

# LISTING AGREEMENT FOR COMMERCIAL SPACE FOR LEASE

# \_\_\_\_\_ Agreement Number

This form was developed by the Alberta Real Estate Association for the use of its members and may not be altered electronically by any person.

This Agreement is between

THE LANDLORD ("You")

and THE LANDLORD'S BROKERAGE (the "Brokerage")

Name \_\_\_\_\_ Name \_\_\_\_\_  
Name \_\_\_\_\_  
Address \_\_\_\_\_ (postal code)  
Address \_\_\_\_\_  
Phone \_\_\_\_\_ Fax \_\_\_\_\_  
\_\_\_\_\_ (postal code) Email \_\_\_\_\_  
Phone \_\_\_\_\_ Fax \_\_\_\_\_  
Email \_\_\_\_\_  
Broker, associate broker or agent authorized to represent the Brokerage  
Member of the \_\_\_\_\_  
Real Estate Board (the "Board")

## 1. THE PROPERTY

1.1 The Property is the Land, Buildings and Attached Goods (unless excluded) located at (municipal street address): \_\_\_\_\_  
\_\_\_\_\_ (postal code)

1.2 The legal description of the Property is:  
Plan \_\_\_\_\_ Block \_\_\_\_\_ Lot/Unit \_\_\_\_\_  
Plan \_\_\_\_\_ Block \_\_\_\_\_ Lot/Unit \_\_\_\_\_

W. of (Meridian)	Range	Township	Section	Part	Acres

1.3 The Space available for lease (the "Leased Space") shall comprise an area of \_\_\_\_\_ square feet more or less and is described below or is set out in the Appendix attached to this Agreement.

## 2. OTHER LISTING AGREEMENTS

2.1 Have you entered into any other listing agreement to lease the Space during the last twelve months?  Yes  No  
2.2 Is the Space currently listed for lease with another real estate brokerage?  Yes  No

## 3. TERM OF AGREEMENT

3.1 You list the Space for lease with only the Brokerage(s) effective today until 11:59 p.m. on \_\_\_\_\_ (the "Expiry Date").

**4. ASKING PRICE**

- 4.1 The Annual Basic Rent is \$ \_\_\_\_\_ sq.ft./yr, or \$ \_\_\_\_\_/month plus GST, or as set out in the attached Appendix. In addition to the Annual Basic Rent, Additional Rent is payable according to the division of expenses (including GST) as set out in the attached Appendix.
- 4.2 Where applicable, GST shall be the responsibility of the tenant.
- 4.3 A Lease Term of \_\_\_\_\_ months is preferred.  
Options to extend or renew the Lease will be considered.  Yes  No

**5. POSSESSION DATE**

- 5.1 The proposed Possession Date is \_\_\_\_\_  
\_\_\_\_\_

**6. LEASING COMMISSION**

- 6.1 The Leasing Commission (the "Commission") is \_\_\_\_\_% of the (net, gross) rental value payable by the tenant during the first \_\_\_\_\_ years or any lesser term and \_\_\_\_\_% of the (net, gross) rental value payable for any period beyond \_\_\_\_\_ years. In any event, it is agreed that the minimum Commission shall not be less than \$ \_\_\_\_\_. In the event any lease renewal or extension is negotiated, then an additional Commission is payable at a rate of \_\_\_\_\_% of the (net, gross) rental payable for the first \_\_\_\_\_ years or any lesser term of such renewal or extension, and \_\_\_\_\_% of the (net, gross) rental payable for any period beyond \_\_\_\_\_ years.

**OR**

Other Commission or fee arrangements as per attached Appendix.  
GST is payable on the Commission or other fee arrangement.

- 6.2 The Brokerage will offer \_\_\_\_\_ plus GST, as compensation to other brokerages for finding a tenant.

**7. DEPOSITS**

- 7.1 All Deposits will be held in accordance with the terms of the signed Lease Agreement. The Deposits must be held in trust according to the *Real Estate Act* (Alberta).
- 7.2 You direct the Brokerage, the tenant's brokerage or the lawyer who holds the Deposits to use the Deposits to pay any money owed under this Agreement. Any Commission or Alternate Compensation, plus GST, that has been earned by another brokerage and is no longer required to be held in trust shall be paid directly out of a trust account by the party holding the Deposits.
- 7.3 You **assign** to the Brokerage enough of the lease money or forfeited Deposits to pay all money owed under this Agreement. You agree not to revoke this assignment.
- 7.4 You direct your lawyer to pay all money owed under this Agreement from the lease money or the forfeited Deposits held by your lawyer.

**8. THE BROKERAGE'S AUTHORITY**

- 8.1 You authorize the Brokerage to obtain a search of title to confirm the proper legal description and your legal authority to lease, including restrictive covenants affecting the use and occupancy of the Leased Space.
- 8.2 Do you authorize the Brokerage to install "FOR LEASE" and "LEASED" signs?  Yes  No
- 8.3 Do you authorize the Brokerage and the Board to display the address of the Leased Space on the Internet?  Yes  No
- 8.4 Unless otherwise agreed in writing, only the Brokerage may advertise the Space for lease.

\_\_\_\_\_ Landlord's Initials      \_\_\_\_\_ Brokerage Representative's Initials

**9. IMPORTANT INFORMATION**

**9.1** You will provide the following Important Information that may reasonably be required to the Brokerage, promptly and at your expense:

- plans and specifications as may be available to properly describe the Leased Space including the rentable floor area in sq. ft. or sq. meters and the standard of floor measurements used (e.g., 1990 BOMA standards, 1996 BOMA standards).
- a schedule of the divisions of costs between Landlord and tenant including an estimate of the expenses that the tenant may reasonably expect as Additional Rent for the first year of the Term.
- where expenses are prorated, the percentage of costs that accrue to the area(s) available for lease.
- a draft or sample of the Landlord's Standard Lease Form (the "Lease").
- a schedule of improvements that the Landlord will undertake at the Landlord's expense.
- rules and regulations that may apply to the tenant's use and occupancy of the Leased Space.
- any special or unusual lease terms or conditions that may apply to the tenancy.

**10. DUTIES OF THE LANDLORD**

**10.1** You will pay the Commission to the Brokerage if, during the Term of this Agreement:

- (a) any portion of the Property is leased by you or anyone else;
- (b) a person contacts you directly or through a brokerage or inspects the Leased Space and the Space is then leased by you or anyone else to that person within six (6) months after the Expiry Date. This clause will not apply where you have signed another leasing agreement after the Expiry Date and a leasing commission is payable to another brokerage according to the terms of that other leasing agreement as a result of the lease;
- (c) you have signed a Lease Agreement with a tenant who is willing and able to complete the lease but you refuse to complete the lease or permit occupancy; or
- (d) a tenant is found who is willing and able to complete the lease upon the terms outlined in this Agreement but you refuse to sign the Lease Agreement.

**10.2** You will pay the Commission to the Brokerage no later than the second business day after the Lease is signed, or the tenant is given possession by the Landlord, whichever event first occurs. The Deposit money shall apply firstly to pay the Commission. The Landlord authorizes the Brokerage to deduct the Commission (including GST) payable from the Deposit, and agrees to pay any unpaid balance. Payment of Commissions on renewals shall be upon written agreement being signed confirming the rental and the term of the renewal. In the event the tenant holds over without a former renewal or extension agreement in place, the Commission shall be paid monthly as the rents are collected.

**10.3** You will pay Alternate Compensation to the Brokerage if a Lease Agreement is signed but a tenant defaults and the Deposits are forfeited. This Alternate Compensation will be the lesser of the Commission that would have been payable had the sale been completed or 50% of the forfeited Deposits. Alternate Compensation shall be payable upon the forfeiture of the Deposits.

**10.4** You will pay GST to the Brokerage on the Commission or any Alternate Compensation due under this Agreement.

**10.5** You will make reasonable efforts to cooperate with the Brokerage and any other brokerages.

**10.6** You will immediately inform the Brokerage of any relevant changes respecting the Leased Space or its ownership that may occur after this Agreement is signed.

\_\_\_\_\_ Landlord's Initials      \_\_\_\_\_ Brokerage Representative's Initials

**11. DUTIES OF THE BROKERAGE****11.1 The Brokerage:**

- will make reasonable efforts to find a tenant for the Leased Space.
- will market the Leased Space through the listing service operated by the Board.
- will not discourage any person who is an industry member as defined in the *Real Estate Act* (Alberta) and who is not a member of the Board from attempting to lease the space, unless you otherwise instruct the Brokerage in writing.
- will pay any Commission, Alternate Compensation and GST that are payable to another brokerage.

**12. SECURITY FOR THE BROKERAGE'S FEES**

**12.1** You now **encumber** all of your interest in the Land, Buildings and Goods attached to the Land and Buildings for the benefit of the Brokerage to secure payment of all money which may be owed by you to the Brokerage under this Agreement. The parties agree that the Brokerage is entitled to encumber the Land in accordance with the *Land Titles Act* (Alberta). You now authorize the Brokerage to file and maintain a **caveat** to give notice of this encumbrance.

**12.2** If the Brokerage successfully enforces any of its rights or remedies under this section, you will pay reasonable lawyer and client legal fees and costs incurred by the Brokerage.

**12.3** If you owe money under this Agreement and the Brokerage does not wish to enforce this Agreement against you, then upon mutual agreement between the Brokerage and the tenant's brokerage, the Brokerage may assign this Agreement to the tenant's brokerage. If this Agreement is assigned, then the tenant's brokerage may then enforce this Agreement against you to collect the portion of the Commission or Alternate Compensation, plus GST, to which the tenant's brokerage is entitled, and the tenant's brokerage will have the same rights and security given to the Brokerage according to Section 12 of this Agreement.

**13. ENDING THE AGREEMENT**

**13.1** This Agreement will automatically end if the Brokerage:

- has its licence to trade in real estate suspended or cancelled under the *Real Estate Act* (Alberta).
- ceases to be a member in good standing of a real estate board.
- is bankrupt, insolvent, or in receivership.

**13.2** Where a party to this Agreement has breached a part of this Agreement, the other party may end the Agreement by notice in writing to the party in breach.

**13.3** You and the Brokerage may enforce parts of this Agreement even if this Agreement has ended or expired.

**14. ADDITIONAL TERMS**

**14.1** This Agreement is for the benefit of and will be binding upon the heirs, successors and assigns of the individual parties and the successors and assigns of corporate parties.

**14.2** All changes of number and gender will be made where required.

**14.3** Capitalized words used in the headings, where applicable, shall define the terms used in this Agreement.

**14.4** This Agreement is a Landlord's Brokerage Agreement for the purposes of the *Real Estate Act* (Alberta).

**14.5** This Agreement will be governed by the laws of the Province of Alberta. The parties submit to the exclusive jurisdiction of the Courts in the Province of Alberta regarding any dispute that may arise out of this transaction.

**15. ADVICE**

**15.1** This Agreement creates binding legal obligations. You are encouraged to obtain legal advice before signing.

**15.2** The Landlord acknowledges that the Brokerage is being retained as a real estate broker, not as a lawyer, tax advisor, lender, appraiser, surveyor, structural engineer, property inspector, or other professional service provider.

\_\_\_\_\_ Landlord's Initials

\_\_\_\_\_ Brokerage Representative's Initials

- 15.3 The Landlord consents to the collection, use and disclosure of personal information by the Brokerage for the purpose of listing and marketing the Property including, but not limited to:**
- (a) listing and advertising the Leased Space in any medium including electronic media, photographs and video;
  - (b) disclosing Property information to prospective tenants, brokers, agents and others;
  - (c) such other use of the Landlord's personal information as is consistent with listing and marketing of the Leased Space.
- 15.4 The Landlord consents to placement of the listing information and any sale information by the Brokerage into the database(s) of the appropriate MLS® /CLS™ system(s) and acknowledges that the MLS®/CLS™ database is the property of the Board(s) and can, during or after the termination or expiry of this listing, be licensed, resold or otherwise dealt with by the Board(s). The Landlord further acknowledges that the Board(s) may:**
- (a) distribute the information to any persons authorized to use such service which may include other brokers, government departments, appraisers, municipal organizations and others;
  - (b) market the Leased Space, at its option, in any medium, including electronic media;
  - (c) compile, retain and publish any statistics including historical MLS®/CLS™ data;
  - (d) make such other use of the information as the Board deems appropriate in connection with the listing, marketing and leasing of real estate.

#### **16. AGENCY DISCLOSURE/ACKNOWLEDGMENT**

- 16.1** You, the Landlord, have entered into an agency relationship under common law with the Brokerage, including its broker, all its associate brokers and agents (collectively referred to as the **Landlord's Agent**). A brokerage, its broker, associate brokers and agents representing a tenant are referred to as the **Tenant's Agent**.
- 16.2** The Landlord's Agent is obligated to protect and promote your interests. Specifically, the Landlord's Agent owes you the fiduciary duties of loyalty, obedience, confidentiality, reasonable care and skill, full disclosure, and full accounting.
- 16.3** You, as the Landlord, and potential tenants may be represented by different brokerages (the Landlord's Agent and the Tenant's Agent). Each of these Agents owes its client the full fiduciary duties listed above. Other brokerages representing tenants will *not* have a fiduciary relationship with you.
- 16.4** Dual Agency occurs when one brokerage (the Dual Agent), trading in real estate from one or more locations, represents *both* you and a tenant with respect to the potential leasing of the Space. In such circumstances, the described fiduciary duties are limited as follows:
- The Dual Agent will *not*:
- (a) without prior written authority, disclose:
    - (i) to a tenant: that you will accept a price less than the asking rate (or a countered asking rate); the reason that you are leasing or the terms and conditions of competing offers.
    - (ii) to you: that a tenant will pay a price higher than the price offered or the reason that a tenant is seeking to lease;
  - (b) except as set out in (a), owe any duty of confidentiality and **will disclose to you and a tenant all known defects and information that materially affect or may materially affect the marketability or value of the Leased Space.**
- 16.5** The Landlord authorizes the Landlord's Agent to act as a Dual Agent according to the terms of this section.

\_\_\_\_\_ Landlord's Initials

\_\_\_\_\_ Brokerage Representative's Initials

**17. SIGNATURES**

17.1 This Agreement may be signed by the parties and transmitted by fax. This procedure will be as effective as if the parties had signed and delivered an original copy.

This Agreement is made effective \_\_\_\_\_, \_\_\_\_\_.

\_\_\_\_\_  
Name of Owner Registered on Title

\_\_\_\_\_  
Authorized Signing Officer(s)

\_\_\_\_\_  
Witness

\_\_\_\_\_  
Print Name of Authorized Signing Officer(s)

\_\_\_\_\_  
Print Name of Witness

\_\_\_\_\_  
Authorized Signing Officer(s)

\_\_\_\_\_  
Witness

\_\_\_\_\_  
Print Name of Authorized Signing Officer(s)

\_\_\_\_\_  
Print Name of Witness

\_\_\_\_\_  
**Signature of broker, associate broker or agent authorized to sign on behalf of the Brokerage**

\_\_\_\_\_  
**Landlord: Initial here to show you have received a copy of this Contract**