**Auckland Transport**

**General Agency Agreement (Leasing)**

|  |  |
| --- | --- |
| **PROPERTY ADDRESS****(‘The Property’)** |  |
| **DATE** |  |
| **LEGAL DESCRIPTION:** |  | **UNIT NUMBER** |  |
| **LEASE DETAILS (AGENT TO COMPLETE)** |
| **SIZE (m2)** |  |
| **PROPERTY DESCRIPTION** |  |
| **ESTIMATED NET RENTAL /m2** | **$** |
| **ADDITIONAL DETAILS (carparks, current tenants, access details etc.)** |  |
| **AGENCY DETAILS** |
| **AGENCY NAME****(‘the Agency”)** |  |
| **BRANCH ADDRESS** |  |
| **CONTACT PERSON** |  |
| **PHONE** |  |
| **EMAIL** |  |
| **ESTIMATED COMMISSION (clause 5.4)** |  |

**General Terms and Conditions**

1. **General Authority**
	1. AT (as the Owner) appoints (“**the Agency**”) as the general agent for the lease of the Property, commencing on the date both AT and the Agency (“**the Parties**”) sign this contract. This contract will continue until cancelled by either of the parties, by way of 5 working days’ notice in writing to the other party.
	2. If the Agent does not carry out its obligations under this Agreement or market the property to AT’s reasonable satisfaction, AT may terminate this Agreement by giving 5 working days’ written notice.
2. **Interpretation**
	1. “**Consideration**” means the total value (excluding GST) of property, incentive and any other valuable consideration passing from the tenant to AT/Landlord including but not limited to chattels, plant, fixtures, fittings, goodwill and fit-out improvements.
	2. “**Property**” means the property being leased as described above, including but not limited to the land, buildings, equipment, fixtures, chattels, licences, intellectual property and anything else of value whether tangible or intangible being leased by the Agency on behalf of AT.
	3. **“Lease”** means a lease, sublease, licence, occupation, renewal or any other form of lease by agreement, deed, memorandum or sublease.
3. **Authorised Actions/Marketing**
	1. Under this contract, the Agency is authorised to:
4. Market and actively promote the Property and any special terms as specified by AT through:
	1. Online channels, including the Agency’s website, trademe.co.nz, realestate.co.nz and/or any related website;
	2. Placing a sign advertising the Property for Lease on or near the Property or on land owned by AT
5. Make representations about the Property to any prospective tenants, on the basis of information provided by AT;
6. Arrange, attend and actively partake in inspections of the Property with prospective tenants in consultation with AT (and tenant(s) of the Property where applicable) and meetings with prospective tenants at any other reasonably required place;
7. Disclose to prospective tenants any known defects affecting the Property or where the Agency considers the property may be subject to hidden or underlying defects, inform any prospective tenant of any potential risks in order to enable the tenant to seek independent advice should they choose to do so;
	1. In undertaking the activities set out in clause 2.1, the Agency will act in accordance with all relevant laws and rules, including but not limited to the Real Estate Agents Act 2008, the Real Estate Agents Act (Professional Conduct and Client Care) Rules 2012 and any other relevant professional conduct rules or rulings that may be.
8. **Transactions**
	1. All prices quoted in this Agreement are exclusive of GST. GST is payable in addition to the prices quoted.
	2. The Commission for a lease, is payable by AT to the Agency within 10 working days upon the earlier of:
9. A lease agreement or arrangement becoming unconditional; or
10. Entry by the Lessee into possession of the leased property; or
11. Commencement of rental payments by the Lessee.
12. **Commission**
	1. Under this contract, the Agency is entitled to be paid commission and any other monies payable in accordance with the Schedule of Fees (attached) if AT enters into an unconditional lease agreement for the Property or any part of it with a party first introduced to the property by the Agency
	2. AT will not be liable for commission if it enters into a lease agreement for the Property with any current tenants of AT or their related companies (as defined in the Companies Act 1993).
	3. AT will not be liable for commission if it enters into a lease agreement for the Property with any Crown Agencies, meaning the Sovereign in Right of New Zealand including but not limited to;
13. the Executive Government of New Zealand and all Ministers of the Crown;
14. the Department of the Public Service as set out in Schedule 1 of the State Sector Act 1988;
15. all non-public service Departments;
16. all Crown Entities as defined in section 7(1) of the Crown Entities Act 2004, and all state enterprises as defined in the State-Owned Enterprises Act 1986, together with any subsidiaries thereof;
17. all entities listed in Schedule 4 of the Public Finance Act 1989; and
18. the entities listed in Schedule 1 or Schedule 2 of the Crown Entities Act 2004, together with any subsidiaries thereof.
	1. Commission will be paid to the Agency on the date, per clause 4.2.
	2. The estimated amount of Commission payable by AT under this contract (**“Estimated Commission**”) is $ (plus GST) which is based on the rental estimate as per the market appraisal (Schedule 1).
	3. The commission payable under this Agreement will be calculated as the total of two (2) months net rental (including carparks) but excluding all other outgoings. The Parties acknowledge the Commission actually payable, may be different to the Estimated Commission and may be determined by negotiations with the lessee.
	4. The Commission is calculated excluding rebates, concessions and rent or outgoing holidays.
19. **Deposits and Deductions**
	1. 6.1 The Agency will be paid any monies owed in respect of the Lease of the whole or any part of the Property by AT under this Agreement, on the receipt of an invoice to AT.
	2. All deposits by the lessee will be payable directly to AT in respect of the Lease of the whole or any part of the Property.
	3. AT will deduct from the deposit:

(a) The Commission; and

(b) Any other amount payable by AT to the Agency under this contract.

1. **Limitation of Liability & Indemnity**
	1. The Agency guarantees to indemnify AT and agrees to hold AT indemnified against costs, claims, damages, expenses, liabilities or proceedings incurred by the Agency, directly as a result of any breach or default by the Agency (including its officers, employees or contractors).
	2. Where the Agency is found to be liable under this Agreement, AT agrees the Agency’s maximum liability is limited to the Commission and any other amounts payable by AT to the Agency. The Agency shall not be liable for any indirect or consequential loss (including loss of profits).
	3. AT’s liability under this Agreement is limited to any loss, liability, expenses suffered or incurred by the Agency as a result of any breach or default by AT (including its officers, employees or contractors) and is to be capped at the total commission that AT may be liable for under this Agreement.
2. **Acknowledgements**
	1. AT acknowledges on notice of cancellation of this Agreement, the Agency will advise AT in writing of each person (full name) who is a potential party to a transaction (if any), where the Agency will claim a commission if that party were to conclude transaction with AT. If AT has not been advised within 6 months from the date of notice of cancellation of this Agreement, the Agency will not be entitled to claim a commission in respect of the potential parties to the transaction. This clause is only valid for 6 months from the date of notice of cancellation of this Agreement.
	2. A potential party to the transaction for the purpose of clause 8.1 means, parties who have submitted a leasing proposal to AT via the Agent during the term of the Agency Agreement.
	3. AT acknowledges the following Agency’s disclosure obligations under the Real Estate Agents Act (Professional Conduct and Client Care Rules) 2012:
3. To disclose any known defects in respect of the Property to tenants or potential tenants and not withhold information that should by law or in fairness be provided to tenants or potential tenants; and
4. Where it would appear likely that the Property may be subject to hidden or underlying defects that the Agency is required to either obtain confirmation from AT, supported by evidence or expert advice, that the Property is not subject to any defect, or ensure tenants or potential tenants are informed of any significant potential risk so that they can seek expert advice if they so choose.
	1. The Agency acknowledges this contract may be subject to the Local Government Official Information and Meetings Act 1987 (“LGOIMA”).
5. **Disclosure**
	1. AT warrants, at the date of this contract (unless AT has disclosed in writing to the Agency prior to the date of this contract) that:
6. AT has provided the Agency all, accurate, complete and correct information pertaining to the Property;
7. The Property is free from any known, hidden or underlying defects, including (without limitation) any contamination caused by the use or manufacture of methamphetamine;
8. No building situated on the Property is a “leaky building” as defined in the Weathertight Homes Resolution Services Act 2006 or is subject to past or present water penetration issues;
9. AT is not aware of and has not received an engineer’s report or notice from any relevant authority that the Property is earthquake prone.
10. The Property is not subject to any requisitions or notices from the local authority or other territorial or governmental authority;
11. If work has been done, caused or permitted on the Property, AT has obtained the required resource or building consent and any permits required. To AT’s knowledge, all works have been completed in compliance with those consents or permits and where appropriate, a code of compliance certificate (or any other regulatory approval was issue for those works;
12. Consent has not been given to the owner or occupier of any land adjoining the Property in respect of any work proposed to be carried out by that owner or occupier, nor is AT aware of any pending works on such adjoining land that might adversely affect the Property in any way;
13. Where any building or part of a building on the Property requires a compliance schedule under the Building Act 2004, AT has fully complied with any requirements in any such compliance schedule; the building or relevant part of the building has a current building warrant of fitness; and AT is not aware of any reason which would prevent a building warrant of fitness from being supplied by the territorial authority when the building warrant of fitness is due;
14. Where AT is not the sole owner of the Property, AT has written or delegated authority of the registered proprietor of the Property to enter into this contract on their behalf;
15. AT has made the Agency aware of any potential hazards or other matters on the Property that may give rise to liability for the Agency under the Health and Safety at Work Act 2015 or any act that supersedes it and will immediately make the Agency aware of any such potential hazards or other matters which arise after the date of this contract.
16. **Collection and Use of Information**
	1. Under this agreement, the Agency may collect, receive, store, use and/or disclose to third parties:
17. Information about or in connection with the Property (including but not limited to its address, physical description, land features or characteristics, building and resource consents, building and utility plans, rates, sale price, sale history and photographs of the Property;
18. Information in clause 8.1 for the purposes of:
	1. Marketing and leasing the property
	2. Marketing and leasing other properties or other services offered by the Agency

and, or

* 1. The compilation and distribution of statistics by the Agency and other entities/organisations.
	2. When required to comply with all laws
	3. AT understands that the information is collected and held by the Agency at

 (address).

* 1. AT has the right of access to, and correction of, any personal information held by the Agency in accordance with the provisions of the Privacy Act 1993.
	2. AT warrants to the Agency, that it has provided all material information relating to the property to such extent as AT is aware of and that all information provided to the Agency by AT is completed and accurate in all respects.
1. **Notice**
	1. Any notice or document served under this contract must be delivered to AT at:

Contact Person: **Philip Lim**, Principal Property Specialist

Postal Address: Auckland Transport, Private Bag 92250, Auckland 1142.

Email Address: philip.lim@at.govt.nz

* 1. Any notice or document served under this contract must be delivered to the Agency at:

Contact Person:

Postal Address:

Email Address:

* 1. Any notice given under this Agreement will be deemed to be delivered when it is served in accordance with section 353 of the Property Law Act 2007 (“PLA”) or, where delivered by email, when acknowledged by the addressee by return email (including by way of a “delivered” receipt) or otherwise in writing.
1. **Reporting**
	1. The Agency must provide a fortnightly written report to AT in the form required by AT, which may be amended from time to time at AT’s sole discretion.
2. **Agent’s Statement Relating to Rebates, Discounts & Commissions** (Section 128, Real Estate Agents Act 2008)
	1. The Agent, confirms that in relation to any expenses for or in connection with any real estate agency work carried out by them for AT in connection with the transaction covered by this agency agreement, will not receive and am not entitled to receive any rebates, discounts or commissions.
3. **Authority to Bind**

The Agency has read, understands and agrees to the terms of this contract:

Signed by the **Agency**:

Signature(s)

Name:

Agency:

Position:

Phone:

Email:

Signed for and on behalf of **Auckland Transport** by:

Signature

Name:

Position:

Phone:

Email:

Schedule 1

Market Leasing Appraisal (to be completed by Agency)

A property appraisal compares the Property for lease, with similar properties that have recently been leased or are currently for lease.

Date Prepared:

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| Lease | Tenancy Size | Property Description | Annual Net Rental | Net Rental m2 |
| **AT Property** |
|  |  |  |  |  |
| **Recent Leases** |
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| **For Lease Now** |
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|  |  |  |  |  |

Taking the above information into consideration, the expected market value of the Property is within the range of:

$ m2 **to** $ m2

Comments:

Prepared By: Signed:

Licenced Salesperson under the REA Act 2008

Phone: Date:

This property appraisal is based on recent comparable leases and does not purpose to be a registered valuation