



COMMERCIAL PROPERTY BROKER POLICY DOCUMENT

MAY 2016

1. INTRODUCTION

- 1.1 This policy document is intended to set out the terms and conditions under which Abland will become liable for the payment of Brokering Commission to a broker in relation to a property lease or sale transaction.
- 1.2 All possible efforts are made to avoid misunderstandings and multiple brokers claiming commission for the same transaction.
- 1.3 The ultimate goal is to avoid confusion and to promote healthy working relationships between Abland and all property brokers concluding lease and sale deals with Abland.
- 1.4 Utmost good faith in all dealing with tenants or purchasers (clients) is an absolute requirement of any interaction by a broker.

2. COMMISSION STRUCTURES

- 2.1 Unless otherwise agreed in writing by Abland, the following commission payment structure will apply:

2.1.1 Lease Agreements

- 2.1.1.1 50% of the gross rental for years 1 – 2
- 2.1.1.2 2.5% of the gross rental for years 3 – 5
- 2.1.1.3 1.5% of the gross rental for years 6 – 8
- 2.1.1.4 1.0% of the gross rental for years 9 - 10

2.1.2 Land Sale Agreements

- 2.1.2.1 2.5% of the value of the land sale.

2.1.3 Turnkey Development Sales

2.1.3.1 0.25% of the value of the construction cost.

2.2 Terms of reference for the above scales are as follows:

2.2.1 Gross rental is the aggregate gross rental excluding rates and taxes, estimated utilities but including operating cost.

2.2.2 Years means the calendar years in terms of the lease calculated from lease commencement.

2.2.3 The relevant percentage applicable is calculated on amounts exclusive of VAT.

2.2.4 Any amounts granted as concessions in terms of the lease, such as rent free periods, tenant inducements or financial incentives, are to be deducted from the relevant year's gross rental, or alternatively from the first year rental, before the calculation of commission.

2.2.5 Commission on a land sale is on the nett value of land excluding transfer costs, VAT and the like.

2.2.6 Commission on a turnkey development is based on the estimated building cost of the top structure only.

2.3 Payment terms are as follows:

2.3.1 In relation to a lease agreement the following payment terms are applicable:

2.3.1.1 50% of the commission is due after the lease is signed by both landlord and tenant and after all suspensive conditions have been fulfilled.

2.3.1.2 Remaining 50% of the commission is due once the tenant has taken occupation of the premises and all outstanding tenant installation costs due to the developer have been paid by the tenant to the developer.

2.3.2 In terms of land sale agreements, the commission is payable after transfer of the property.

- 2.3.3 In relation to turnkey development, commission is payable upon occupation by the client of the property.
- 2.3.4 Additional commission will not be payable where the client in any way extends the lease, increases the lease area, or where the client purchases the property.
- 2.3.5 Commission is not paid for any portion of a lease longer than 10 years.
- 2.3.6 Any single user lease greater than 10,000 m² will be subject to a further discount of 30% of the commission as calculated above.
- 2.3.7 No commission will be payable on any transaction where the client has elected to undertake any form of a tender or an RFP (tender), notwithstanding that an earlier introduction may have been made. The point at which a client elects to undertake any form of tender process immediately precludes the broker from claiming a commission, as the introduction is considered cancelled. Where a broker is appointed to facilitate a tender of any nature the onus will be on the broker to agree with the client compensation for such processes. Should commission be a requirement of the client as part of the tender cost, then it is to be clearly communicated as to how much is to be provided for such as part of the tender. It is essential that all bidders provide the same amount for commission in this eventuality.
- 2.3.8 All payments will be paid on the last day of the month provided that the payment is due at that date and that a legally valid tax invoice is received by no later than the 15th day of the month.

3. MANDATE

- 3.1 The providing of, sending of, making available or reference to marketing material, brochures, fact sheets, vacancy schedules and proposal documents does not automatically create a mandate between the broker and Abland or the Landlords that Abland represent.
- 3.2 The introduction does not give rise to any right of entitlement to commission unless the conditions set out in this policy are fulfilled.
- 3.3 No sole or exclusive mandates are granted by Abland.

- 3.4 The overarching principle is that the broker who is entitled to a commission is the broker who can demonstrate that they were the effective cause of a transaction.
- 3.5 An introduction alone is not enough to establish effective cause.
- 3.6 Should a broker not be able to arrange an initial meeting with the client and Abland within a period of 30 (thirty) calendar days from the date of the initial introduction, then the introduction will automatically lapse unless such is expressly extended by Abland in writing.
- 3.7 Subsequent to the initial meeting, if the broker is unable to bring negotiations regarding the transaction to conclusion within 30 (thirty) calendar days from the date of the initial meeting, then the introduction shall be regarded as having lapsed, unless the broker provides evidence that the conclusion of an acceptable transaction is imminent and Abland has expressly agreed to an extension of this time limit in writing.
- 3.8 As no sole or exclusive mandate exists, a broker is charged with the responsibility of illustrating that they represent the client. It is recommended that they obtain written confirmation from the client that they represent them exclusively, alternatively, the broker acknowledges that they are not the exclusive agent of the client and therefore that any alternate broker that can conclude a deal with the client will be entitled to the brokering commission in respect thereof, irrespective of how much time or effort has been expended in attempts to conclude a deal.
- 3.9 It is expressly noted here that should a broker make an introduction of a client and another broker subsequently produces an acceptable binding offer, letter of intent, sale agreement, lease or some other written form of commitment on the part of the client to complete a transaction, the first broker will nonetheless not be entitled to any form of commission as the first broker was not able to bring the client to the point of conclusion of a deal and as such was clearly not the effective cause of the transaction.
- 3.10 Abland undertakes to act in the utmost good faith in this regard and undertakes to inform any broker of any introduction of the same client to the same property by alternative brokers. The broker that can bring an acceptable offer will be the broker that is considered to be the effective cause and as such is the only broker entitled to commission.

- 3.11 An introduction by a broker must be in respect of a specific client. Any associated companies, holding companies, or subsidiaries of the client will not be considered as having been introduced automatically. Each introduction is specific to a client.
- 3.12 An introduction by a broker must be in respect of a specific property. Any other properties that the client may consider that were not introduced by the broker will not entitle the broker to a commission as the introduction is in relation to a specific property.
- 3.13 Any binding offer from a client that is delivered by a broker to Abland must be on terms and conditions that are agreeable to Abland, or the landlords that Abland represent, to entitle the broker to commission.

4. EFFECTIVE CAUSE

- 4.1 No verbal introductions are accepted.
- 4.2 All introductions are to be reduced to writing in the standard Abland format and signed by both parties.
- 4.3 The effective cause of a transaction is achieved when a broker provides Abland with an acceptable legally binding offer signed by a legitimate client that is acceptable to Abland or the Landlords that Abland represents.
- 4.4 To be entitled to a commission a broker must act, in the utmost good faith, for both parties in the negotiation and conclusion of an agreement.
- 4.5 In order for the requirement of effective cause to be met, the following minimum stipulation must be complied with:
 - 4.5.1 The broker must be actively involved in every material step of the negotiations and must engage meaningfully with the decision makers of Abland as the landlord representative and the client.
 - 4.5.2 The broker must use his best endeavours, as a diligent and committed broker, to identify and resolve, through investigation, research and negotiation, the respective needs of the client in relation to the property leading to the successful conclusion of a transaction.

- 4.5.3 The broker will be expected to, where necessary or appropriate, liaise with any and all professional advisors of either or both parties.
- 4.5.4 The broker is to record his activities in relation to all negotiations and interactions, in emails circulated to the relevant parties and copied to Abland timeously. The broker is to remain fully transparent in terms of the status of the transaction by keeping Abland informed of all developments in relation to the transaction.
- 4.5.5 The broker is to remain in good favour with all parties to the transaction. If, for any reason, the client ceases or refuses to deal with the broker, then any possible entitlement to the commission will fall away.