



MANDATE AGREEMENT

Natural Person Version

[Ask TPN: 248]

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1. SCHEDULE

1.1	The Agent	
	Registration number / identity number	
	VAT registration number	
	Fidelity Fund Certificate Number	
1.2	The Landlord	
	Registration number / IT number / identity number	
	VAT registration number	
	Income tax registration number	
1.3	The Premises	
	Stand / Erf	
	Township	
	Being (Street Address)	
1.4	Required Rental (monthly)	R
	Payment date	
1.5	Procurement Commission (excluding VAT)	%
		R
		Amount
	First Years Procurement Commission (excluding VAT)	%
		R
		Amount
1.6	Additional Years Procurement Commission (excluding VAT)	%
		R
		Amount
	Management Commission (excluding VAT)	%
		R
		Amount
1.7	Sale Commission (excluding VAT)	%
		R
1.8	The Landlord's nominated bank account	
	Name of account holder	
	Bank	
	Bank Branch	
	Branch Code	
	Account Number	

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Reference	
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1.9 The Landlord's contact details

Physical	
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Postal	
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Telefax	
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Email	
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Phone number	
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1.10 The Agent's contact details

Physical	
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Postal	
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Telefax	
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Email	
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Phone number	
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1.11	Direct Marketing as defined in the Consumer Protection Act means to approach a person, either in person or by mail or electronic communication, for the direct or indirect purpose of: (a) promoting or offering to supply, in the ordinary course of business, any goods or services to the person; or (b) requesting the person to make a donation of any kind for any reason. Has the Agent approached the Landlord in this manner (tick appropriate box)	Yes	No
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1.12 I the Landlord, as the owner of the Premises set out in the Schedule, nominate my Agent referred to in clause 1.1 of the Schedule to be my Agent from the date of signature of this Mandate for the set out in clause 7 of this Mandate for the purposes of:

1.12.1	finding a Tenant only (Procurement);	
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or

1.12.2	Finding and managing any Tenant on the Premises (Management)	
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Tick *either* 1.12.1 or 1.12.2

1.13	Specific requirements in respect of a potential Tenant as recorded by the Landlord:	
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2. NATURE OF MANDATE AGREEMENT AND RECORDAL

- 2.1. The Landlord as owner of the Premises instructs the Agent herewith to **perform the functions of an Estate Agent** as defined in the Estate Agency Affairs Act 112 of 1976 ("EAAA").
- 2.2. The Agent is instructed either to **Procure** (See 1.12.1) a Tenant for the Premises or **Manage** (1.12.2) a Tenant on the Premises; depending on which box is ticked in the Schedule.
- 2.3. The Agent acknowledges that his specific rights and duties will depend on the type of instruction given.
- 2.4. The Agent acknowledges/ agrees and warrants that he is registered as an Estate Agent with the Estate Agency Affairs Board, in terms of the Act mentioned above, and that he is in possession of a valid Fidelity Fund Certificate.
- 2.5. Should the Agent be found in breach of the above clause:
 - 2.5.1. this agreement shall be immediately terminable by the Landlord;
 - 2.5.2. the Landlord shall be entitled to claim back any amount or Commission paid to the Agent; and
 - 2.5.3. the Landlord shall be entitled to claim damages from the Agent.

3. PROCUREMENT RIGHTS AND DUTIES (See 1.12.1)

- 3.1. The Agent is tasked with finding a suitable Tenant to lease the Premises from the Landlord. In so doing the Agent is responsible for the following:
 - 3.1.1. Advertising, marketing and otherwise exposing the Premises to potential Tenants including the use of the internet, telecommunications and general advertising and marketing strategy;
 - 3.1.2. Arranging for potential Tenants to view the Premises by making arrangements with the Landlord or current occupant of the Premises to have access to the Premises at all reasonable times for this purpose;
 - 3.1.3. Negotiating the subsequent Lease Agreement with potential Tenants and ensuring all suspensive and resolutive legal formalities pertaining to the Lease Agreement are complied with;
 - 3.1.4. Performing all vetting, including but not limited to credit, employment and other reference checks on potential Tenants who have applied to lease the Premises;
 - 3.1.5. Informing the Tenant of all rights and duties in terms of the Lease Agreement including the Tenant's duties to pay Rental on time and to look after the Premises;
 - 3.1.6. Initiating and performing the incoming snag list or initial inspection of the Premises and recording all existing damages or existing defects to the Premises;
 - 3.1.7. Informing the Tenant that the Landlord will be the contact person once the Lease Agreement is signed regarding any matters concerning the Premises;
 - 3.1.8. Explaining to the Tenant that the Tenant may be asked by the Agent to pay a portion of the Rental directly to the Agent if the Landlord does not pay the Agent a portion or the full amount of Commission due to the Agent;
 - 3.1.9. Ensuring that the specific requirements in respect of a potential Tenant have been met and that a Tenant that does not meet those specific requirements such as Tenant does not take occupation of the Premises; and
 - 3.1.10. Ensuring that the Tenant can afford the required Rental as per the Schedule.
- 3.2. The Agent cannot be held liable to the Landlord (provided that the Tenant has been correctly screened and placed by the Agent) for any liabilities, such as the Tenant not paying Rental, vacating the Premises before the Lease Agreement expires, and the like.

4. MANAGEMENT RIGHTS AND DUTIES (See 1.12.2)

- 4.1. Together with the rights and duties set out hereunder the Agent is tasked with finding a suitable Tenant as per clause 3 together with all applicable responsibilities thereunder.
- 4.2. The Agent is further tasked with administering and managing the Lease Agreement as well as the Premises. In so doing the Agent is responsible for the following:
 - 4.2.1. Ensuring that all suspensive and resolutive conditions to the Lease Agreement have been fulfilled and that the Deposit which the Tenant is required to pay in terms of the Lease Agreement is received immediately from the Tenant and is transferred to its trust account more specifically an interest bearing account with a banking institution, as required by the Rental Housing Act 50 of 1999, as read with the EAAA.
 - 4.2.2. Collecting and ensuring payments of all amounts due and owing to the Landlord in terms of the Lease Agreement and keeping a complete, correct and up-to-date record of such payments;
 - 4.2.3. Attending timeously and with due diligence to all queries and complaints by the Tenant and informing the Landlord of any queries or complaints that requires his intervention;
 - 4.2.4. Attending to all defaults and breaches of the Lease Agreement and informing the Landlord promptly of these defaults and breaches;
 - 4.2.5. Inspecting the Premises as per the Lease Agreement;
 - 4.2.6. Paying the Landlord to his Nominated Bank Account as set out in item 1.8 of the schedule, by the date referred to in 1.4 of the schedule, all Required Rental and ancillary expenses paid by the Tenant, as well as VAT thereon; and

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- 4.2.7. Instructing responsible attorneys to institute all legal proceedings, including but not limited to, issuing an application or summons, defending any legal action, settling any matter or evicting the Tenant. The Agent will prior to instructing the attorneys contact the Landlord and inform him of the legal situation, in so doing providing him with the contact details of the preferred attorney and ask for consent to refer the matter. The costs of the attorney will be for the Landlord's account. Should a power of attorney be concluded in this regard, the Agent may act as a representative for the Landlord.

5. COMMISSION

- 5.1. Should this be a Procurement Mandate:
- 5.1.1. the Agent is entitled to a Commission from the Landlord based on the value or percentage as set out in 1.5 of the Schedule, upfront on the value of the Lease (which is calculated by taking the length of the Lease and multiplying it by the Rental payable) for procuring the Tenant.
- 5.2. Should this be a Management Mandate:
- 5.2.1. the Agent is entitled to a Commission from the Landlord based on the value or percentage as set out in 1.6 of the Schedule, per month on the total Rental collected, together with all such other costs and amounts which the Landlord may owe the Agent. Such amounts may be deducted from the Rental collected by the Agent; and
- 5.2.2. should the Landlord cancel this Mandate for any reason whatsoever during the term of the Lease Agreement, the Landlord will still be liable to pay the Agent the Commission that the Agent would have earned for the remaining term of the Lease Agreement. This Commission must be paid by the Landlord to the Agent immediately after this Mandate is cancelled by the Landlord.
- 5.2.3. should the Agent be authorised or instructed to call out a service provider to effect repairs at the Premises, the Agent shall be entitled to 10% (Ten Percent) of the value of the repairs/maintenance to the Premises.
- 5.3. It is specifically recorded that, regardless of whether this is a Procurement Mandate or a Management Mandate and Tenant renew the Lease or conclude a further lease agreement after the termination or cancellation of the Lease with or without the assistance of the Agent; then the Agent will be regarded as the effective cause of the conclusion of the renewal or further lease agreement. The Agent will be entitled to payment of commission by the Landlord, equal to the percentage or value as referred to in item 1.5 of the Schedule and calculated as set out in 5.1 above.

6. SALE OF PREMISES

- 6.1. If the Tenant signs a Sale Agreement with the Landlord at any time during the period of Lease Agreement or any renewal of the Lease Agreement or within 12 (Twelve) months after the Lease Agreement has terminated; then the Agent will be regarded as the direct reason that the sale took place and will be entitled to payment, by the Landlord, of Commission equal to the percentage or value, as referred to in item 1.7 of the Schedule.
- 6.2. Should the Premises be sold during the Lease Agreement period, other than to the Tenant, all remaining fees that would have been collected by the Agent will be paid, without deduction or set-off, to the Agent, at the date of the Premises being registered in the name of the purchaser, or will be deducted from any monies (proceeds) that are owed to the Landlord.
- 6.3. The Landlord agrees that when the premises is for sale, and a Sale Agreement is concluded, that the Agent will be notified by the Landlord if the sale occurs during the period mentioned in 6.1.

7. BREACH

- 7.1. In the event that either Party breaches the terms of the Mandate, and:
- 7.1.1. the provisions of section 14 of the Consumer Protection Act 68 of 2008 ("the CPA") apply and such Party remains in breach of such term for a period of 20 (Twenty) Business Days after despatch of a written notice calling upon the Party to remedy such breach; or
- 7.1.2. the provisions of section 14 of the CPA do not apply and such Party remains in breach of such term for a period of 7 (Seven) calendar days after despatch of a written notice calling upon the Party to remedy such breach, then the innocent party shall be entitled at his sole discretion and without prejudice to any other rights in law to either claim specific performance in terms of this Mandate or to cancel this Mandate forthwith and without further notice claim damages from the defaulting Party.

8. TERM

- 8.1. If 1.12.1 of the Schedule has been marked, this Mandate will terminate on the payment of the Commission stipulated in 1.5 of the Schedule and the Agent's liability will end, provided that he has duly exercised his duties in terms of clause 3.
- 8.2. If 1.12.2 of the Schedule has been marked, this Mandate will continue for the period of the Lease Agreement or any further period that the Lease Agreement is renewed, after which either the Landlord or the Agent may terminate this Mandate by giving the other party 2 (Two) calendar months' written notice. Furthermore, this Mandate will continue on a month to month basis after its termination, subject to any material changes, unless the Landlord gives the Agent 1 (One) months' notice, in writing, before the expiry date, of his intention not to continue with this Mandate. In such an event, the Mandate will terminate on the 1st (First) day of the month immediately following the end of the 1(One) month notice period.

9. LIMITATION OF LIABILITY

Neither Party shall be held liable for any loss, damage or injury which either Party may suffer unless such loss, damage or injury is due to the breach of this Mandate, gross negligence of the defaulting party or the defaulting Party breaching the provisions of the CPA.

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FICA DOCUMENTS TO BE ATTACHED WITH THIS MANDATE

Financial Intelligence Centre Act, 2001, all accountable institutions which includes estate agents have a duty to know their clients and keep a record of the identity, address and income tax documents.

Where Landlord is a natural person		Where Landlord is a juristic person	
RSA ID Document / Passport		Company registration document	
Proof of current address		Proof of current address	
Proof of SARS Income tax number		Proof of SARS Income tax number	
		Resolution of members / directors / trustees	

SIGNED AND DATED BY THE AGENT AT THE UNDERMENTIONED PLACE AND ON THE UNDERMENTIONED DATE, IN THE PRESENCE OF THE UNDERMENTIONED WITNESSES, HE/SHE BEING DULY AUTHORISED THERETO.

Signed by the AGENT at _____ on this the _____ day of _____ 20_____

AGENT

WITNESS 1

NAME OF SIGNATORY

WITNESS 2

SIGNED AND DATED BY THE LANDLORD AT THE UNDERMENTIONED PLACE AND ON THE UNDERMENTIONED DATE, IN THE PRESENCE OF THE UNDERMENTIONED WITNESSES, HE/SHE BEING DULY AUTHORISED THERETO.

Signed by the LANDLORD at _____ on this the _____ day of _____ 20_____

LANDLORD

WITNESS 1

NAME OF SIGNATORY

WITNESS 2

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