

SOLE MANDATE AGREEMENT
for Sale of Commercial Property

entered into between

THE SELLER

ID No _____
(hereinafter 'The Seller')
and

An Independent Property Practitioner
of **eXp REALTY SOUTH AFRICA (PTY) LTD**
Registration No 2020/480535/07
(hereinafter 'eXp')

1. INTRODUCTION

The Seller owns the property being Erf _____ situated at _____ (hereinafter referred to as 'the Property'). The Seller has decided to sell the Property and to utilise the services of eXp exclusively for the period of this mandate to the exclusion of all other agencies, to market the Property, with a view to finding a purchaser for the Property who is willing and able to purchase the Property.

2. DEFINITIONS AND INTERPRETATION

2.1 The following terms shall have the following meanings in this Mandate Agreement:

2.1.1 "The Parties" means the Seller and eXp as referred to herein.

2.1.2 "VAT" means value added tax levied in terms of the Value Added Tax Act 89 of 1991.

2.2 If any provision in a definition is a substantive provision conferring rights or imposing obligations on any party, notwithstanding that it is only in the definition clause, effect shall be given to it as if it were a substantive provision in the body of the agreement.

2.3 When any number of days is prescribed in this agreement, same shall be reckoned exclusively of the first and inclusively of the last day unless the last day falls on Saturday, Sunday or public holiday, in which case the last day shall be the next succeeding day which is not a Saturday, Sunday or public holiday.

2.4 The expiration or termination of this agreement shall not affect such of the provisions of this agreement as expressly provide that they will operate after any such expiration or termination or which of necessity must continue to have effect after such expiration or termination, notwithstanding that the clauses themselves do not expressly provide for this.

2.5 The interpretation of this agreement and the rights, duties and obligations of the parties shall be governed by and be construed in accordance with the laws of the Republic of South Africa, regardless of the place of execution or the performance of the parties' respective obligations under this agreement or otherwise.

2.6 Reference to a party includes that party's successors-in-title and permitted assigns.

2.7 In this agreement, unless the context clearly indicates another intention:

2.7.1 reference to one gender includes all other genders;

2.7.2 reference to the singular includes the plural and *vice versa*;

2.7.3 reference to a clause or party is reference to a clause of or party to this agreement;

2.7.4 obligations undertaken by more than a single person or company are joint and several obligations;

2.7.5 reference to a statutory provision is a reference to that provision as modified or re-enacted or both from time to time and to any subordinate legislation made under the statutory provision;

2.7.6 reference to a document is a reference to that document as from time to time supplemented or varied;

2.7.7 reference to writing includes fax, electronic mail and similar means of communication;

2.7.8 any reference to a person includes natural persons and partnerships, firms and other incorporated bodies, corporate bodies and all other legal persons of whatever kind and however constituted.

3. THE MANDATE

3.1 The Seller hereby appoints eXp with a sole and exclusive mandate to find a willing and able purchaser to purchase the Property. This sole mandate shall remain in full force and effect from the date of signature hereof, until _____ (the "Exclusivity Period").

3.2 The Seller requires a selling price of R _____ (_____rand) for the Property, or such lesser selling price as he may agree to in writing.

3.3 The Seller understands that this mandate precludes him from employing any other agency to market or sell the Property for the Exclusivity Period.

3.4 The Seller understands that this mandate also precludes him from selling the Property privately, or through another agency, to anyone who was introduced to the Property during the Exclusivity Period, even after the mandate has expired.

3.5 The Seller shall not during the Exclusivity Period take the Property off the market or let the Property to any prospective tenant, and shall: -

- 3.5.1 allow the property practitioners of eXp and their prospective purchasers (and no one else) reasonable access to the Property in order to view the Property;
- 3.5.2 allow eXp to display "For Sale" signs on the Property;
- 3.5.3 allow eXp to hold show days on Sundays; and
- 3.5.4 allow eXp to display and market the Property on the eXp marketing platforms and the Internet.
- 3.6 The Seller irrevocably undertakes to pay eXp commission calculated at _____% plus VAT of the purchase price payable on any unconditional sale and which amount shall be deducted off the purchase price and paid to eXp by the Seller's conveyancers, on the date of registration of transfer of the Property to a purchaser.
- 3.7 Upon expiration of the mandate period, the mandate shall not automatically terminate, but shall continue as a non-exclusive open mandate, allowing eXp to continue to market the Property whilst the Property is on the market to be sold. The Seller understands that he may, during the open mandate period, also instruct other property practitioners or sell the Property privately.
- 3.8 eXp undertakes to market the Property *inter alia* by means of the following: -
 - 3.8.1 show houses at mutually convenient dates;
 - 3.8.2 advertising on social media and the eXp advertising platforms; and
 - 3.8.3 by introducing existing potential buyers to the Property.
- 3.9 The Seller understands that he is entitled in terms of the Consumer Protection Act, Act 68 of 2008, to cancel this agreement by giving 20 (twenty) business days' written notice of such cancellation. In such event, eXp shall be entitled to a cancellation penalty in terms of section 14(3)(b) of the Act, which it is agreed shall not exceed 10% (ten percent) of the commission that would have been payable on the asking price upon a sale of the Property to compensate eXp for the reasonable costs incurred by it to employ property practitioners to market and advertise the Property.
- 3.10 The Seller further understands that he shall be entitled to cancel this agreement by giving written notice to such effect, within 5 (five) business days of signing this agreement, should this agreement have been concluded as a result of direct marketing.
- 3.11 In the event of the Property being owned by a company or close corporation, eXp shall become entitled to commission on the same basis should there be a sale of the shares or the members interest in such company or close corporation to a person who was introduced to the Property by eXp during the mandate period. Such commission shall be paid upon receipt of the purchase price by the Seller.

4. BREACH

If one of the Parties commits a breach of this Agreement or fails to comply with any of the provisions hereof, then the Aggrieved Party shall be entitled to give the Defaulting Party 7 (seven) days notice in writing to remedy such breach or failure. If the defaulting party fails to comply with such notice then the Aggrieved Party shall forthwith be entitled, but not obliged, to cancel this agreement without prejudice to any other rights or remedies which the he may have in law, including the right to claim damages.

5. LEGAL COSTS

All legal costs, incurred by any party in consequence of any default of the provisions of this agreement by any other party, shall be payable on demand by the defaulting party on the scale as between attorney and own client and shall include collection charges, the cost incurred by the aggrieved party in endeavouring to enforce such rights prior to the institution of legal proceedings and the costs incurred in connection with the satisfaction or enforcement of any judgement awarded in favour of the aggrieved party in relation to its rights in terms of or arising out of this agreement.

6. NOTICES AND DOMICILIUM

6.1 The Seller and eXp hereby choose their respective addresses (*domicilium citandi et executandi*) and contact details for all purposes in respect of this Mandate Agreement, including all notices and Court process to be delivered in terms hereof, at the following addresses:

THE SELLER

- 6.1.1 Physical Address: _____
- 6.1.2 Postal Address: _____
- 6.1.3 Email: _____
- 6.1.4 Fax No: _____
- 6.1.5 Personal Phone No:: _____
- 6.1.6 Business Phone No: _____
- 6.1.7 Cell No: _____

eXp

- 6.2.1 Physical Address: _____
- 6.2.2 Postal Address: _____
- 6.2.3 Email: _____
- 6.2.4 Fax No: _____
- 6.2.5 Personal Phone No:: _____
- 6.2.6 Business Phone No: _____
- 6.2.7 Cell No: _____

6.3 Any notice sent by pre-paid registered post shall be deemed to have been received on the fifth day after posting; any notice delivered by hand shall be deemed to have been received on the day of delivery; any notice sent by telefax or

electronically transmitted by email, shall be deemed to have been received on the first business day after date of despatch thereof.

6.4 Notwithstanding anything to the contrary herein contained, any written notice or communication actually received by a Party to this Agreement shall be deemed to be adequate written notice or communication to him notwithstanding that it was not sent or delivered at the *domicilium citandi et executandi* or transmitted to such Party's telefax number and/or email address as stipulated herein.

6.5 The term "writing" shall include communications by electronic mail or facsimile.

7. GENERAL

7.1 This Mandate Agreement constitutes the entire agreement between the Parties as to the subject matter hereof and no agreement, representation or warranty between the Parties other than those set out herein are binding on the Parties.

7.2 No extension of time, waiver, indulgence or suspension of any of the provisions of this agreement, which any Party hereto may have given, shall be binding unless recorded in a written document signed by all Parties.

7.3 No variation or alteration or cancellation of this Mandate Agreement or any of the terms hereof, shall be of any force or effect, unless in writing and signed by the Parties hereto.

7.4 The Parties signing this document confirm that they have read and understood all of the terms and conditions contained herein and agree that they are bound hereto.

7.5 The Parties warrants that they are duly authorised to sign this Mandate Agreement.

7.6 The agreements and undertaking of parties contained in this Mandate Agreement shall each be construed as an agreement and undertaking independent of any other provision of this agreement. The Parties hereby expressly agree that it is not the intention of any party to violate any public policy, statutory or common law, and that if any sentence, paragraph, clause or combination of the same is in violation of the law of the Republic of South Africa, such sentence, paragraph, clause or combination of the same alone shall be void in the jurisdiction where it is unlawful, and the remainder of such clause and this Mandate Agreement shall remain binding upon the Parties hereto. The Parties further acknowledge that it is their intention that the provisions of this agreement be binding only to the extent that they may be lawful under existing applicable law of the Republic of South Africa, and in the event that any provision hereof is determined to be overly broad or unenforceable, the parties hereto agree to the modification of such provisions by their attorneys to the minimum extent required to make them valid and enforceable.

SIGNED AT _____ ON THIS _____ DAY OF _____ 20__

AS WITNESSES

1 _____

THE SELLER

2 _____

SPOUSE OF SELLER

who by his/her signature hereto agrees to the terms of this mandate
[where Seller married in community of property]

SIGNED AT _____ ON THIS _____ DAY OF _____ 20__

AS WITNESSES

1 _____

NAME OF PROPERTY PRACTITIONER

2 _____

SIGNATURE

Duly authorised,

being an independent property practitioner of eXp Realty South Africa (Pty) Ltd and who hereby warrants the validity of his/her/its Fidelity Fund certificate as at the date of signature of this Mandate Agreement