

## **CODE OF BEST PRACTICES IN THE REAL ESTATE MEDIATION SERVICES**

### **1. INTRODUCTION**

Neinor Homes aspires to be the benchmark for real estate platforms in Spain, leading the market not only from the perspective of the volume of homes delivered but also by establishing rules for a radical transformation of the sector towards a new more institutional client-centred model based on rigour, ethics, transparency and a clear commitment to an industrial model.

One of the changes that Neinor Homes is determined to push through is the definitive professionalization of the estate agency sector, which has many qualified professionals but whose work, essential for the proper functioning of the housing market, is tempered by the activity of other kinds of brokers or commission agents who disseminate in the market very basic – and sometimes public - information about assets to potential purchasers without any mandate to do so and subsequently require payment of a commission by the vendor of the asset, the purchaser and even both, merely due to the fact of having sent such information, without having had a decisive involvement in closing the transaction.

These kinds of actions jeopardize market credibility, are a violation of the most elementary rules of good faith, and generate unnecessary litigation resulting in legal uncertainty for operators.

To end this very widespread way of doing things, and to contribute to the defence of the lawful activity of professional estate agents, Neinor Homes has approved this Code of Best Practices, which applies to any transaction and to any agent presenting a transaction to the company.

We believe that this Code of Best Practices will be well-received in the sector, as it contributes towards the defence of the legitimate work carried out by professional estate agents and in doing so restores confidence in the sector.

### **2. PRINCIPLES AND BEST PRACTICES**

The principles governing this Code and best practices implemented in Neinor Homes to comply with each of them are:

#### **2.1 Transparency in the relationship between the agent and Neinor Homes**

To ensure absolute transparency in the relationship between the agent and Neinor Homes the following measures shall apply:

- Signing of a Framework Agency Agreement as a prerequisite for an agent to present an asset, group of assets or transaction (hereinafter a "**Project**") to Neinor Homes. The model agreement is attached as **Annex 1**.
- Sending of an Engagement Letter. Once the Framework Agency Agreement has been signed, provided the Agent presents the Client with a Project, the Client shall internally verify:
  - (i) That the Project meets the requirements set by Neinor Homes and there is interest in analysing additional information to assess its possible acquisition;
  - (ii) That there is no Engagement Letter (as defined below) in force in relation to the same Project;
  - (iii) The Advisor has or is willing to provide Client access to the valid interlocutor(s) of the owner and/or, where appropriate, of the mortgage lenders to allow the Client, with the Advisor's help, to reach an agreement for satisfactory deal closure on the Project.

After checking the above points, Neinor Homes will confirm to the agent the engagement for the Project by sending an email by the Director General of Real Estate (the "**Engagement Letter**"). On the other hand, if one or more of the above points is not verified, or if there is an Engagement Letter in force with another Advisor, Neinor Homes shall reject the engagement in writing.

- Written notice of the termination of the Engagement Letter for reasons other than closing a transaction or expiry of the deadline, which are provided in the Framework Agency Agreement, in order to avoid leaving transactions in limbo.
- No duplication of payment of fees, for which reason the agent must inform Neinor Homes if it has agreed an agency fee with the owner of the Asset or Assets he/she presents to Neinor Homes.

## **2.2 Publishing of fees payable by Neinor Homes**

The official agency fees payable by Neinor Homes are listed in the table below:

<b>Volume</b>	<b>Commission</b>
Between €0-5 million	3%
Between €5-10 million	2%
above €10 million	1%

*\* percentages are cumulative in each tranche*

Neinor Homes will not pay fees that differ from those listed in the table, unless the particular transaction presents exceptional circumstances and a change to the official rates has been approved in advance by the Neinor Homes Real Estate investments Committee.

## **2.3 Exclusivity arrangements**

Except in exceptional cases where a Project has been originated by Neinor Homes personnel without the involvement of an agent, there must be an Engagement Letter in any transaction for the acquisition of Assets.

Neinor Homes will not sign Letters of Engagement while there is an Engagement Letter for the same Asset in force. However, the Framework Agency Agreements will be signed on a non-exclusive basis. Exclusivity in a given Project will only be recognized by the sending of the Engagement Letter.

## **2.4 Good faith and reporting of unlawful conduct**

Neinor Homes is committed to acting in good faith and to applying the highest ethical standards in its relationship with estate agents and expects them to act likewise.

The Framework Agency Agreement details the obligations to fulfilled by the agents signing it, including obligations on compliance and, in particular, prevention of money laundering and financing of terrorism, which compliance will be required by Neinor Homes and whose breach will result the immediate termination of the Agreement and all Engagement Letters sent thereunder.

Neinor Homes will denounce and make public any unlawful conduct it detects in its relationship with these agents, in order to eradicate root and branch any abnormal practices in the sector.

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## **SIMPLE MEDIATION AGREEMENT FOR SEARCH**

In [insert], on [insert] [insert] [insert]

### **BY AND BETWEEN**

On the one hand, **[MR/MS] [insert]**, of legal age, with National ID Document [insert], with address for the purposes of this agreement in [insert].

On the other hand, **[MR/MS] [insert]**, of legal age, with National ID Document [insert], with address for the purposes of this agreement in [insert].

### **ACTING**

- I.** [MR/MS] [insert], appears for and on behalf of the business entity **[insert]**, with registered office in [insert] and Company Tax ID Code [insert]. Formed for an indefinite period on [insert] before the Notary of [insert] Mr/Ms [insert], with number [insert] of his/her notary's record and registered in the Mercantile Register of [insert] at volume [insert], folio [insert] sheet [insert]. Acting in his/her capacity as authorised representative of said company, under the powers granted to him/her as of [insert] before Notary [insert] Mr/Ms [insert] number [insert] of his/her notary's record ("**Neinor**" or the "**Client**"),
- II.** [MR/MS] [insert], appears [in his/her own name/for and on behalf of the business entity **[insert]**], with registered office in [insert] and Company Tax ID Code [insert]. Formed for an indefinite period on [insert] before the Notary of [insert] Mr/Ms [insert], with number [insert] of his/her notary's record and registered in the Mercantile Register of [insert] at volume [insert], folio [insert] sheet [insert]. Acting in his/her capacity as authorised representative of said company, under the powers granted to him/her as of [insert] before Notary [insert] Mr/Ms [insert] number [insert] of his/her notary's record<sup>1</sup> (the "**Advisor**"),

Hereinafter, the Client and the Advisor may be referred to jointly as the "**Parties**", and each, individually, a "**Party**".

### **RECITALS**

- I.-** Neinor is a company whose main corporate purpose is the acquisition, maintenance and management of a portfolio of real estate assets in Spain for subsequent development.
- II.-** The Advisor is willing to put in contact with Neinor various potential vendors of

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<sup>1</sup> Please amend as appropriate

plots or building sites (the "**Potential Vendors**"). These Potential Vendors are owners with title to various types of land which can be acquired and subsequently developed (the "**Projects**").

**III.-** The Parties are interested in studying the possibility of entering into an agreement that makes possible, through the assistance of the Advisor, the purchase by the Client of Projects owned by Potential Vendors, in the terms and conditions, as the case may be, expressly agreed to this effect between the two (the "**Potential Transactions**").

**IV.-** In order to evaluate and, where appropriate, develop the Potential Transactions, it is necessary for the Advisor to put Neinor in contact with the Potential Vendors and provide the Client with certain documentation and information concerning the Projects, and it is the intention of both Parties to govern the terms and conditions under which such information exchange is performed.

By virtue of the foregoing, the Parties mutually recognize the need to enter into this SIMPLE SEARCH MEDIATION AGREEMENT (the "**Agreement**"), and they do so pursuant to the following

## **CLAUSES**

### **1. Purpose of the Agreement**

The purpose of this Agreement is to define the conditions under which the Advisor shall work exclusively with NEINOR to put it in touch with Potential Vendors. Through this mediation agreement the CLIENT commissions the ADVISOR to find one or more Projects with the features described in **Annex I**, which can be purchased by the Client or by companies of its group. Such group shall be deemed any company directly or indirectly owned by the company Neinor Homes, S.A.

This Agreement is granted to the Advisor **on a non-exclusive basis** and the Client can, therefore, enter into other mediation agreements for searches for real estate and Projects.

### **2. Advisor collaboration principle**

2.1. Subject to the terms of this Agreement, the Advisor undertakes to provide, and/or give access to the Client all the information concerning Potential Vendors that is related and/or linked to potential Transactions and/or the Projects, and that according to the understanding of the Advisor and/or its professional knowledge of the sector must be taken into account and/or be known by Neinor in order to assess and decide on its potential taking part or not in the Potential Transactions and/or the Projects (the "**Information**").

2.2. In addition, the Advisor undertakes to use its best efforts to diligently seek Potential Vendors and to obtain all the necessary documentation for the Client or its legal counsel, as appropriate, in order to assess the legal, physical, technical and planning status of the Projects, including acting as an intermediary between the Potential Vendors and the Client or the

advisors thereof (the "**Due Diligence**").

2.3. In the context of the due diligence to be performed the Client or its advisors, the Advisor shall cooperate in gathering the following information:

2.3.1. Financial Information (deeds of creation of easements, mortgage loans or credit facilities, agreements signed in relation to the Project, etc.)

2.3.2. Legal Information (title deeds and registration status, licences, existing agreements in relation to the Projects, etc.)

2.3.3. Planning and Environmental Information

If any of the Potential Vendors do not have the technical capacity to carry out the preparation of a *virtual data room* to facilitate access to Due Diligence documentation, the Advisor shall provide the Client and its advisors with the necessary means to electronically access the Information

2.4. The Advisor, if the Client requests, shall attend whatever meetings or telephone conference calls may be necessary in connection with the Potential Transactions and shall advise and assist the Client at all times during the negotiations, upon Neinor's request, taking an active role through the suggestion of proposals and approaches to energize the negotiation process and to facilitate obtaining a satisfactory agreement in the Client's interests.

For clarification purposes, once Potential Vendors are located, the negotiation of the sale and purchase agreement of the Potential Transactions shall be carried out by the Client, with the Advisor's participation being instrumental, and with the Advisor's collaboration in the terms of this Clause.

However, breach of this collaboration principle by the Advisor shall constitute a fundamental breach of the terms of this Agreement and shall entitle the Client to claim any and all damages arising from such breach by the Advisor.

### **3. Remuneration principle**

3.1. The Parties agree that the remuneration to be received by the Advisor as consideration for its work in each of the Potential Transactions shall be a price of a [maximum of 2%] of the purchase price of each of the Projects, which shall accrue at the time of transfer of each of the Projects to the Client by public deed without conditions precedent, and no fee shall accrue for prior actions taken including, but not limited to, the signing of a private sale and purchase agreement or a purchase option on the Projects. For clarification purposes, the Advisor's fees shall be paid within 60 days from receipt of the invoice for each of the Projects.

Each of the Projects which are formally executed under this Agreement shall be attached to the same, as an annex, in a document signed by both Parties

which shall specify at least (i) the Project; (ii) the identity of the Potential Vendor; and (iii) the price of Potential Transaction that shall serve as a basis for calculating the Advisor's fees, which, in accordance with the present Clause, shall be a [maximum of 2%] of the purchase price of each of the Projects.

For these purposes, the term purchase price is deemed the net amount delivered by the Client to the Potential Vendor, not counting any indirect taxation that might affect the transaction.

3.2. Furthermore, the Client shall pay the agreed fees in the following cases:

3.2.1. If during the term of this agreement, any contractual transaction or corporate process takes place that is intended to transfer to the Client the possession of or acquisition of the power of disposal over any of the Projects presented by the Advisor, including the total or partial sale of the company owning the Project.

3.2.2. In the event that, within a maximum of 6 months following the termination of this Agreement, the Client acquires any of the Projects presented by the Advisor or performs any Potential Transaction with persons who have been introduced by the Advisor. To this end, the Advisor shall forward to the Client at the end of the term of the Agreement a list of the Projects presented.

However, in the event that any of the Projects presented are included in a portfolio of assets that in the future a Potential Vendor offers the Client, where such Projects represent less than 20% of such portfolio of assets, Client shall not be obliged to pay any amount to the Advisor.

3.3. The Parties expressly confirm that if the Potential Transaction does not take place for any reason, the Advisor shall not be entitled to any remuneration.

3.4. Also during the mediation efforts, if the Client so requires, the Advisor shall sign Confidentiality Agreements with the Potential Vendors and Neinor.

#### **4. Code of Best Practices**

By signing this Agreement, the Advisor adheres to and agrees to comply with the Neinor Homes Code of Best Real Estate Brokerage Practices attached as Exhibit III to this Agreement (the "Code of Best Practices"), which the Advisor declares to have received, read and understood prior to signing this Agreement.

Failure by the Advisor to comply with any of the obligations contained in the Code of Best Practices shall be deemed a breach of this Agreement in accordance with the provisions of Clause 10 below.

#### **5. Value Added Tax**

The relevant amount for Value Added Tax or any tax in the future replacing it shall be added to the Advisor's fees.

For this purpose, the Advisor shall deliver an invoice for each of the Projects specifying in a breakdown the amount for the fees and for the tax at the rate in

force at any given time. For clarification purposes, the Advisor's fees shall be paid within 60 days from receipt of the invoice for each of the Projects.

**6. Nondisclosure and ownership**

Any information relating to this Agreement which either Party receives (or has received prior to the signing of this Agreement) from the other must be treated as confidential.

The following shall not be deemed confidential information:

- (i) information published prior to the date of signing of this Agreement, or that becomes public, unless it acquires this status because of a breach of the Agreement;
- (ii) non-confidential information that the receiving Party had prior to the issuing Party supplying it, or that the receiving Party has found out independently;
- (iii) information which is received via third Parties without involving a breach of this Agreement.

Under no circumstances can the information received be disclosed to third Parties except where this is necessary at the request of any competent authority or by law, or where this is authorized by the Party that supplied it.

Any information provided to the public or to third parties relating to this Agreement shall require the express consent of both Parties, and if necessary also the Potential Vendors.

The Client and the Advisor shall refrain from using the Information for any other purpose (including, but not restricted to, any commercial or competitive purpose), other than those directly related to the assessment and, where appropriate, development of the Projects and/or the Potential Transactions.

Neinor may disclose the Information received to its employees, directors or temporary employees, agents and consultants directly involved in the Projects (the "Personnel"), and shall in any event keep to a minimum the number of people with access to the Information, and always in compliance with the provisions of the legislation on personal data protection and in particular Organic Law 15/1999 of 13 December.

In addition, the Client and the Advisor must use all the means at their disposal to ensure that members of the Personnel with access to the Information comply with the terms of the confidentiality commitments assumed under this Agreement.

For clarification purposes, the Advisor must sign a separate confidentiality agreement with Potential Vendors, without the Client being liable in any case for any breach of obligations of the Advisor in relation to the Potential Vendors.

**7. Address for notification purposes**

For the purposes of any notifications and requirements as a result of this Agreement, the Parties designate the addresses indicated in the heading of this document. In addition, for the purposes of any telephone or electronic communications that may result from this Agreement, the Parties designate the following contacts:

- **The Client:** Mr. Mario Lapiedra Vivanco, Tel.: 917931728, email: [mario.lapiedra@neinorhomes.com](mailto:mario.lapiedra@neinorhomes.com)..
- **The Advisor:** Mr/Ms [insert], Tel.: [insert], email: [insert]).

In the event of replacement of the person indicated above, the replacement must be immediately notified to the other Party.

## **8. Agreement**

This Agreement shall not constitute, create, give effect to or in any other way imply a joint venture, an alliance for the establishment of a company or any other form of formal organization of a business of any kind between the Parties, nor shall it constitute, create, take effect or imply any obligation or commitment of any Party to submit a proposal or bring into effect an agreement with the other Party nor generally to enter into the Potential Transaction. The signing of this Agreement shall also not prevent Neinor from entering into agreements of any kind (including those of a similar nature to this Agreement) with third parties.

## **9. Miscellaneous**

Compliance with the contents of this Agreement can be enforced anywhere in the world regardless of whether there is a claim or proceeding brought by one Party against the other, whether arising under this Agreement or having any other cause.

In the event that any provision or any part of this Agreement proves to be void, invalid or unenforceable, under a legal provision or as the result of a court decision, the other provisions that are not declared null, invalid or unenforceable shall continue to be binding.

The signing of this Agreement implies that the Parties understand the subject matter hereof and it can be amended only with the written consent of both Parties.

## **10. Return of Information**

Should negotiations on a Potential Transaction or Project completely cease for any reason, the Client and the Advisor, as applicable, undertake to return any and all Information received under this Agreement, within a maximum of 30 days from the date it is requested, and to destroy all copies, regardless of their format, in their possession, and make an express record of this at the time of returning the Information, except any backups and documentation that has to be kept to comply with the regulations in force.

## **11. Term**

This Agreement shall have a term of [insert] calculated from the date of signing of this Agreement unless the Parties agree to end it at an earlier date, or either Party breaches any of its obligations under this Agreement.

This Agreement shall be automatically and tacitly extended for successive periods of [insert] unless authenticated notification is given by either Party of its intention



to terminate it with at least [insert] [months/days] of notice before expiry of its term or any subsequent term extension.

Notwithstanding the foregoing, and unless otherwise agreed in writing by the Parties, the confidentiality obligation under this Agreement shall remain in force for a period of [insert] years after cessation hereof.

**12. Liability**

If a Party fails to fulfil one or more of its obligations under this Agreement, it shall be deemed to have incurred grounds for termination thereof, and the Party not in breach may seek the corresponding compensation from the Party in breach, without prejudice to any other compensation that may be possible.

**13. Money Laundering Prevention**

The Advisor declares it is aware of and complies with all obligations under existing regulations on the prevention of money laundering and terrorist financing, in particular Law 10/2010 of 28 April on the prevention of money laundering and financing of terrorism, RD 304/2014, of 5 May approving the Regulation of Law 10/2010 of 28 April, on prevention and blocking of terrorist financing, imposed on natural and legal persons engaged in the business of real estate development, agency, commission or brokerage, and undertakes to faithfully fulfil these obligations under this Agreement, in particular the obligation regarding the identification and knowledge of Potential Vendors, which must be expressly stated in the records of each Potential Transaction.

**14. Anti-Bribery, Corruption and Crime Prevention**

14.1. The Advisor must implement and maintain at all times an adequate policy against bribery and corruption that covers all aspects of the functions assumed under this Agreement and shall ensure that all employees or agents of the Advisor and other persons engaged to provide a part of the services or who are "associated" with the Advisor, including anyone who may be subcontracted or at its service, are governed by the same principles.

14.2. In the event that the Advisor does not have its own anti-bribery and anti-corruption policy, the Advisor must and shall ensure that all employees or agents of the Advisor and any other persons engaged to provide a part of the services and who are associated with the Advisor, shall at all times comply with the Neinor Homes Group anti-bribery and anti-corruption policy and its Code of Ethics. To this end, the Advisor undertakes to be aware of and provide to employees, partners and co-workers linked to the Potential Transactions the necessary information so that they can comply with anti-bribery and anti-corruption policy of the Neinor Homes Group, and its Code of Ethics.

14.3. The Advisor warrants and confirms, with the signing of this Agreement, that during the provision of the services, it and its associates shall act in accordance with all anti-bribery laws and regulations applicable under

Spanish law.

- 14.4. The Advisor shall provide to the Client all reasonable assistance to enable the Client to comply with its anticorruption protocol, including, but not limited to, monitoring compliance by its employees and associates of the anti-bribery and anti-corruption policy and informing the Client of any request from a third party for payment of a bribe in relation to the services under this Agreement.
- 14.5. Any breach by the Advisor in relation to the obligations under this Clause shall be deemed a material breach of the Agreement by the Advisor, the Client having the right to terminate this Agreement immediately with only unilateral written notice from the Client.
- 14.6. The Advisor shall reject any offer, request or grant of any benefit or advantage that is unjustified for the favouring of any kind of legal transaction with or on behalf of the Client, from its employees or from third parties both prior to signing the Agreement, and while the service is being provided and after the end of the same.
- 14.7. With regard to the previous paragraph, the Advisor shall not only reject such circumstance but shall immediately report the event in the utmost detail and with supporting documentation to the Company's Ethics Channel <https://neinorhomes.integrityline.com/frontpage>
- 14.8. The Advisor warrants and confirms, with the signing of this Agreement and in relation hereto, that it has not committed the crimes of bribery, corruption of public officials and influence peddling contained within Articles. 419-431 of the Criminal Code. Similarly, it agrees and warrants that it shall not commit the aforementioned crimes during the provision of services nor after the termination of this Agreement. It must hold the Client harmless in the event of breach of this affirmation. All of the above without prejudice to the power to terminate the Agreement pursuant to Clause 13.5 above.
- 14.9. The Advisor must apply surveillance and control measures both to itself and to all its sub-contractors as regards compliance with the strict legality of all workers in each Project, not directly or indirectly favouring illegal immigration in compliance with Article 318 bis of the Criminal Code.
- 14.10. The Advisor shall prevent and report by the aforementioned channel any fraud or deception inducing an error in another that results in a transfer of assets to the detriment of the Client or of a third party, and shall also ensure compliance and shall be liable for any of the crimes of fraud stipulated in Article 248 of the Criminal Code, both by itself and by its subcontractors, agents or personnel at its service.
- 14.11. The Advisor must hold harmless the Client and each and every member of its group (i.e. its subsidiaries, parent companies and subsidiaries of parent companies) and their respective directors, employees, successors and assigns, from any loss (including reputational), liabilities, costs and

expenses (including lawyers' fees, other professional fees and investigative costs and expenses) suffered or incurred by any member of the Client in connection with any bribe or irregularity committed or that may occur or be alleged in connection with the breach of this Clause by the Advisor or any of its employees or any other person employed by it in the performance of the services under this Agreement.

**15. Amicable Settlement**

Any claims, disputes or differences arising from or relating to this Agreement (hereinafter, the "**Disputes**"), including any question has to do with its existence, validity, expiry or performance, or linked to agreements relating to the performance of this Agreement, shall be settled amicably by the Parties concerned. Attempts to reach an amicable settlement shall be deemed frustrated as soon as either of the Parties notifies the other in writing.

**16. Jurisdiction**

Where an amicable settlement is not reached, the Dispute shall ultimately be resolved before the courts of Madrid, the Parties waiving any other jurisdiction that may apply to them.

**17. Governing law**

This Agreement, including any amendments hereto, shall be governed and enforced in accordance with the law generally applicable in Spain.

In witness whereof, the Parties sign this Agreement in two counterparts making one single agreement, on the date and at the place first indicated above.

**THE CLIENT**

**THE ADVISOR**

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Mr/Ms [...]

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Mr/Ms [...]

**Annex I**  
**Land characteristics**

- Land for **residential** use
- Planning conditions
  - Land ready for development, without planning risk (feasible construction commencement at no more than 12 months from acquisition, after obtaining the works licence)
  - Land to build unsubsidised housing (without any kind of official protection)
- Minimum size: 50 homes
- Type: Multifamily housing, attached/semi-detached. No single family plots
- Target public: medium/medium-high (not luxury)
- Geographical areas
  - First home: Madrid, Barcelona, Basque Country (Bilbao, San Sebastian)
  - Second home: Costa del Sol (from Malaga to Estepona) and the Balearic Islands