obligated to pay Broker a commission hereunder (referred to herein as the "lease"), the Tenant, its successors or assigns, shall (I) exercise any right or option to renew or extend the term of the Lease (whether contained in the lease or in any amendment supplement, or other agreement pertaining hereto), or (II) enter into any new lease, extension, renewal, expansion or other rental agreement with the Owner, Owner shall pay to the Broker an additional commission covering the full term of such lease renewal, extension, expansion or other rental agreement computed on the same basis as provided in paragraph 6A above.
2. *Purchase by Tenant.* In the event said tenant its successors, or assignees, should purchase the property during the term of the Lease or any renewal and extension thereof, Owner shall pay to the Broker at closing, a commission equal to _____% of the purchase price of the property. Upon closing, all further commissions due for leasing the property shall terminate, and any paid lease commissions for tenancy after the title closing date will be credited against commissions due for the purchase of the property.

C) SALE OR EXCHANGE IN LIEU. In the event the Owner agrees to Sell or Exchange said property to a Tenant in lieu of a lease, Owner shall pay to Broker at closing, a commission equal to _____% of the purchase or exchange of the property.

D) EXPENSE REIMBURSEMENT. In the event the property does not lease during the term of this agreement, any extension thereof or during the protection period set forth above, Owner shall nonetheless be obligated to reimburse broker for actual expenses incurred in marketing the property up to the amount of \$_____.

E) WHEN PAYABLE. If said property is sold, leased, transferred or exchanged pursuant to this agreement, the compensation to be paid to the Broker as set forth herein shall be paid solely to the Broker as the listing Broker and shall be deemed earned and due and payable, without demand, upon the Owner entering into and agreement, either written or oral, for the sale, exchange or lease of the property,

F) ESCROW. If, for any reason, the Broker is not paid the compensation set forth herein on the due date, the Owner shall establish an escrow account with a party mutually agreeable to the Broker and Owner or, in the absence of mutual agreement, with the Owner's attorney, and shall place into said escrow an amount equal to the commission as set forth herein. These monies shall be held in escrow until the parties rights to the escrow monies have been terminated (I) by the written agreement of the parties, (II) by order of a court of competent jurisdiction, or (III) some other process to which the parties agree.

7. ATTORNEY'S FEES.

In any action, proceeding or arbitration to enforce any provisions of this agreement, or for damages caused by a default, the prevailing party shall be entitled to reasonable attorney's fees, costs and related expenses, such as expert witness fees and fees paid to investigators. In the event the Broker hires an attorney to enforce the collection of any brokerage commission due hereunder and is successful in collecting all or any portion thereof with or without commencing a legal action or proceeding, Owner agrees to pay such attorney's fees, costs and related expenses.

8. LEGAL, PROFESSIONAL AND TECHNICAL ADVICE.

The Owner acknowledges that the Broker is not qualified to and will not provide Owner with advice on legal matters, tax matters (including, but not limited to, non-recognition of gain or loss from exchanges pursuant to 26 USC section 1031), building inspection, public health, surveying, environmental, or other technical matters. Upon request, Broker will assist Owner in engaging qualified professionals to consult in such fields. The Owner also acknowledges that the Broker has advised and recommended that the Owner seek independent legal, tax and other counsel prior to entering into this agreement into an agreement for the sale, exchange or lease of property.

9. CONDITIONS.

A) DEPOSITS. The Owner hereby authorizes the listing Broker to hold any and all deposits made by a Tenant in an escrow account until the date of the lease execution or closing or until written mutual consent of the parties to the cancellation of the lease or contract. In the event of a claim of default by either party, the deposit will be held by the Broker in an escrow account pending final resolution of the dispute or written mutual consent of the parties. Broker is authorized to pay and apply the deposits received towards the brokerage fee which is due under the agreement.

B) LEGAL COMPLIANCE. Owner and Broker agree that the property will be offered in compliance with all the applicable Fair Housing Laws.

C) DISCLOSURES. To Owner's knowledge, other than as disclosed by Owner to Broker in writing, the property, (I) does not have any material, latent, structural or construction defects, and (II) is not contaminated with any toxic or hazardous substances in violation of applicable laws and regulations. Owner hereby authorizes Broker to disclose to prospects all information about the condition of the property whether disclosed by Owner orally or in writing, or otherwise discovered by Broker.

Owner shall indemnify Broker against any and all claims, damages and costs of every kind and character (including but not limited to reasonable attorney's fees and court costs) resulting from or related to (i) any incomplete, incorrect, misleading or inaccurate information furnished by Owner about the property; or (II) concealment by Owner of any material information about the property. Owner hereby acknowledges that Broker, any cooperating Brokers and prospects will be relying upon the accuracy and completeness of the information furnished by Owner.

10. ENTIRE UNDERSTANDING.

This agreement contains an entire understanding of the parties and it may not be changed orally and is binding upon the heirs, executors, administrators, successors and assignees of the respective parties hereto.

The undersigned represents and warrants that he/she is the legal Owner of the subject property, or that he/she has full legal authority to execute this agreement for and on behalf of the legal Owner and hereby accepts the within agreement.

This is a legally binding contract. If not fully understood, we recommend consulting an Attorney before signing. This form is not appropriate for listing a property for Exchange under IRC 1031 regulations.

OWNER

AGENT

OWNER

BROKERAGE

DATE

DATE