



TERMS AND CONDITIONS

These Terms and Conditions are applicable upon the agreement(s) signed between the Client and the limited liability company Benavi Real Estate N.V. (hereinafter to be referred to as: “*BRE*”), for real estate services to be rendered by BRE to the Client. In these Terms and Conditions, the Client and BRE may be jointly referred to as: “*the Parties*” and each one may be individually referred to as: “*Party*”.

Article 1

Definitions

In these Terms and Conditions, the following terms will have the following definitions:

- i. **Agreement:** Any document signed by the Parties for BRE to perform services for the Client.
- ii. **Client:** A natural person or a corporation that is legally allowed to offer a Property for sale or that is interested in buying a Property and has appointed BRE as its broker in this matter by means of signing an agreement with BRE.
- iii. **Commission:** The fee paid by the Client to BRE for the services rendered by BRE. This Commission excludes additional costs and costs of third parties.



- iv. Property: An immovable property either owned by the Client or of which the Client holds the long leasehold rights to, either with or without a structure built on it, or an immovable property that the Client is interested in buying and the seller either owns this or holds the long leasehold rights to it, either with or without a structure on it.
- v. Services: Work to be performed by BRE for the Client and which is outlined in an agreement signed by the Parties.

Article 2

Information requirements

- 2.1 The Client will ensure that BRE will initially receive the following: (i) copies of two forms of ID and if the Client is a corporation then copies of two forms of ID of the director of the company and copies of two forms of ID of each shareholder that has 10% or more of the shares, (ii) proof of address and if the Client is a corporation then proof of address of the corporation, of the director and of the shareholder that has 10% of more of the shares, (iii) extended cadastral extract from the Land Registration Office of Aruba, (iv) deed of transfer, (v) copies of building permits, (vi) conditions of long lease (if applicable), (vii) conditions of Home Owner's Association (if applicable), (viii) appraisal report that is not older than three months, (ix) source of funds declaration if the Client is a buyer, (x) source of wealth declaration if the Client is a buyer, (xi) if the Client is a natural person and is married, then proof of marriage and if applicable copies of the prenuptials, (xii) copy of mortgage deed (if applicable), (xiii) if the Client is a corporation, then a copy of the shareholders register, (xiv) if the Client is a corporation, then a decision from the General Meeting of Shareholders that a sales agreement concerning the Property may be entered



into, (xiv) if the Property is part of an inheritance, then a certificate of inheritance from a notary, (xv) a list of movables that is being sold (if applicable) and (xvi) copies of all related deeds.

- 2.2 Pursuant to the State Ordinance for the Prevention and Combatting of Money Laundering and Terrorism Financing (AB 2011 no. 28), BRE may request additional information from the Client as part of the customer due diligence that must legally be performed.
- 2.3 BRE may request other information that is needed in order to provide its services to the Client.
- 2.4 Failure by the Client to provide any requested information will result in BRE suspending any services to be performed. If this happens, BRE cannot be held responsible or liable for any losses and/or consequential damages the Client and/or any other third party incurs.

Article 3 **Agreement**

- 3.1 Prior to BRE performing any services for the Client, a written agreement must first be entered into and signed between the Parties. These Terms and Conditions will apply to any written agreement between the Parties.
- 3.2 The agreement will contain (i) a clear description of the Property, (ii) the details of the services to be performed by BRE, (iii) the Commission to be paid by the Client to BRE, (iv) a summary of additional costs to be paid for by the Client (e.g. marketing activities), (v) the price for which the Property is to be sold or purchased by the Client, (vi) a description of any issue that can materially affect the enjoyment of the Property (if the Client is a seller), (vii) an indication if financing is needed (if the Client is a buyer), (viii) the term of the agreement and (ix) any other information that may be important to conclude the sale or purchase of the Property.



Article 4

Obligations of BRE

- 4.1 The BRE will not carry out any services that are not taken up in any agreement signed between the Parties. Any services to be carried out by BRE for the Client and that are not agreed upon in writing in any agreement, must first be agreed upon in writing between the Parties.
- 4.2 BRE has an effort obligation and does not have a result obligation toward the Client.
- 4.3 BRE has the responsibility to carry out any agreement between the Parties with due care and expertise.
- 4.4 BRE cannot be held liable for misinformation and/or incomplete information and/or incorrect information given by the Client and BRE cannot be held liable for misinformation and/or incomplete information and/or incorrect information given by third parties.
- 4.5 BRE will keep the Client informed on a regular basis of any progress made concerning the services agreed upon in an agreement between the Parties.
- 4.6 BRE may not conclude any kind of agreement on behalf of the Client.
- 4.7 BRE may terminate any agreement immediately without notice and without any kind of liability should there be any apparent conflict of interest.



Article 5

Obligations of the Client

- 5.1 The Client has the obligation to provide BRE with correct, complete and accurate information in order for BRE to carry out any agreement between the Parties.
- 5.2 The Client may not interfere in any way so that BRE cannot perform its services as outlined in any agreement between the Parties.
- 5.3 The Client may not appoint a third party next to BRE to perform the same services as stated in any agreement between the Parties.
- 5.4 Failure to comply with any of the provisions of this article 5 shall result in the Client forfeiting to BRE without any notice of default being necessary, for each time a breach occurs of any such provision an immediately due and payable fine of US\$ 10.000,00 (say: ten thousand United States Dollars and 00/100 cents) to be increased with a fine of US\$ 1.000,00 (say: one thousand United States Dollars and 00/100 cents) for each day or part of the day that the violation continues. These fines could be subject to moderation by a court of law. BRE is entitled to additional compensation/payment of damages if the amount in damages incurred by BRE surpasses the fines.

Article 6

Payment of the commission

- 6.1 The Client shall pay BRE the agreed upon commission once the Client and the seller or buyer have signed a purchase agreement, this pursuant to article 7:426 paragraph 1 of the Civil Code of Aruba.



- 6.2 It is clearly understood that should the Client sign any kind of purchase agreement with a seller or a buyer, or that the Client accepts any kind of offer or makes any kind of offer, each of these instances as a result of the efforts of BRE or which would have been objectively speaking considered through the efforts of BRE , and the Client thereafter decides not to go ahead with this transaction for whatever reason, then the Client is still obliged to pay BRE any agreed upon commission.
- 6.3 An exception to what is stated in article 6.2 is when any agreement is dissolved between the Client and a buyer or seller, this due to one of these parties being unable to obtain financing, this whilst a dissolutive condition is taken up in any agreement between the Client and a buyer or a seller concerning this matter, and BRE is provided with the requested rejection letter from a recognized local financial institution and under the condition that the respective party in this matter has complied with all other provisions of this dissolutive condition.
- 6.4 Other exceptions may exist, but these must be mentioned separately and specifically, and agreed upon between the Client and BRE in any agreement
- 6.3 Failure by the Client to pay the agreed upon commission within the period stipulated by BRE, will result in the Client being in default and consequently the Client will owe BRE in addition to the agreed upon commission, an extra-judicial collection cost of 15% over the commission amount in addition to interest calculated over the commission and extra-judicial collection cost, at a rate of 18% per year.

Article 7

Termination of an agreement

- 7.1 During the term of an agreement, that agreement can be terminated by taking a notice period of three (3) months.



- 7.2 Should during the notice period BRE bring to fruition a sales agreement that can be signed between the Client and a buyer or seller, and the Client refuses to sign this for no legal reason whatsoever, then the Client will still be obliged to immediately pay BRE the commission agreed upon in the agreement and as outlined in these Terms and Conditions.
- 7.3 Should after the termination of an agreement between BRE and the Client, the Client sign a sales agreement with a buyer or seller, and this buyer or seller was introduced to the Client through the efforts of BRE, then the Client will still be obliged to immediately pay BRE the commission agreed upon in the agreement and as outlined in these Terms and Conditions.
- 7.4 In the event of the cancellation of an agreement by the Client, then any and all costs incurred by BRE, also those that were not agreed upon but that were made by BRE to benefit the Client, must immediately be reimbursed by the Client. Article 6.2 of these Terms and Conditions will be applicable in this instance as well. Should BRE be paid a commission pursuant to article 7.2 and article 7.3 of these Terms and Conditions, then those costs that were not agreed upon but that were made to benefit the Client and for which BRE was reimbursed, will be paid back by BRE to the Client.

Article 8

Assignment of the Property to another party

- 8.1 The Client may not assign the Property to a third party during the period that an agreement is in place. Should the Client do this, then any existing agreement will be cancelled, and the Client shall pay BRE a fine equivalent to the commission owed to be calculated over the sales price stated by the Client in the agreement. Article 6.2 of these Terms and Conditions will be applicable in this instance as well.



Article 9

Liability, hold harmless and indemnification

- 9.1 The Client shall indemnify and hold BRE, its directors, its shareholders and its employees (the “*Manager Indemnified Persons*”) harmless from and against any and all losses incurred or suffered by the Manager Indemnified Persons by reason of or arising from or in connection with their performance of any agreement between BRE and the Client or any third-party legal action brought or threatened against such Manager Indemnified Persons in connection with their performance of any agreement between BRE and the Client, other than for any losses to the extent related to or that resulted from (a) any liabilities or obligations that BRE has agreed to pay, or (b) serious gross misconduct by BRE.

Article 10

Suspension of services

- 10.1 In the event that the Client does not comply with its obligation pursuant to any agreement between BRE and the Client, then BRE has the right to suspend services to the Client until such time that the Client is current with all its obligations pursuant to any such agreement. The time during which BRE has not provided any service due to the suspension of services, does not relieve the Client from paying the full fees and/or commissions owed to BRE.
- 10.2 BRE is neither liable nor responsible for any kind of damages (in the widest sense of the word) to the Client because of having suspended services.



Article 11

Other

- 11.1 The invalidity or unenforceability of any provision in these Terms and Conditions shall not affect the validity or enforceability of any other provision in these Terms and Conditions. Any such invalid or unenforceable provision shall be replaced or be deemed to be replaced with a provision that is considered to be valid and enforceable. The interpretation of the replacing provisions shall be as close as possible to the intent of the invalid or unenforceable provision. The aforementioned applies to any provision in any agreement between the Client and BRE.
- 11.2 Any agreement between BRE and the Client constitutes the entire agreement between the Parties and supersedes any prior understanding or representation of any kind preceding the date of such an agreement. There are no other promises, conditions, understandings or other agreements, whether oral or written, relating to the subject matter of any such agreement. Any such agreement may be modified in writing and must be signed by both the Client and BRE for any modification to take effect.
- 11.3 The covenants, conditions and articles contained in any agreement between the Client and BRE and in these Terms and Conditions, shall apply to and bind BRE and the Client, their respective legal representatives, successors and permitted assigns of the Parties.
- 11.4 All notices or other communications between the Client and BRE shall be in writing and shall be deemed given if served personally or delivered by courier with proof of delivery, to the Parties hereto at the addresses set forth in any agreement between the Client and BRE, or at other such address as the Parties hereto may specify from time to time, by notice give pursuant hereto.



11.5 The failure of either Party to enforce any provision of any agreement between the Client and BRE and/or these Terms and Conditions, shall not be deemed a waiver or limitation of that Party's right to subsequently enforce and compel strict compliance with every such provision.

Article 12

Applicable law and jurisdiction

12.1 The laws of Aruba shall exclusively govern any agreement between the Client and BRE and/or these Terms and Conditions. Any and all disputes arising from any agreement between the Client and BRE and/or these Terms and Conditions, will be submitted solely to the competent court in Aruba.

Article 13

Amendment of Terms and Conditions

13.1 The Client agrees that BRE has the right to unilaterally amend these Terms and Conditions during the term of any agreement between the Client and BRE to which they apply, at any time and whenever BRE deems this necessary. The Client's consent or approval of the amendments shall not be required.