

Draft Developer Agency Agreement

This Developer Agency Agreement (this "**Agreement**") is made this day, January 17, 2018 (the "Effective Date") by and between:

1. MAG Property Development/ MAG 5 Property Development LLC, Office 505, Deyaar Building, Bur Dubai, Business Bay, Dubai, United Arab Emirates, P.O. Box: 23325, Tel.: +971 4 3555580, Fax: +971 4 3865066 ("**the Seller**");
And
2. _____,
Agency Name Address
P.O BOX: _____, Tel.: _____, Fax: _____ ("**the Agency**").

(The Seller and the Agency may individually be referred to as "**Party**" or collectively as "**Parties**" under this Agreement).

WHEREAS

- a. The Seller is interested in selling certain units owned by the Seller or its Subsidiaries and Related Companies;
- b. The Agency has offered to provide real-estate marketing and promotional services to the Seller for the purpose of selling such Units.

NOW THEREFORE the Parties hereby agree as follows:

1. Interpretation

- 1.1. In this Agreement, "**Units**" shall mean any individual units of property (such as an apartment in a building) contained within any properties that are owned or under development by the Seller or any one of its Subsidiaries, a description of which properties shall be provided to the Agency from time to time.
- 1.2. The headings in this Agreement are for convenience only and shall not affect its interpretation.
- 1.3. In this Agreement, use of the singular shall include the plural and vice versa, any one gender includes the other genders and any reference to "persons" includes natural persons, firms, partnerships, companies and corporations.

2. Mandate

- 2.1. The Seller hereby grants to the Agency, for the period of one year commencing from the Effective Date ("**Term**") a non-exclusive mandate to market and offer the Units for sale to any bona fide purchaser ("**Purchaser**") on the terms and conditions specified in this Agreement or as otherwise may be stipulated by the Seller from time to time.
- 2.2. The Seller confirms that it will be instructing other agencies for and in connection with marketing, promotional services and selling the Units.

3. Conditions of Sale

- 3.1. A listing of the purchase prices for the Units shall be provided to the Agency from time to time and the

Agency shall list and market the Units at the purchase prices provided.

- 3.3. The Seller reserves the right to refuse to accept any offer to purchase from a Purchaser introduced by the Agency at its sole discretion without disclosing any reason whatsoever.

4. **Agency's Obligations and Acknowledgements**

- 4.1. The Agency hereby undertakes to use its best endeavors to find Purchasers who are willing and able to purchase Units from the Seller in the manner provided above, or as otherwise may be prescribed by the Seller from time to time.
- 4.2. The Seller will provide the Agency with existing marketing materials such as brochures and other documentation. The Agency agrees not to use any advertising, promotional or selling materials marketing the Units except those supplied or approved in writing by the Seller. The Agency shall be solely responsible for its marketing and promotional activities with respect to the Seller's Guidelines, including all planning and strategies, and all costs and expenses associated with such activities. All materials not supplied by the Seller and any additional promotional services having been approved by the Seller shall be funded in full by the Agency alone.

The Agency shall use and display only the Seller's provided photographs and depicting the properties. The Agency agrees not distribute, publish or post any advertising, promotional or selling materials including printed or digital material, unless such materials have been approved in advance in writing by the Seller.

The Agency's Marketing Materials must conform identically to the final samples provided by or previously approved by the Seller. At any time (and from time to time) during the Term, upon receipt of a written request from the Seller, the Agency will promptly provide to the Seller a reasonable number of samples of the marketing materials, at no cost to the Seller, for quality control inspection.

At least ten (10) days prior to any public announcement by the Agency regarding the use or implementation of the properties and/or project area or any public use of the MAG Marks or marketing materials in any marketing related activity, the Agency shall provide to the Seller, a written marketing plan, for the use of the marketing materials as well as a current draft of the offering plan for the sale of the property units and all related disclosure documents and governmental filings, to be shared by e-mail to MAG at magteam@publnet.me. Additionally, the Agency shall not activate any elements of the written marketing plan for the use of the marketing materials unless such plan has been approved in advance in writing by the Seller.

- 4.3. The Agency shall immediately inform the Seller of any potential Purchaser with a view to facilitating direct communication between the Seller and the Purchaser.
- 4.4. The Agency agrees that it has no authority, under this Agreement or otherwise, to sign or execute any documentation whatsoever on behalf of the Seller.
- 4.5. The Agency shall not be entitled to collect any or all of the purchase price of a Unit from a Purchaser in its own name. The Agency must direct the Purchaser to pay any and all payments of whatsoever nature directly into the Seller's bank account in accordance with instructions given by the Seller.
- 4.6. The Agency shall at no time convey to the Purchaser that it is employed by, or acting in partnership with, the Seller, or that it has any authority other than as expressly provided in this Agreement.

- 4.7. The Agency shall not make any representation or give any representations, warranty or guarantee in respect of a Unit without the Seller's prior written consent.
- 4.8. The Agency shall bear all costs and expenses incurred by it in performing its obligations under this Agreement.
- 4.9. The Agency hereby confirms that it has complied and will comply in all respects with all the requirements of real estate agents or brokers set out by RERA and/or any other rules and regulations applicable in the Agent's jurisdiction.

5. **Commission**

- 5.1. The Seller shall pay the Agency a commission as consideration for the Agency carrying out its services under this Agreement for the sale of any Units for which it has been expressly mandated by the Seller in writing to sell such Units, and such mandate includes a list of purchase prices for each of such Units for which the Agency is selling on behalf of the Seller.
- 5.2. The commission shall be calculated as a percentage of the purchase price paid by the Purchaser for a Unit, and payable in UAE Dirhams ("**Commission**") as calculated and accepted in Annexure 1 of this Agreement.
- 5.3. No Commission shall be payable to the Agency unless each of the following conditions have been complied with:
 - a. the Purchaser of a Unit has signed a binding and unconditional sale agreement relating to that Unit on the standard form provided by the Seller (or on terms otherwise agreed by the Seller) ("**Sale Agreement**") and the Seller has received and countersigned an original of the Sale Agreement; and
 - b. the Agency is not in default of any of its obligations under this Agreement.
- 5.4. Within fifteen (15) calendar days after the end of each month during the term of this Agreement, the Seller shall determine those Units for which the Agency is entitled to Commission pursuant to Clause 5.3. The Commission as determined by this Clause 5.4 shall be paid by the Seller to the Agency within thirty (30) calendar days of such amount being determined by the Seller.
- 5.5. The Agency shall provide the Seller with a signed invoice on its letterhead of the Commission due, clearly showing the location, plot/building number, area, Purchaser's name, sales price, amount collected and the Commission due. It is the Seller's obligation to notify the Agency that it has received directly from the Purchaser upon the date of receipt of said payment, and then the Agency will invoice the Seller accordingly for the payment of commission to be made from the Seller to the Agency within five (5) working days following the payment clearance.
- 5.6. The rights and obligations in Clause 5.5 shall continue to be effective following expiry or termination of this Agreement for a period of three (3) months following any such expiry or termination in relation to any Purchasers introduced to the Seller by the Agency.
- 5.7. The Seller confirms that it may be instructing other agents for and in connection with marketing and selling the Properties. In the event that the Agency and another agency secures a Sale Agreement in respect of the same Unit, preference shall be given to the Sale Agreement first entered into, and the Commission shall be paid accordingly. Where the exact timings of the transactions cannot be determined, the decision of the Seller shall be considered final and binding.
- 5.8. The Agency acknowledges that any Commission payable in terms of this Agreement shall be inclusive of

all taxes or other deductions levied by any government or other appropriate authority and the Agency acknowledges being solely responsible and liable to pay all such deductions.

6. **Audit**

The Agency acknowledges and agrees that the Seller or its authorized agent shall be entitled to audit and investigate (upon serving a seven (7) days' written notice in accordance with Clause 9.1) all documents collected, prepared or otherwise held by the Agency in connection with the Agency's performance of its obligations under this Agreement.

7. **Intellectual Property Rights**

7.1. The Agency shall not effect or permit the removal, renewal or alteration of, or the making of any addition to, any trade mark, trade name, notice, nameplate, serial number or patent number or other reference to intellectual property rights referred to in any advertisements, catalogues, brochures, literature or other materials supplied by the Seller without the Seller's prior written consent.

7.2. No license is granted or implied to the Agency by this Agreement in respect of any intellectual property rights to which the Seller may be entitled except as expressly provided in this Agreement.

8. **Confidentiality**

8.1. The Agency shall not use nor disclose any technical, financial, marketing or any other information which may be deemed confidential by the Seller ("**Confidential Information**") without the prior written consent of the Seller. Where any Confidential Information of the Seller is received by the Agency, the latter shall treat the same with reasonable care. The Agency may disclose Confidential Information only to those of its employees who need to know such information for the purposes of carrying out its obligations under this Agreement, and any receiving party shall certify that such employees have previously agreed either as a condition of employment or in order to obtain the Confidential Information, to be bound by terms and conditions substantially similar to those terms and conditions applicable to the Agency under this Agreement. In the event of a breach of these confidentiality provisions, the Seller shall be entitled to seek injunctive relief in addition to its legal and other equitable remedies.

8.2. The Seller shall process personal data of the Purchaser received from the Agency only for the purposes provided under this Agreement. The Seller shall take reasonable measures to keep personal data of the Purchaser confidential and secure, protect it from unauthorized access, including by coincidence, destruction, alteration, blocking, copying, distribution and other illegitimate acts and deeds. The Seller shall be liable for any acts and deeds resulting from the disclosure of the Purchaser' personal data and any direct damage incurred by the Purchaser and/or the Agency through disclosure of the Purchaser' personal data due to the Seller's gross negligence or willful misconduct.

9. **Termination**

9.1. This Agreement will terminate:

- a. with immediate effect upon receipt by the Agency of a written notice of termination by the Seller;
- b. Upon expiry of the Term, unless the Seller agrees to extend the period of this Agreement.

9.2. Upon termination of this Agreement, the Agency shall be entitled to any Commission which was due to the Agency as at the date of termination. For the avoidance of doubt, the Agency shall not be entitled to

any losses, damages and/or costs arising as a result of the termination.

9.3. The termination of this Agreement shall not terminate, affect or impair any rights, obligations or liabilities of either Party, which may have accrued prior to such termination.

9.4. Upon termination or expiry of this Agreement, any documentation relating to the Unit issued to the Agency by the Seller must be promptly returned to the Seller.

10. **Indemnity**

10.1. The Seller shall at no time be held liable to any third party for or in respect of any representations, warranties, acts or omissions made solely by the Agency or the Agency's nominees, shareholders, officers, employees and representatives relating to this Agreement.

10.2. The Agency shall indemnify and hold harmless the Seller from and against all liabilities, losses, damages, claims, suits and expenses, including legal expenses, incurred by the Seller relating to or arising out of the Agency's representations, warranties, acts or omissions in connection with the collection of any payments from Purchasers.

11. **General Terms**

11.1. The rights and obligations contained in this Agreement may not be assigned or transferred by the Agency without the written consent of the Seller. The Seller shall be entitled to assign this Agreement to any affiliate or other third party without the need for prior written consent of the Agency, and the Agency hereby consents to any such transfer or assignment by the Seller.

11.2. Any indulgence granted by the Seller to the Agency in respect of the performance by the Agency of its obligations under this Agreement or any neglect or failure by the Seller to enforce any of the terms of it shall not be construed as a waiver or variation of this Agreement or otherwise prejudice any of the Seller's rights under it.

11.3. Any notice, demand or other communication to be served under this Agreement shall be delivered or sent by courier to the Party to be served at its address for physical deliveries appearing in this Agreement (or to such other address as either Party hereto may from time to time specify in writing to the other Party). Such notice or demand shall be deemed to be received by the addressee three (3) business days after deposit with the relevant courier.

11.4. In the performance of obligations under this Agreement, it is mutually covenanted, accepted and agreed that no relationship of joint venture, partnership, franchise, employer/employee or the like is created or is intended to be created or shall be construed as created between the Parties by this Agreement and no Party shall have the right to bind the other in any form whatsoever.

11.5. This Agreement supersedes all previous written or oral understandings, agreements or representations in respect of this Agreement between the Seller and the Agency.

11.6. The Seller and Agency confirm that this document constitutes the entire Agreement between the Parties relating to its subject matter, and no variation shall be of any force or effect unless it is in writing and signed by both the Seller and the Agency.

11.7. If any provision of this Agreement is found by a court of competent jurisdiction to be invalid, illegal or

unenforceable, that provision or part-provision shall be, to the extent required, deemed excluded from this Agreement, and the validity and enforceability of the other provisions of this Agreement shall not be affected.

11.8. This Agreement shall be effective and binding upon the Parties from the Effective Date. This Agreement shall survive its termination insofar as any rights and obligations contained herein are of continuing effect.

11.9. This Agreement may be concluded in two identical original copies in the English language, each original copy having identical validity, one original copy for each Party.

12. **Notices**

12.1. Any notice given under this Agreement shall be in writing and shall be served by delivering it personally or sending it by courier or fax to the address or fax no. as set out in this Agreement. Any such notice shall be deemed to have been received:

- a. if delivered personally, at the time of delivery;
- b. in the case of courier, on the date of delivery as evidenced by the records of the courier; and
- c. in the case of a fax, at the time of transmission, as evidenced by the transmission report.

12.2. All invoices shall be delivered to the Seller at the following address:
MAG Property Development
Emirates Financial Towers, Podium Level, DIFC,
Dubai, UAE.

13. **Governing Law & Arbitration**

13.1. This Agreement is governed by and shall be construed in accordance with UAE law as applied in Dubai and the Federal laws of the United Arab Emirates applicable thereto.

13.2. This Agreement is governed by and shall be construed in accordance with UAE law as applied in Dubai and the Federal laws of the United Arab Emirates applicable thereto and the courts of Dubai shall have the exclusive jurisdiction.

IN WITNESS WHEREOF the Parties have executed this Agreement the day and year first above written.

The Seller

Name:

Title:

The Agency

ANNEXURE 1
COMMISSION SCHEDULE

The Seller agrees to pay the Commission to the Agency with effect from the 17th January 2018 the commission as follows:

Amount	Payable Upon
100% of the Commission being 3% of the Purchase Price of the applicable Unit. This commission is inclusive of 5% VAT.	<ul style="list-style-type: none">• The Seller receiving full down payment made up of (10%) of the Purchase Price, together with the (4%) Oqood and Registration fees of AED3500.00.• SPA to be signed by both Seller and Buyer.• Payments are up-to-date and not in default and/ or arrear, in accordance to the payment schedule.