

EXCLUSIVE COMMERCIAL LEASING LISTING AGREEMENT



NEW Form

2021 Printing

State law prohibits Broker from representing Owner as a client without first entering into a written agreement with Owner under O.C.G.A. § 10-6A-1 et. seq.

1. **Exclusive Listing Agreement.** For and in consideration of the mutual promises contained herein and other good and valuable consideration, the undersigned owner(s) of real property ("Owner") and the undersigned broker ("Broker") do hereby enter into this Exclusive Commercial Leasing Listing Agreement ("Agreement") for Broker to exclusively list the property described below ("Property") for lease on the terms and conditions set forth herein.

a. **Property Identification:** Address: _____
City _____, County _____, Georgia, Zip Code _____
Tax Parcel I.D. Number: _____

b. **Legal Description:** The legal description of the Property is attached as an exhibit hereto and incorporated herein.

2. **Listing Period.** The term of this Agreement shall begin on the date of _____ ("Starting Date") and shall continue through the date of _____ ("Ending Date"), as the same may be extended by the written agreement of the parties or as provided for herein (hereinafter, "Listing Period"). Unless this Agreement is terminated, as set forth hereinafter, this Agreement shall automatically renew for successive terms of _____ days.

3. **Protected Period.** The Protected Period shall be _____ days.

4. **Agency and Brokerage.** The following are types of agency relationship(s) **NOT** offered by Broker:

- seller agency buyer agency designated agency dual agency
 sub-agency tenant agency landlord agency

Owner does or does not consent to Broker acting in a dual agency capacity, as that agency relationship is explained in Section B.3(b) below and in the CB01 ABCs of Agency. Owner expressly consents to Broker acting in any other agency relationship offered by Broker.

5. **Termination.** After the initial term of the listing, this Agreement may be terminated by either party upon _____ days notice to the other party.

6. **Marketing.** Owner agrees to promptly reimburse Broker the costs of marketing the Property, provided that such costs are in accordance with marketing budget approved by the Owner. Such reimbursement shall be made by Owner not later than 30 days after the receipt of an invoice for approved marketing expenses.

7. **Commission on Leases.** Owner shall pay the following real estate commissions to Broker [Check the appropriate box below. Any box not checked shall not be a part of this Agreement].

- (a) the first month's rent;
 (b) _____% of each monthly Lease payment commencing in the second month of the Lease;
 (c) a one-time payment of either \$ _____ or _____% of the total Lease payments due during the initial term of the Lease;
 (d) _____% of each monthly Lease payment paid on any extension or renewal term of the Lease;
 (e) Other: _____

8. **Commission on Sale.** In the event any lessee who has entered in to a lease for all or a portion of the Property during the term of this Agreement or during the Protected Period purchases or contracts to purchase all or any portion of the Property (including purchasing all or a portion of the ownership interests in the legal entity that owns the Property) during the term of this Agreement or during the Protected Period thereafter, then Owner agrees to pay Broker a real estate commission of _____% of the gross sales price of the Property or a portion thereof at the closing of the sale for the Property or the legal interests in the entity that owns the Property. For purposes of determining Broker's entitlement to a commission hereunder, the term "lessee" shall include any affiliate, assignee, successor, subsidiary or party related through at least 10% (common ownership) to the above-referenced Lessee.

9. Commission Obligations Binding on Successors. Owner agrees that in every lease agreement, the lease shall contain the following language: "This Property is subject to an Exclusive Commercial Leasing Listing Agreement with _____ ("Broker"). The commission obligation set forth herein shall be binding upon all successors in title to Owner with respect to the Property. Owner shall, in any contract to sell the Property or convey the ownership interests in the legal entity that owns the Property, specifically provide that: 1) the purchaser shall be obligated to assume all of Seller's outstanding commission obligations arising herein; 2) the Broker is an express third party beneficiary to the contract; and 3) the commission obligations being assumed by the purchaser shall survive the closing of the sale of the transaction. In the event Seller fails to do the above, Seller shall remain fully obligated to pay those commission obligations as they arise after the closing. Broker may, but shall not be required to, record a memorandum of any lease agreement to which Broker is entitled to a real estate commission describing the commission to which Broker is entitled.

10. Lease on Commission on Renewals Extensions and Expansions. Owner agrees to pay the above-referenced real estate commissions on any lease renewals, extensions or expansions by lessee occurring either during or after the term of this Agreement.

11. Commission. The above-referenced leasing commission(s) shall be shared with a cooperating leasing broker, if any, working with a lessee who is the procuring cause of a lease transaction, as follows:

12. Hazardous Conditions on Property. Owner acknowledges that Owner owes a duty of reasonable care to keep the Property safe for prospective lessees and their agents who to view and inspect the Property. Among other things, this includes a duty to warn such invitees of dangerous conditions that would not be obvious to an invitee. Owner is encouraged to inspect the Property for hazardous conditions and correct and eliminate all such conditions. Owner agrees to indemnify and hold Broker harmless from and against any and all claims, causes of action, suits, and damages arising out of or relating to a person or persons being injured or harmed while on the Property.

13. LIMIT ON BROKER'S LIABILITY. OWNER ACKNOWLEDGES THAT BROKER:

a. **SHALL, UNDER NO CIRCUMSTANCES, HAVE ANY LIABILITY GREATER THAN THE AMOUNT OF THE REAL ESTATE COMMISSION PAID HEREUNDER TO BROKER (EXCLUDING ANY COMMISSION AMOUNT PAID TO A COOPERATING REAL ESTATE BROKER, IF ANY) OR, IF NO REAL ESTATE COMMISSION IS PAID TO BROKER, THAN A SUM NOT TO EXCEED \$100; AND**

b. **NOTWITHSTANDING THE ABOVE, SHALL HAVE NO LIABILITY IN EXCESS OF \$100 FOR ANY LOSS OF FUNDS AS THE RESULT OF WIRE OR CYBER FRAUD.**

14. Authority to Enter Into Agreement. Owner has the full authority to enter into this Agreement for the lease of Owner's Property or portions thereof. This Agreement may not be amended except by the written agreement of Owner and Broker. The failure of the parties to adhere strictly to the terms and conditions of this Agreement shall not constitute a waiver of the right of the parties later to insist on such strict adherence. Owner is not a party to any other exclusive leasing or brokerage agreements and all such previous agreements, if any, have expired and not been renewed. Owner acknowledges that Owner may have to pay a previous broker a real estate commission if Owner is subject to a present listing agreement or has terminated a previous listing agreement without the consent of the previous broker.

15. Marketing.

a. **Generally:** Broker is authorized to market and advertise Property for lease in any media of Broker's choosing, including the Internet and multiple listing services, and attempt to procure lessees for the Property in cooperation with other real estate brokers and their affiliated licensees. Owner acknowledges that in listing the Property in a multiple listing service, all members of multiple listing services and real estate related third parties will have access to Owner's listing information including images and recordings and the right to use all available technology to create, download, store, supplement and manipulate such listing information to assist Owner in the sale of the Property and for tracking and analyzing real estate transactions. As such, Broker may not always have control over aspects of the marketing of the Property. Any media created or purchased by Broker to be used in the marketing effort shall not belong to or be the property of the Owner and may not be copied, reproduced, or used by Owner or other third parties without the express written permission of the Broker. Owner warrants that any media provided or paid for by Owner is the property of the Owner. Owner agrees to indemnify the Broker for any claim by a third party related to the use of the provided media. Broker shall be allowed to use Owner provided materials, during the term of this Agreement, with any third-party for the purposes of marketing the property, and Owner acknowledges that Broker shall not be liable to Owner for the continued use of media by third-parties after the termination of the Agreement. Owner agrees not to place any advertisements on the Property or to advertise the Property for sale in any media except with the prior written consent of Broker. Broker is also hereby authorized to place Broker's "For Lease" sign on Property. Owner acknowledges that lessees and other brokers may take photographs, videos and use other technology to capture images of the Property to assist in marketing the Property and helping buyers remember different properties. Owner agrees to remove any personal property prior to listing the Property of which Owner does not want images to be so captured.

b. **Consent of Owner to be Called:** If Owner is on a "Do Not Call List," Owner expressly consents to Broker calling Owner for any purpose related to the sale of the Property.

c. **Lockboxes, Other People Visiting the Property and Owner Indemnification:** A lockbox may be used in connection with the marketing of Property. If so, other members of the multiple listing service and their customers and clients and home inspectors, photographers and other vendors may have access to the Property. Owner may not always be notified in advance of when the Property is either being shown or when a vendor may be on the Property to perform a service. Owner agrees to indemnify and hold Broker harmless from any claim, suit or damage arising out of or relating to any showing of the Property and any vendor performing a service on the Property. There have been isolated instances of reported burglaries of properties on which lockboxes have been placed and for which the lockbox has been alleged to have been used to access the property. In order to minimize the risk of misuse of the lockbox, Broker recommends against the use of lockboxes on door handles that can be unscrewed from the outside or on other parts of the property from which the lockbox can be easily removed. Since prospective buyers and others will have access to Property, Owner agrees to either remove all valuables, prescription drugs and/or keys, or put them in a secure place.

d. No Marketing by Owner: Owner is encouraged to communicate the availability of the Property for sale to friends and other acquaintances. However, since Broker has been hired to exclusively market the Property for sale, Owner shall not, with respect to the sale of the Property, prepare and distribute marketing materials, hold open houses, put up signs regarding the Property, create websites for the Property, prepare flyers, brochures or videos or engage in other similar activities without the prior written consent of Broker.

16. Budget for Marketing. If Owner has agreed to pay any sum of money for marketing the Property or a portion thereof for lease, then Broker shall prepare a marketing budget for Owner's approval setting forth how the monies will be spent. Broker shall not pay itself any portion of the marketing budget except with the prior written approval of Owner. However, Owner hereby gives Broker permission to use companies affiliated with or owned by Broker to prepare and distribute marketing materials and organize and perform marketing functions.

17. Protected Period. The Protected Period shall be the agreed upon period of time set forth in this Agreement during which Broker shall be protected for its Commission for leases and/or sales of all or a portion of the Property that occurred after the termination of this Agreement as a result of the efforts of Broker during the term of this Agreement. The Protected Period shall start on the date that this Agreement either expires or is terminated by Owner pursuant to a specific right of Broker to terminate herein after giving proper notice. Except as provided below, in the event during the Protected Period Owner enters into a contract to sell or lease the Property, or any portion thereof, to any buyer or lessee who visited, was provided specific information about or inquired about the Property (either directly or through a broker working with lessee) during the term of the Agreement, then Owner shall pay Broker its Commission as set forth herein for either the sale or lease of all or a portion of the Property.

18. Independent Contractor Relationship. This Agreement shall create an independent contractor relationship between Broker and Seller. Broker shall at no time be considered an employee of Owner.

19. Agency and Brokerage.

a. Broker's Policy on Agency: Unless Broker has indicated elsewhere herein that Broker is not offering a specific agency relationship, the types of agency relationships offered by Broker are owner agency, buyer agency, designated agency, dual agency, sub-agency, landlord agency, and tenant agency.

b. Dual Agency Disclosure: *[Applicable only if Broker's agency policy is to practice dual agency and Owner has consented to Broker acting in a dual agency capacity.]* If Owner and a prospective lessee are both being represented by the same Broker and the Broker is not acting in a designated agency capacity, Owner is aware that Broker is acting as a dual agent in this transaction and hereby consents to the same. Owner has been advised that:

- (1) In serving as a dual agent, Broker is representing two parties, Owner and lessee, as clients whose interests are or at times could be different or even adverse;
- (2) Broker will disclose all adverse, material facts relevant to the transaction and actually known to the dual agent to all parties in the transaction except for information made confidential by request or instructions from either owner which is not otherwise required to be disclosed by law;
- (3) Owner does not have to consent to dual agency. The consent of the Owner to dual agency has been given voluntarily in Brokerage Relationships Not Offered by Broker, Section 4 above and the Owner has read and understands this Agreement.
- (4) Notwithstanding any provision to the contrary contained herein, Owner hereby directs Broker, while acting as a dual agent, to keep confidential and not reveal to the other party any information which could materially and adversely affect their negotiating position except as required by law.
- (5) Broker or Broker's affiliated licensees will timely disclose to each party the nature of any material relationship with the other party other than that incidental to the transaction. A material relationship shall mean any actually known personal, familial, or business relationship between Broker and a party which would impair the ability of Broker to exercise fair and independent judgment relative to the other party. The other party who Broker may represent in the event of dual agency may not be identified at the time Owner enters into this Agreement. If any party is identified after the Agreement and has a material relationship with Broker, then Broker shall timely provide to Owner a disclosure of the nature of such relationship.
- (6) Upon signing this brokerage engagement with the dual agency disclosures contained herein, Owner's consent to dual agency is conclusively deemed to have been given and informed in accordance with state law, provided that Owner has consented to Broker acting in a dual agency capacity in Brokerage Relationships Not Offered by Broker, Section 4 above.

c. Designated Agency Disclosure: *[Applicable only if Broker's agency policy is to practice designated agency.]* Owner does hereby consent to Broker acting in a designated agency capacity in transactions in which Broker is representing Owner and a prospective lessee, but where Broker assigns one or more of its affiliated licensees to exclusively represent the Owner and one or more of its other affiliated licensees to exclusively represent the prospective lessee.

d. No Other Adverse Agency Relationships: Unless specified below, Broker has no other known agency relationships with other parties which would conflict with any interests of Owner (except that Broker may represent other buyers, owners, landlords, and tenants in buying, selling or leasing property).

20. **Broker's and Owner's Duties.**

a. **Broker's Duties to Owner.** Broker's sole duties to Owner shall be to:

- (1) Make all disclosures required by law;
- (2) Use Broker's best efforts to procure lessee ready, willing, and able to lease all or a portion of Property at the price established by Owner (which amount includes the Commission herein) or at any other price acceptable to Owner;
- (3) Comply with all applicable laws in performing its duties hereunder including the Brokerage Relationships in Real Estate Transaction Act, O.C.G.A. § 10-6A-1 et. seq.; and
- (4) Assist, to the extent requested by Owner, in negotiating terms or filling out pre-printed real estate lease agreements and/or counteroffers.

b. **Owner's Duties.** Owner will do the following:

- (1) cooperate with Broker to lease the Property to prospective buyers and will refer all inquiries concerning the sale of Property to the Broker during the term of this agreement;
- (2) make the Property available for showing at reasonable times as requested by Broker;
- (3) provide Broker with accurate information regarding Property (including information concerning all adverse material facts pertaining to the physical condition of Property);
- (4) comply with all local, state and federal laws applicable to the sale of the Property; and
- (5) carefully read all leases before signing them and comply with all duties and all time deadlines contained therein.

21. **Owner Default, Events Constituting an Owner Default.** Owner shall be in breach of this Agreement if Owner:

- a. Terminates this Agreement prior to the end of the Agreement without the prior written agreement of Broker (unless Owner has exercised a right to terminate this Agreement as set forth elsewhere herein and fulfilled the notice terms herein). Broker removing the listing from multiple listing service(s), taking down Broker's sign, ceasing to market the Property after being terminated by Owner and other similar activities shall not be evidence of the Broker's agreement to mutually terminate this Agreement, but shall instead merely be an acquiescence to the termination by Owner;
- b. Defaults under any lease of the Property resulting in such contract not closing;
- c. Agrees with a lessee of the Property or a portion thereof to terminate a lease of the Property or a portion thereof without the consent of Broker; or
- d. Refuses to accept a lawful, bona fide, written offer to lease all or a portion of the Property meeting the terms and conditions established by Owner when the Property is not otherwise under contract.

22. **Miscellaneous.**

- a. **Arbitration:** All claims arising out of or relating to this Agreement and the alleged acts or omissions of any or all the parties hereunder shall be resolved by arbitration in accordance with the Federal Arbitration Act 9 U.S.C. § 1 et. seq. and the rules and procedures of the arbitration company selected to administer the arbitration. Upon making or receiving a demand for arbitration, the parties shall work together in good faith to select a mutually acceptable arbitration company with offices in Georgia to administer and conduct the arbitration. If the parties cannot mutually agree on an arbitration company, the company shall be selected as follows. Each party shall simultaneously exchange with the other party a list of three arbitration companies with offices in Georgia acceptable to that party to administer and conduct the arbitration. If there is only one (1) arbitration company that is common to both lists, that company shall administer and conduct the arbitration. If there is more than one arbitration company that is common to both lists, the parties shall either mutually agree on which arbitration company shall be selected or flip a coin to select the arbitration company. If there is not initially a common arbitration company on the lists, the parties shall repeat the process by expanding their lists by two each time until there is a common name on the lists selected by the parties. The decision of the arbitrator shall be final and the arbitrator shall have authority to award attorneys' fees and allocate the costs of arbitration as part of any final award. All claims shall be brought by a party in his or her individual capacity and not as a plaintiff or class member in any purported class or representative proceeding. The arbitrator may not consolidate more than one person's claims, and may not otherwise preside over any form of a representative or class proceeding. Notwithstanding anything to the contrary contained herein, this agreement to arbitrate shall not apply to: (1) any claim regarding the handling and disbursement of earnest money; and (2) any claim of Broker regarding the entitlement to or the non-payment of a Commission hereunder.
- b. **Assignability:** As part of a sale of all or substantially all of the assets of Broker to another brokerage firm, Owner consents to this Agreement being assigned by Broker to the other brokerage firm. In such event, the assignee, upon consenting to the assignment, shall: (1) thereafter be responsible for performing all of the duties and responsibilities of the assignor under this Agreement; and (2) have all of the rights of assignor including the right to receive the commissions under this Agreement.
- c. **Attorney's Fees:** In the event this Agreement, or any provision therein, is enforced through or is the subject of a dispute resulting in litigation or arbitration, the prevailing party shall be entitled to recover its actual attorney's fees, reasonably incurred.
- d. **Broker:** Where the context indicates the term "Broker" shall include Broker's affiliated licensees.
- e. **Entire Agreement:** This Agreement represents the entire agreement of the parties with respect to the listing of the Property for sale and is intended to supersede all prior written and verbal agreements of the parties hereto. No representation, statement, promise or inducement not contained herein shall be binding on either party hereto. This Agreement shall be binding on the heirs of the Owner.

- f. GAR Forms:** The Georgia Association of REALTORS®, Inc. ("GAR") issues certain standard real estate forms. These GAR forms are frequently provided to the parties in real estate transactions. No party is required to use any GAR form. Since these forms are generic and written with the interests of multiple parties in mind, they may need to be modified to meet the specific needs of the parties using them. If any party has any questions about his or her rights and obligations under any GAR form, he or she should consult an attorney. Provisions in the GAR Forms are subject to differing interpretations by our courts other than what the parties may have intended. At times, our courts may strike down or not enforce provisions in our GAR Forms, as written. No representation is made that the GAR Forms will protect the interests of any particular party or will be fit for any specific purpose. The parties hereto agree that the GAR forms may only be used in accordance with the licensing agreement of GAR. While GAR forms may be modified by the parties, no GAR form may be reproduced with sections removed, altered or modified unless the changes are visible on the form itself or in a stipulation, addendum, exhibit or amendment thereto.
- g. Governing Law:** This Agreement may be signed in multiple counterparts and shall be governed by and interpreted pursuant to the laws of the State of Georgia.
- h. No Imputed Knowledge:** Owner acknowledges and agrees that with regard to any property which Owner intends to sell, there shall be no knowledge imputed between Broker and Broker's licensees or between the different licensees of Broker. Broker and each of Broker's licensees shall be deemed to have only actual knowledge of such properties.
- i. Notices between Owner and Broker:**
- (1) Communications Regarding Real Estate Transactions: Owner acknowledges that many communications and notices in real estate transactions are of a time sensitive nature and that the failure to be available to receive such notices and communications can have adverse legal, business and financial consequences. During the term of this Agreement, Owner agrees to remain reasonably available to receive communications from Broker.
 - (2) Notices between Broker and Owner Regarding this Agreement: Owner and Broker agree that communications and notices between them regarding the terms of this Agreement shall be in writing, signed by the party giving the notice, and may be delivered in person or to any address, e-mail address and/or facsimile number to the person to whom the communication or notice is being given specifically set forth in this Agreement. It is the intent of the parties that those means of transmitting notices for which a party has not provided an address or number shall not be used for receiving notices and communications. For example, if a party has not provided an e-mail address in this Agreement, it shall mean that the party is not accepting notices or communications sent by this means.
- j. Referrals:** Owner hereby authorizes Broker to refer Owner to another real estate licensee or broker for brokerage or relocation services not related to the sale of the Property. Owner acknowledges and agrees that Broker may receive a valuable consideration for the referral.
- k. Statute of Limitation:** All claims of any nature whatsoever against Broker and/or their affiliated licensees, whether asserted in litigation or arbitration and sounding in breach of contract and/or tort, must be brought within two (2) years from the date any claim or cause of action arises. Such actions shall thereafter be time-barred.
- l. Survival:** The rights and obligations of Broker to a commission subsequent to the termination or expiration of this Agreement as set forth herein, the limitation of liability, the obligation to arbitrate and indemnify Broker and other similar provisions that by their terms are meant to protect Broker shall survive the termination of this Agreement.
- m. Third Party Vendors:** Broker may provide Owner with the names of vendors to perform services on behalf of Owner relative to real estate transactions involving the Owner. Broker does not warrant or endorse the performance of any such vendor and the names of vendors are provided solely as a courtesy and starting point for Owner to identify possible vendors to perform services on behalf of Owner. Owner agrees to do his or her own due diligence regarding the skills, experience and reputation of all such vendors performing services for Owner and all decisions regarding which vendor to hire shall be solely that of Owner.
- n. Time of Essence:** Time is of the essence of this Agreement.
- o. Exhibits:** All exhibits attached hereto or referenced herein shall be a part of this Agreement.

23. WARNING TO OWNERS: BEWARE OF CYBER-FRAUD. Fraudulent e-mails attempting to get property owner to wire money to criminal computer hackers are increasingly common in real estate transactions. Specifically, criminals are impersonating the online identity of the actual mortgage lender, closing attorney, real estate broker or other person or companies involved in the real estate transaction. In that role, the criminals send fake wiring instructions attempting to trick property owners into wiring them money related to the real estate transaction. These instructions, if followed, will result in the money being wired to the criminals. In many cases, the fraudulent email is believable because it is sent from what appears to be the email address/domain of the legitimate company or person responsible for sending the owner wiring instructions. Owner should verify wiring instructions sent by email by independently looking up and calling the telephone number of the company or person purporting to have sent them. Owners should never call the telephone number provided with wiring instructions sent by email since they may end up receiving a fake verification from the criminals. Owners should be on special alert for: 1) emails directing lessee and/or owner to wire money to a bank or bank account in a state other than Georgia; and 2) emails from a person or company involved in the real estate transaction that are slightly different (often by one letter, number, or character) from the actual email address of the person or company.

24. Exhibits and Addenda. All exhibits and/or addenda attached hereto, listed below, or referenced herein are made a part of this Agreement. If any such exhibit or addendum conflicts with any preceding paragraph, said exhibit or addendum shall control:

- Legal Description Exhibit " _____ "
- Other _____
- Other _____

SPECIAL STIPULATIONS: The following Special Stipulations, if conflicting with any exhibit, addendum, or preceding paragraph, shall control:

Additional Special Stipulations are attached.

BY SIGNING THIS AGREEMENT, OWNER ACKNOWLEDGES THAT: (1) OWNER HAS READ ALL PROVISIONS AND DISCLOSURES MADE HEREIN; (2) OWNER UNDERSTANDS ALL SUCH PROVISIONS AND DISCLOSURES AND HAS ENTERED INTO THIS AGREEMENT VOLUNTARILY; AND (3) OWNER IS NOT SUBJECT TO A CURRENT LISTING AGREEMENT WITH ANY OTHER BROKER.

OWNER'S ACCEPTANCE AND CONTACT INFORMATION

1 Owner's Signature

Print or Type Name _____ Date _____

Company Name _____

Title _____

Owner's Address for Receiving Notice _____

Owner's Phone Number: Cell Home Work

Owner's E-mail Address _____

Additional Signature Page (F146) is attached.

2 Owner's Signature

Print or Type Name _____ Date _____

Company Name _____

Title _____

Owner's Address for Receiving Notice _____

Owner's Phone Number: Cell Home Work

Owner's E-mail Address _____

BROKER / BROKER'S AFFILIATED LICENSEE CONTACT INFORMATION

Listing Broker _____

MLS Office Code _____ Brokerage Firm License Number _____

Broker/Affiliated Licensee Signature _____

Broker's Phone Number _____ Fax Number _____

Print or Type Name _____ Date _____

Broker's Address _____

Licensee's Phone Number _____ Fax Number _____

Licensee's E-mail Address _____

GA Real Estate License Number _____

REALTOR® Membership _____

RECEIPT OF A COPY OF THIS AGREEMENT IS HEREBY ACKNOWLEDGED BY OWNER.

The above Agreement is hereby accepted _____ o'clock _____ .m. on the date of _____.