

NECB, INC. BROKER OF RECORD AGREEMENT

THIS BROKER COOPERATION AGREEMENT (this “**Agreement**”) is being made this _____ day of _____, 2020 (the “**Effective Date**”) by and between **New England Commercial Brokerage, Inc.**, a Florida corporation Andrew Knight (“**Broker**”) and (“_____, LLC”)(“**Company**”).

WITNESSETH

WHEREAS, COMPANY represents principals (each a “**Client**”, and collectively, as the context may require, “**Clients**”) who desire to sell, lease, purchase or rent commercial properties subject to, and in accordance with, the terms, covenants and conditions of certain listing, engagement or retention agreements between **Company** and such Clients (each a “**Retention Agreement**”);

WHEREAS, Broker currently holds a valid, active real estate broker’s license in the following states: Connecticut (# REB. 0756872), Florida (# BK 3287452, FL NECB Corp. # CQ1046052), Georgia (#365226, GA NECB Corp. # H – 67328), Massachusetts (# RM 151037, MA NECB Corp. # 10213), New Mexico (# 19541, NM NECB Corp # 5160391) New York (# 10311206075, New York NECB Corp # 4800708), Rhode Island (# 10311206075, RI NECB Corp # 4800708) Utah (Lic. # 10089708-PB00, UT NECB Corp. # 10090537-CN00), Virginia (# 0225214094, VA NECB Corp # 0226025861 (collectively, the “**States**”, and each individually, as the context may require, a “**State**”);

WHEREAS, COMPANY desires to cooperate with **Broker** in connection with the marketing, sale, purchase and/ or lease of certain properties that are subject to COMPANY Retention Agreements and which are located in the States, which properties are listed, above, attached hereto (as the same may be amended, modified or supplemented in accordance with the terms of this Agreement) (collectively, the “**Properties**”, and each individually, as the context may require, a “**Property**”; and the sale, lease, purchase, exchange or rental of each such Property shall be hereinafter referred to as a “**Transaction**”); and

WHEREAS, Broker is willing to cooperate with COMPANY as the local “broker of record” in connection with each Transaction, and provide the services hereinafter described (collectively sometimes referred to in this Agreement as the “**Services**”) subject to, and in accordance with, all applicable laws, rules and regulations of each State pertaining to such Transactions (collectively, the “**Regulations**”), and all of the terms, covenants and conditions of this Agreement.

NOW, THEREFORE, in consideration of the mutual agreements herein contained, **Broker** and **Company** hereby agree as follows:

1. **COOPERATION:** In connection with each Transaction, Broker shall serve as the “**broker of record**” in the State, and shall work in such capacity in cooperation with COMPANY. Broker shall keep COMPANY informed regarding the Regulations, and shall advise COMPANY as to all actions it should perform (or refrain from performing, as the case may be) in order to comply with the Regulations in connection with each Transaction. Broker’s Services shall include, without limitation, (i) providing COMPANY and its sales professionals with all forms and documents legally necessary to commence and complete a Transaction in the State; (ii) assisting COMPANY with properly documenting, consummating and closing each Transaction pursuant to the Regulations, including supervising and controlling the Transaction in the manner required by the Regulations as well as making any necessary filings with State agencies as may be required by the Regulations; and (iii) being reasonably available to COMPANY and its sales professionals to provide guidance with regard to the Transactions. If necessary, the parties will execute a Transaction-specific addendum (“**Addendum**”) to each Retention Agreement in order to reflect and incorporate, as

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accurately and completely as possible, the Regulations applicable to out-of-state real estate brokers participating in and/or conducting activities for which a real estate license is required in the State. COMPANY and Broker each agrees to observe and comply with the Regulations, including requirements relating to advertising, supervision, and the handling of documents and funds.

2. **TERM:** The term of this Agreement shall commence on the Effective Date, and shall terminate exactly twelve (12) months after such commencement (the “**Term**”), unless extended by mutual written agreement between the parties. Broker or COMPANY shall have the right, upon notice to the other party, to terminate this Agreement (1) upon thirty (30) days written notice to the other party, or (2) immediately for “cause” (as hereinafter defined), subject to and in accordance with the terms of this Paragraph 2. For purposes of this Paragraph 1, “**cause**” shall mean (i) either party’s material breach of any warranty or representation under this Agreement; (ii) either party’s failure to comply with its covenants or obligations under this Agreement (which failure remains uncured for ten (10) days following written notice to the breaching party of such failure), or (iii) the commission by either party of fraud, theft, and/or conduct constituting a misdemeanor or felony in connection with or related to the subject matter of this Agreement and/or actions taken or omitted from being taken in bad faith with gross negligence, willful misconduct, and/or evidencing a breach of fiduciary duty.
3. **COMPENSATION:** Upon the closing of each Transaction and payment of the gross commission in connection therewith (“**Commission**”), Broker shall be entitled to receive Two Thousand Dollars (\$2,000)(Single tenant properties), (Upto \$4.99million), and (Three Thousand Dollars)(\$3,000)(Multi-Tenant properties), (\$5 million upto \$9.99 million), and (Five Thousand Dollars)(\$5,000)(over \$10 million), and the COMPANY shall receive the balance of the Commission, whether structured as a “referral fee” or as a direct commission payment in conformance with the Regulations. ***Commissions shall be paid through escrow upon the closing of the applicable Transaction,*** (by wire transfer), provided that, absent an escrow, each Commission shall be paid upon recordation of a deed or upon delivery of such deed. Irrespective of anything herein to the contrary, all funds collected and compensation paid hereunder shall be done so in a manner that is consistent with the Regulations.
4. **PROTECTION OF INFORMATION:** The parties acknowledge and agree that they each possess and shall possess in the future certain confidential and proprietary information, including but not limited to the terms of this Agreement and concepts, methods, techniques, formats, procedures, information systems, marketing approaches, research, improvements and materials, in any form or medium whatsoever, owned or developed by Broker or COMPANY and not otherwise publically available, which are used in the operation of their respective businesses (the “**Proprietary Information**”). The parties acknowledge that they will not acquire any interest in each other’s Proprietary Information and neither party will use or disseminate the other party’s Proprietary Information, other than as may be necessary in connection with the performance of each party’s obligations under this Agreement. The provisions of this Paragraph 4 shall survive the expiration or termination of this Agreement indefinitely.
5. **REPRESENTATIONS AND WARRANTIES AND RELATED COVENANTS:**
 - (a) COMPANY hereby represents and warrants to Broker, and Broker hereby represents and warrants to COMPANY that:
 - (i) Neither the execution nor the delivery of this Agreement, the incurrence of the obligations herein set forth, the consummation of the transactions herein contemplated, nor the compliance with the terms of this Agreement will conflict with, or result in a breach of, any of the terms, conditions, or provisions of, or constitute a default under, any agreement or instrument to which such may be bound.

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- (ii) Such party has the right, power, legal capacity, and authority to execute and enter into this Agreement and to execute all other documents and perform all other acts as may be necessary in connection with the performance of this Agreement.
- (iii) No approval or consent not heretofore obtained by such party is necessary in connection with the execution of this Agreement by such party or the performance of such party's obligations under this Agreement.
- (iv) Broker hereby represents warrants and covenants that Broker is duly licensed in the State as a real estate broker. Broker shall keep its license(s) in the State current and active during the Term (including any extension periods), including satisfying all continuing education and provisional license requirements. Broker shall be solely responsible for obtaining and maintaining professional licenses or permits that are required in order for Broker to provide the Services hereunder and/or any services under any applicable Retention Agreement.

(1) **DISPUTE RESOLUTION:**

- (b) **Choice of Law; Jury Trial.** Unless prohibited by the Regulations, this Agreement shall be governed by, and construed in accordance with, the laws of the State of Florida, without regard to any principals of conflict of laws. Any dispute relating to the interpretation and enforcement of this Agreement shall first be submitted to non-binding mediation to take place in Volusia County, Florida. The parties shall, in good faith, agree upon a third party neutral mediator and shall cooperate in the prompt scheduling of mediation. Should the parties be unable to resolve the dispute at mediation, the dispute shall be submitted for binding arbitration before the American Arbitration Association, Volusia County, Florida Region in accordance with its rules before a panel of three arbitrators and judgment on the award of the arbitrators may be entered in any court having jurisdiction thereof. Any demand for arbitration and service thereof shall comply with the Florida Code of Civil Procedure.
 - (c) **Attorneys' Fees and Costs.** If any party to this Agreement brings an action directly or indirectly based upon this Agreement or the matters contemplated hereby against the other party, the prevailing party shall be entitled to recover from the non-prevailing party, in addition to any other appropriate amounts, its reasonable costs, and expenses in connection with such proceeding, including, but not limited to, reasonable attorneys' fees and arbitration and court costs.
 - (v) **Consent to Jurisdiction.** Notwithstanding anything to the contrary herein, if required pursuant to the Regulations, shall submit to the jurisdiction of the courts of the State, and the applicability of the laws and regulations of the State with respect to any third party claims related to the Transactions.
6. **INSURANCE; LIABILITY; INDEMNITIES:** Broker and COMPANY each agrees that it shall at all times during the Term carry E&O / professional liability insurance in an amount not less than \$1,000,000 per claim / \$1,000,000 annual aggregate. Broker warrants that its E&O / professional liability coverage covers all real estate brokerage activities in the State. The liability of the Company caused by a breach of this Agreement may be liable to the Broker for any loss of or damage to revenues, profits, goodwill or other special, incidental, exemplary, indirect, or consequential damages of any kind resulting from the performance or failure to perform pursuant to the terms of this Agreement or from the provision of services hereunder, even if such party has been advised of the possibility of such damages. To the fullest extent permitted by law, company shall protect, indemnify and hold Broker, its affiliates, partners, members, officers, successors, assigns, agents and employees (the "**Broker Indemnified Parties**") free and harmless from any and all liabilities, claims, demands, actions, costs, suits or matters, including reasonable attorneys' fees (collectively "**Losses**"), if caused by reason of or as a result of (a) the Transactions (but not including any Losses

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for which Broker indemnifies COMPANY pursuant to this Paragraph), or (b) any breach by COMPANY in the performance of its covenants and obligations under this Agreement. In addition, COMPANY agrees to defend the Broker Indemnified Parties in connection with any and all claims arising out of or resulting from (or allegedly arising out of or resulting from) matters or occurrences which are separately covered under COMPANY's insurance required to be maintained pursuant to this Paragraph 6. To the fullest extent permitted by law, Broker shall protect, indemnify and hold COMPANY, its affiliates, partners, members, officers, successors, assigns, agents and employees (the "COMPANY Indemnified Parties") free and harmless from any and all Losses if caused by reason of or as a result of any breach by Broker in the performance of its covenants and obligations under this Agreement. In addition, Broker agrees to defend the COMPANY Indemnified Parties in connection with any and all claims arising out of or resulting from (or allegedly arising out of or resulting from) matters or occurrences which are separately covered under Broker's insurance required to be maintained pursuant to this Paragraph 6.

7. COMPLIANCE WITH REGULATIONS. Irrespective of anything contained herein to the contrary, COMPANY and Broker agree that the transactions contemplated herein and the Services to be rendered pursuant to the terms hereof, shall be compliant with, and expressly subject to, the Regulations. COMPANY and Broker covenant, promise and agree to act in accordance with the Regulations in connection with this Agreement and agree to execute any documents and take all actions necessary in order to comply with the Regulations.

7. AMENDMENTS AND MODIFICATIONS: No amendments to, modifications of, or termination of, this Agreement shall be valid or binding unless made in writing and signed by both COMPANY and Broker.

8. COUNTERPARTS; ELECTRONIC SIGNATURES: This Agreement may be executed in counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. For purposes of this Agreement, a document (or signature page thereto) signed and transmitted by facsimile or as a PDF file is to be treated as an original document. The signature of any party thereon, for purposes hereof, is to be considered as an original signature, and the document transmitted is to be considered to have the same binding effect as an original signature on an original document.

9. SEVERABILITY. If any provision in this Agreement is declared to be void or unenforceable, the remaining provisions shall remain in full force and effect.

10. FURTHER ASSURANCES. Each party agrees to take such actions and execute such documents as may be necessary or appropriate to carry out the purposes of this Agreement and to cooperate with each other for the expeditious filing of any and all documents and the fulfillment of the terms of this Agreement, including, without limitation, any documents required by the Regulations.

11. Commissioners and Broker of Record Requirements: Broker of Record must sign all listing agreements prior to marketing. Fully executed agreements must be sent to Broker of Record. Broker of Record name, license number, and phone number must be listed on all marketing materials, and a copy sent to Broker of Record.

12. Acknowledgements: You acknowledge that you or anyone using our licenses have never had any disciplinary actions taken against them in any State. Yes, actions have been taken against my license: _____ No, no Commission, in any State has ever taken action against my license: _____. Please sign.

(Remainder of Page Intentionally Left Blank)

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BROKER:

New England Commercial Brokerage, Inc.
a Florida corporation

By: _____
Name: Andrew T. Knight

Its: President-Broker

Address: 815 Snapdragon Dr.
New Smyrna Beach, FL 32168

Telephone: 860-648-1600
Email: NECBINC@gmail.com

COMPANY:

_____, LLC
a corporation

By: _____
Name:

Its _____

Address: _____

Telephone: _____

Email: _____