



EXCLUSIVE BUYER-BROKER AGREEMENT & AGENCY DISCLOSURE

THIS IS A LEGALLY BINDING AGREEMENT - READ CAREFULLY BEFORE SIGNING DESIGNATED AGENCY BROKERAGE

THIS EXCLUSIVE BUYER-BROKER AGREEMENT & AGENCY DISCLOSURE ("Buyer-Broker Agreement") is entered into between Summit **Sotheby's** International Realty (the "Company") and _____ (the "Buyer").

1. RIGHT TO REPRESENT AND TERM OF AGREEMENT.

1.1 Representation. The Buyer, including any business entity in which Buyer elects to use for the purchase a property, including a partnership, trust, limited liability company, or corporation, hereby retains the Company, including _____ (the "Buyer's Agent") as the authorized agent for the Company, to act as the exclusive Buyer's Agent in locating and/or negotiating for the acquisition of a property, including any improvement, in the State of Utah ("Property"). During the Initial Term of this Buyer-Broker Agreement, and any extensions thereof, the Buyer agrees not to enter into another buyer agency agreement with another real estate agent or brokerage in the State of Utah.

1.2 Term. Starting upon the Effective Date set forth in Section 15 of this Buyer-Broker Agreement, and ending at 5:00 P.M. ____ months after the Effective Date, or the closing of the acquisition of a property, whichever occurs first (the "Initial Term"). In the event this Buyer-Broker Agreement expires while the Property is under contract to be sold, the Company and Buyer agree that the Initial Term, and any extensions, shall automatically extend until the under-contract transaction closes or is cancelled.

1.3 Exclusive Representation. In the event Buyer, or any other person or entity acting on Buyer's behalf, enters into a contract for the purchase of a Property during the Initial Term, or any extension, without the use of Buyer's Agent or Company, Buyer shall be responsible for the payment of the Brokerage Fee set forth in Section 2, to Company at the time of funding and recording of the property ("Closing").

2. BROKERAGE FEE. In the event Buyer purchases a Property, during the Term, or any extension of the Term, Buyer agrees that the Company shall be paid a brokerage fee in the amount of three percent (3%) of the purchase price of the Property (the "Brokerage Fee"). The Brokerage Fee shall be paid at the time of funding and recording of the purchase of the Property ("Closing"). Buyer is informed that the Company and/or Buyer's Agent may share a percentage of the Brokerage Fee with partnership brokerages for the referral of business. Buyer is informed that the Brokerage Fee is not set by law and is fully negotiable. The Brokerage Fee shall be paid through any of the following methods:

2.1 Compensation from Listing Brokerage or Seller. Buyer authorizes the Company to negotiate directly with the listing brokerage for payment of the Brokerage Fee or include payment of the Brokerage Fee by the seller as part of a written offer for the purchase of a Property, at any time before buyer's submission of an offer on a Property. Upon the listing brokerage and/or seller's written agreement for the payment of total Brokerage Fee, Buyer will have no obligation for payment of the Brokerage Fee directly to Company.

2.2 Buyer Paid Brokerage Fee. In the event the Brokerage Fee is not paid in full as set forth in Section 2.1, Buyer agrees to pay the Brokerage Fee, or any remaining difference between the Seller/listing brokerage paid Brokerage Fee and the total Brokerage Fee, at Closing. **Buyer shall have no obligation to pay the Company any portion of the Brokerage Fee unless notified in writing by Buyer's Agent before the acceptance of an offer for the purchase of a Property.**

3. PROTECTION PERIOD. If within three (3) months after the termination or expiration of this Buyer-Broker Agreement, Buyer or any person acting on the Buyer's behalf, enters into an agreement to purchase, exchange, obtain an option on, or lease any property located or shown for Buyer by Buyer's Agent or the Company, or on which Buyer's Agent negotiates on Buyer's behalf during the Initial Term, Buyer agrees to pay to the Company the Brokerage Fee referenced in Section 2, upon the Closing of the transaction.

4. BUYER REPRESENTATIONS/DISCLOSURES. Buyer warrants that Buyer has not entered into any other Buyer-Broker Agreement with any other brokerage in the state of Utah that is still in force and effect. Buyer will: (a) In all communications with other real estate agents, notify the agents in advance that the Buyer has entered into this Buyer-Broker Agreement with the Company; (b) Furnish the Buyer's Agent

with relevant personal and financial information to facilitate the Buyer's ability to acquire a property; (c) Exercise care and diligence in evaluating the physical and legal condition of the property selected by the Buyer; (d) Hold harmless the Company and the Buyer's Agent against any claims as the result of any injuries incurred while inspecting any property; (e) Upon signing of this Buyer-Broker Agreement, personally review and sign the *Wire Fraud Scam Alert* and *Buyer Due Diligence Checklist* form; and (f) Disclose to the Buyer's Agent all properties in which Buyer, as of the date of this Buyer-Broker Agreement, is either negotiating to acquire or has a present interest in acquiring.

5. AGENCY RELATIONSHIPS.

5.1 Duties of a Buyer's Agent. By signing this Buyer-Broker Agreement, Buyer designates the Buyer's Agent and the Principal/Branch Broker for the Company (the "Broker"), as agents for the Buyer, to (a) locate properties as referenced in Section 1 above for Buyer's consideration and review, and (b) submit offers and negotiate for the acquisition of a Property on behalf of Buyer. The Buyer authorizes the Buyer's Agent or the Broker to appoint another agent in the Company to also represent the Buyer in the event the Buyer's Agent will be unavailable to service the Buyer. As agents for the Buyer, the Buyer's Agent and Broker have fiduciary duties to the Buyer that include loyalty, obedience, full disclosure, confidentiality, reasonable care, and any other duties required by law.

5.2 Duties of a Limited Agent.

a. **Buyer's Agent's Limited Agency.** The Buyer understands that the Buyer's Agent may now, or in the future, be an agent for a seller who may have a property that the Buyer may wish to acquire. Then the Buyer's Agent may be acting as Limited Agent - representing both the Buyer and the seller at the same time. A Limited Agent has fiduciary duties to both the Buyer and the seller as required by law. However, some of those duties are "limited" because the agent cannot provide to both parties undivided loyalty, confidentiality and disclosure. For this reason, the Limited Agent is bound by a further duty of neutrality. Being neutral, the Limited Agent may not disclose to either party information likely to weaken the bargaining position of the other – for example, the highest price the Buyer will offer, or the lowest price the seller will accept. However, the Limited Agent will be required to disclose information given to the agent in confidence by the other party if failure to disclose such information would be a material misrepresentation regarding the Property or regarding the ability of the parties to fulfill their obligations. The Buyer is advised that neither the Buyer nor the seller is required to accept a limited agency with Buyer's Agent, and each party is entitled to be represented by its own agent.

b. **In-House Sale.** If the buyer and the seller are both represented by one or more agents in the same brokerage, that transaction is commonly referred to as an "In-House Sale". Consequently, In-House Sales involve brokerage limited agency because seller and buyer are represented by the same brokerage and Principal Broker. The Company has policies designed to protect the confidentiality of discussions between agents and access to confidential client and transaction files. Buyer is advised that it is the business practice of the Company to participate in "In-House" sales. By signing this Buyer-Broker Agreement, Buyer consents to "In-House" brokerage limited agency within the Company, as defined herein, and agrees to the Principal Broker acting as a Limited Broker for In-House Sales with a duty of neutrality to both parties to the transaction. Buyer agrees in an "In-House" sale, a separate Company agent will exclusively represent the Seller, the Buyer's Agents will exclusively represent Buyer, and the Principal Broker will be limited. Buyer agrees that no additional limited agency agreement need be signed by Buyer in the event of an "In-House" sale.

5.3 Agreement for Buyer's Agent Limited Agency. By initialing below, Buyer agrees as follows: (Initial one box only)

_____ **Buyer Agrees to Buyer's Agent Limited Agency:** By initialing in the affixed box and signing this Buyer Broker Agreement, Buyer authorizes Buyer's Agent to represent both Buyer and a seller as a Limited Agent as defined in Section 5.2(b) above. Upon the initialing of the affixed box, Buyer agrees that no additional limited agency agreement need be signed by Buyer in the event of the Buyer's Agent acting in a limited agency capacity in a transaction.

_____ **Buyer Does Not Agree to Buyer's Agent Limited Agency.** By initialing in the affixed box, Buyer does not authorize Buyer's Agent to act as a limited agent representing a seller. Instead, Buyer authorizes and instructs Buyer's Agent to refer Buyer to a separate real estate agent with the Company, as set forth in Section 5.2(a), for representation in making an offer on a property in which Buyer's Agent is acting as the listing agent. In the event this box is initialed by Buyer, Buyer's Agent shall not act as a limited agent unless set forth in a separate written *Limited Agency Consent Agreement*.

11. **EQUAL HOUSING OPPORTUNITY.** The Buyer and the Company will comply with Federal, State, and local fair housing laws.

12. **ELECTRONIC TRANSMISSION & COUNTERPARTS.** This Buyer-Broker Agreement and any addenda may be executed in counterparts. Signatures on this Buyer-Broker Agreement and any addenda, whether executed physically or electronically, shall have the same legal effect as original physical signatures. Electronic transmission (including email and fax) of a signed copy of this Buyer Broker-Agreement and any addenda, and the retransmission of any signed electronic transmission, shall be the same as delivery of an original.

13. **DUE-ON-SALE.** Certain types of transactions may trigger what is commonly referred to as a “due-on-sale” clause. A “due-on-sale” clause typically states that the seller’s lender or mortgagee may call the loan due and payable in full if the seller participates in certain types of transactions. These types of transactions may include, but are not limited to, transactions where: (a) The sale of the property does not result in the underlying debt being paid in full; (b) The parties enter into a seller-financed transaction; (c) A lease option agreement is entered into; or (d) Any other unauthorized transfer of title to the Property has occurred without the lender’s consent. The Buyer understands that if any underlying encumbrances or mortgages on the Property contain a “due-on-sale clause,” and the “due-on-sale” clause is triggered, the lender may call the entire unpaid balance of the loan immediately due.

14. **ENTIRE AGREEMENT.** This Buyer-Broker Agreement, including the *Buyer Due Diligence Checklist* form and *Wire Fraud Scam Alert*, contains the entire agreement between the parties relating to the subject matter of this Buyer-Broker Agreement. This Buyer-Broker Agreement shall not be modified or amended except in writing signed by the parties hereto. **ANY MODIFICATIONS OF THIS BUYER-BROKER AGREEMENT FORM MADE BY CROSS-OUT, WHITE-OUT, OR OTHER ALTERATION REQUIRE THE ACCEPTANCE AND SIGNATURE OF THE MANAGING OR PRINCIPAL BROKER. IN THE EVENT THE MANAGING OR PRINCIPAL BROKER DOES NOT SIGN THIS AGREEMENT, ANY ALTERATIONS MADE ON THIS FORM SHALL NOT BE BINDING ON THE COMPANY.**

15. **EFFECTIVE DATE.** This Buyer-Broker Agreement is entered into and is effective as of the date Buyer and Buyer’s Agent or Broker have signed this Buyer-Broker Agreement (the “Effective Date”).

THE UNDERSIGNED hereby accept the terms of this Buyer-Broker Agreement.

(Buyer's Signature) (Date)

(Buyer's Signature) (Date)

ACCEPTED by the Company

by: _____
(Signature of Authorized Buyer's Agent or Broker) (Date)

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