

AGREEMENT

MADE: This _____ in _____.

PARTIES:

SELLER: _____, a corporation duly organized and existing under the laws of the Republic of the Philippines, with principal office address at _____, and represented herein by its _____, _____.

BROKER: **PHILIPPINE BUSINESS BROKERS INC. DOING BUSINESS UNDER THE NAME AND STYLE OF SUNBELT BROKERS PHILIPPINES**, a corporation duly organized and existing under the laws of the Republic of the Philippines, with principal office address at Unit 11 U Cyber One Eastwood Ave., Cyberpark Eastwood Quezon City, and represented herein by its _____, _____.

RECITALS:

- A. The SELLER is engaged in the business of _____ and is the registered and beneficial owner of _____ located at _____.
- B. The SELLER desires to engage the services of BROKER to assist SELLER in marketing and selling all or substantially all of the Assets of SELLER listed under *Schedule "A"* (the "Assets") and hereby grants BROKER the sole and exclusive right to sell and arrange and negotiate the possible sale of SELLER'S Assets, which engagement BROKER has accepted, subject to the terms and conditions set forth in this Agreement (the "Agreement").

IT IS AGREED:

1. EXCLUSIVITY OF APPOINTMENT

The parties understand and agree that BROKERS' appointment is on an exclusive basis and SELLER shall not appoint any other marketing agent or broker.

2. TERM

This Agreement shall have a term of twelve (12) months. It will commence upon execution of this Agreement and upon delivery of the documents and articles described in Section 6. The Agreement may be renewed subject to terms and conditions as may be mutually agreed upon by both parties in writing.

3. OFFERING PURCHASE PRICE AND SELLER'S COMMITMENT

The SELLER agrees to sell its Assets to a prospective buyer in the amount of _____ Pesos (₱_____.00). (the "Purchase Price").

Seller agrees to Train the Buyer for _____ Weeks at _____ Hours Per Week.

Seller agrees to not compete with the Buyer for _____ Years, within _____ Miles.

Reason for Sale: _____

Assumed Liabilities:

Exclusions: _____

Other: _____

4. RESPONSIBILITIES OF BROKER

- 4.1 BROKER shall assist SELLER and agrees to make reasonable efforts to sell the Assets of SELLER.
- 4.2 BROKER shall devote such time, energy, and skill on a regular and consistent basis as is necessary to sell and promote the sale of the Assets during the Term of this Agreement.
- 4.3 BROKER shall assist in finalizing agreements with the buyer, in form and substance satisfactory to the SELLER, for such buyer's purchase of the Assets.
- 4.4 BROKER shall present the Business of SELLER to prospective buyers including any real property offered for sale or lease, at a price and on terms acceptable to SELLER.
- 4.5 BROKER shall use his best professional judgment in preserving all aspects of confidentiality of proprietary information concerning the Business and SELLER.
- 4.6 BROKER's authority includes, but is not limited to, dissemination of information, at its sole discretion and pre-screening prospective buyers.
- 4.7 BROKER shall not offer any form of discount or special contract to any buyer without the prior written approval of SELLER.
- 4.8 SELLER agrees that BROKER may advertise its role in the sale of the Assets.

5. RESPONSIBILITIES, REPRESENTATION AND WARRANTIES OF SELLER

- 5.1 SELLER will provide the BROKER, at no cost, materials relating to the business of SELLER for use in selling and marketing the Assets.
- 5.2 SELLER shall promptly pay BROKER fee in accordance with the provisions of this Agreement.
- 5.3 SELLER shall provide BROKER the price lists, terms of contract, document, and all information and data needed and required by the BROKER herein.
- 5.4 SELLER recognizes and confirms that BROKER will be using and relying on information and data furnished to BROKER by SELLER. BROKER does not assume responsibility for the accuracy and completeness of the information in its representation of the SELLER and the Business.
- 5.5 SELLER represents that all information furnished in connection with a proposed transaction is true and complete in all material respects.

- 5.6 SELLER understands that the BROKER screens all Buyers, but does not investigate a Buyer as to their/ its actual credit score or funds available.
- 5.7 SELLER hereby warrants to BROKER that SELLER will not own, maintain, operate, engage in, offer their services, and/or have any interest in any business that compete with the business that is the subject of the sale of Assets brokered by the BROKER between the SELLER and the Buyer.
- 5.8 If SELLER is a partnership, corporation, or other entity, the individual signing on behalf of such entity hereby represents and warrants that such individual has the authority to enter into this Agreement on behalf of said entity and hereby personally guarantees performance of this Agreement.
- 5.9 SELLER warrants and represents the Business and Assets is now, and will remain, in full compliance with all local, state, and laws, rules, and regulations regarding the operation and sale of the Business and that such compliance will not be affected by any transfer of the Business. Furthermore, concurrent with this Agreement, Seller agrees to complete and execute a Seller's Disclosure Statement, provided by Broker, which shall be provided to prospective buyers.
- 5.10 Should the SELLER and prospective buyer determine that the sale of this Business should be in the form of ownership interests, (1) the SELLER agrees to sign "Stock Sale Acknowledgment, Notification, and Disclaimer" agreement, and as part of the acceptance of any such offer, the Company shall require the prospective BUYER to sign that agreement as well and (2) the holders of the ownership interests shall agree to be bound by the terms of this Agreement.

6. SELLER'S OBLIGATION TO DELIVER DOCUMENTS

The obligation of the BROKER to sell the Assets is conditioned on the satisfaction by the SELLER of its obligation to deliver the documents and articles described below.

Upon the execution of this Agreement, SELLER shall give the following:

- (a) copy of Articles of Incorporation, By-Laws and latest General Information Sheet of the Corporation;
- (b) a complete list of the equipment and other personal property to be sold;
- (c) profit and loss statements, balance sheets, financial statements and income tax returns covering the last three fiscal years of the Business operations and for any period since the end of the last fiscal year (or all such reports if the business has operated for less than three years);
- (d) real and personal property contract of lease;
- (e) copies all patents, licenses, franchise agreements, contracts, employee and other agreements of any form, which will be transferred or assigned; and
- (f) copies of all other documents required to present a fair, accurate, and true picture of the Business to a prospect buyer.

7. BROKER'S TRANSACTION FEE

- 7.1 For and in consideration of the services to be rendered by the BROKER hereunder including, but not limited to, introducing buyers; or assisting in negotiations; or advising SELLER on the sale of the Business, the SELLER will pay BROKER the amount equivalent to Ten Percent (10%) of the total purchase price including inventory and receivable, if any between SELLER and Buyer, net of all applicable taxes. (the "Transaction Fee").

7.2 SELLER shall pay the Broker's Fee to BROKER upon execution by SELLER and BUYER of the Asset Purchase Agreement or the Deed of Assignment of Assets.

7.3 SELLER may adjust the price at anytime; but understands that in the event that this Agreement is terminated or cancelled, or in the event that the sale brokered by the BROKER is not completed or the Business or Assets is withdrawn from sale during the term of this Agreement, the Transaction fee shall be immediately due to BROKER.

7.4 In the event that SELLER refuses or is unable to comply with the terms of this Agreement thereby preventing the disposition of the Assets or of the Business, or if the SELLER, or others acting on behalf of SELLER, enters into a contract of sale, accepts a deposit, open an escrow or records a notice of intent to sell the business independent from the BROKER's efforts, during the term of this Agreement, the abovementioned Transaction fee shall be thereupon immediately due and payable.

7.5 The termination or cancellation or rescission of this Agreement or any of the foregoing acts shall not act as a release of SELLER from liability and the SELLER shall continue to be liable to the BROKER for the Transaction Fee in connection with the services of the latter pursuant to this Agreement and agrees to pay, make good or indemnify the BROKER with respect to the same even after the expiration or termination of this Agreement.

7.6 If a Buyer, introduced by Broker, ultimately consummates, merges with, or acquires the Business or any other Business or Location owned by the SELLER during the period of this Agreement or within a twenty-four (24) month period following termination or cancelation of this Agreement, Broker shall be entitled to the transaction Fee.

7.7 As agent for Seller, Broker or any other authorized escrow agent, is authorized to accept receipt for, and hold all money paid or deposited as a binder thereon in accordance with Philippine law, and if such deposit shall be forfeited by the prospective Buyer, Broker may retain one-half of such deposits, but not exceeding the total amount of the Transaction Fee.

7.8 Seller agrees to pay their portion of all closing costs including but not limited to taxes, UCC searches, Escrow fees and any applicable Transfer Fees.

8. TERMINATION

8.1 This Agreement may be terminated by BROKER upon the occurrence of any of the following:

- a. Failure or inability of SELLER to comply with any of the terms of this Agreement;
- b. Violation by SELLER of any of the terms and conditions of this Agreement;
- c. Misrepresentations of any kind whether prejudicial to SELLER or not; and
- d. Other acts which are or may be prejudicial to FIRST PARTY.

8.2 The right of SELLER to terminate this Agreement is without prejudice to any other right or remedy to which SELLER may be entitled in law or equity.

8.3 In case of termination for reasons set forth in Section 8.1, SELLER shall pay BROKER the abovementioned Transaction Fee in full.

8.4 SELLER shall be liable to BROKER for all other damages as may be proved and awarded in the appropriate judicial proceedings, including attorney's fees, litigation expenses, and costs of suit.

8.5 Either Party may terminate this Agreement at any time before the expiration hereof upon giving the other party at least Thirty (30) days prior written notice. Upon termination, all rights and obligations of the parties under this Agreement shall be extinguished except rights and obligations which have accrued prior to the effective date of termination. SELLER shall make full settlement with the BROKER of the Transaction Fee set forth in Section 7 due to the BROKER.

9. NATURE OF RELATIONSHIP

9.1 This Agreement does not, and the parties do not intend to, create neither partnership nor any relationship of employer and employee between SELLER and BROKER, and between SELLER and the employees of BROKER.

9.2 BROKER shall have exclusive discretion in the selection, engagement, and discharge of its personnel. The terms and conditions of employment of BROKER's employees are the exclusive concern of BROKER.

10. INDEMNIFICATION

10.1 SELLER shall indemnify and agrees to hold BROKER free and harmless against all losses claims, damages, liabilities and expenses, including attorney's fees, which BROKER may incur or which may be asserted against BROKER arising out of, or connected with the performance of this Agreement or as a result of the breach of the foregoing representation, or any other provision of this Agreement. Furthermore, SELLER shall immediately reimburse BROKER on demand for any liability imposed upon BROKER in favor of such third party with respect to any liability to which the foregoing indemnity applies.

10.2 SELLER shall hold BROKER harmless as to any decision made by the SELLER or misrepresentation by any buyer.

10.3 In the event of rescission or cancellation of contract with the Buyer, or requests for refunds and all other issues arising from the sale of Assets, the same shall be referred to and dealt with by SELLER. SELLER shall hold BROKER free and harmless from and against any and all liability arising therefrom. In case of rescission or cancellation of contract for any reason whatsoever, any fee received or accruing to BROKER shall not be refunded by BROKER.

11. TAXES

SELLER shall remit all taxes withheld from BROKER as required by applicable laws, rules and regulations, or ordinances, and shall accordingly furnish BROKER adequate proof of withholding and remittance of such taxes when required.

12. CONFIDENTIALITY AND NON-DISCLOSURE

Confidentiality and Non-Disclosure - Any and all information or knowledge which may be made known to, passed on, or otherwise disclosed by either party, whether or

not the other party designates such information as confidential, and any information or knowledge which may be derived by analysis thereof, shall be deemed confidential for purposes of this Agreement (“Confidential Information”). Either party shall not, during the term of this Agreement or thereafter, communicate, divulge, or use for the benefit of any other person, persons, partnership, association, corporation or other entity, any Confidential Information before, during, or after the expiry or upon termination of this Agreement.

13. MISCELLANEOUS PROVISIONS

13.1 *Limitation of Liability* - In no event will either of the parties be liable to the other for any special, indirect or consequential damages (including but not limited to loss of profits) arising out of the performance of this Agreement or in furtherance of the provisions or objectives hereunder, regardless of whether such damages are based on tort, warranty, contract or any other legal theory, even if advised of the possibility of such damages.

SELLER shall hold BROKER, its officers and employees, free and harmless from any claim, expenses, damage or liability arising out of or in connection with acts, omissions, mistakes, misrepresentations, fraudulent acts or other machinations by SELLER, if without contributory fault or negligence on the part of SELLER.

13.2 *Assignment* - Neither party shall assign any of its rights and obligations under this Agreement without the prior written consent of the other party. Any assignment done in violation of this section shall be void and of no effect.

13.3 *Cumulative Rights* - Any right or remedy conferred by this Agreement upon the either party shall not be exclusive of any other right or remedy of such party, whether under this Agreement or provided or permitted to such party at law or in equity, but each right or remedy shall be cumulative of every other right or remedy available to such party.

13.4 *No Waiver* - The failure of either party to this Agreement to insist upon the strict performance of any of the terms and conditions of this Agreement shall not be construed as a waiver thereof or of any other terms and conditions of this Agreement, but the same shall continue and remain in full force and effect as if no such forbearance or waiver had occurred.

13.5 *Applicable Law*- This Agreement is made under and shall be construed in accordance with the laws of Philippines.

13.6 *Binding Effect* - Except as otherwise expressly provided, this Agreement shall inure to the benefit of and be binding upon each party thereto, and their respective successors and assigns.

13.7 *Entire Agreement* - This Agreement contains the entire agreement of the parties concerning the subject matter hereof and shall, as of the effective date hereof, supersede all previous understandings and agreements, whether oral or written, between the parties on the subject.

13.8 *Amendment or Modification of the Agreement* - Any amendment or modification of this Agreement, or any additional obligation assumed by either party in connection with this Agreement, shall be binding only if in writing and signed by the authorized representatives of the parties.

13.9 *Separability Clause* - In the event that any one or more of the provisions of this Agreement are declared invalid, illegal, or unenforceable, such provision/s shall be deemed stricken out, and the invalidity, illegality, or unenforceability of those

provision/s shall not affect the rest of the Agreement, which shall remain in full force and effect.

SIGNED this ____ day of _____ 2017 in _____.

**PHILIPPINE BUSINESS BROKERS
INC. DOING BUSINESS UNDER THE
NAME AND STYLE OF SUNBELT
BROKERS PHILIPPINES**

By:

SELLER

BROKER

Signed in the presence of:

ACKNOWLEDGMENT

Republic of the Philippines)
) S.S.

BEFORE ME, a Notary Public for and in the above place, personally appeared the following:

<u>NAME</u>	<u>ID</u>	<u>DATE/PLACE ISSUED</u>

known to me to be the same persons who executed the foregoing Agreement consisting of six (6) pages, including this page on which the Acknowledgment is written, and they acknowledged to me that the same is their free and voluntary act and deed and that of the corporations represented herein.

WITNESS MY HAND AND NOTARIAL SEAL on the date and in the place first above written.

Doc. No. ____;
Page No. ____;
Book No. ____;
Series of 2017.