SETTLEMENT AGREEMENT
BETWEEN
MISSOURI REAL ESTATE COMMISSION
AND
RUI TING REALTY LLC

Rui Ting Realty LLC ("Rui Ting") and the Missouri Real Estate Commission ("MREC") enter into this Settlement Agreement for the purpose of resolving the question of whether Rui Ting's license as a Real Estate Association, no. 2009002162, will be subject to discipline. Pursuant to § 536.060, RSMo 2000,[1] the parties hereto waive the right to a hearing by the Administrative Hearing Commission of the State of Missouri and, additionally, the right to a disciplinary hearing before the MREC under § 621.110, RSMo Supp. 2013. The MREC and Rui Ting jointly stipulate and agree that a final disposition of this matter may be effectuated as described below pursuant to § 621.045, RSMo Supp. 2013.

Rui Ting acknowledges that it understands the various rights and privileges afforded it by law, including the right to a hearing of the charges against it; the right to appear and be represented by legal counsel; the right to have all charges proven upon the record by competent and substantial evidence; the right to cross-examine any witnesses appearing against it at the hearing; the right to present evidence on its behalf at the hearing; the right to a decision upon the record of the hearing by a fair and impartial

[1] All statutory citations are to the 2000 Revised Statutes of Missouri unless otherwise noted.

administrative hearing commissioner concerning the charges pending against it; the right to a ruling on questions of law by the Administrative Hearing Commission; the right to a disciplinary hearing before the MREC at which time Rui Ting may present evidence in mitigation of discipline; the right to a claim for attorney fees and expenses; and the right to obtain judicial review of the decisions of the Administrative Hearing Commission and the MREC.

Being aware of these rights provided to it by law, Rui Ting knowingly and voluntarily waives each and every one of these rights and freely enters into this Settlement Agreement and agrees to abide by the terms of this document as they pertain to it.

Rui Ting acknowledges that it has received a copy of documents that were the basis upon which the MREC determined there was cause for discipline, along with citations to law and/or regulations the MREC believes were violated. Rui Ting stipulates that the factual allegations contained in this Settlement Agreement are true and stipulates with the MREC that Rui Ting's license as a Real Estate Association, license no. 2009002162, is subject to disciplinary action by the MREC in accordance with the relevant provisions of Chapter 621, RSMo, and Sections 339.010 to 339.205 and Sections 339.710 to 339.855, RSMo, as amended.

The parties stipulate and agree that the disciplinary order agreed to by the MREC and Rui Ting in Part II herein is based only on the agreement set out in Part I herein. Rui

Ting understands that the MREC may take further disciplinary action against it based on facts or conduct not specifically mentioned in this document that are either now known to the MREC or may be discovered.

I.
Joint Stipulation of Facts and Conclusions of Law

Based upon the foregoing, the MREC and Rui Ting herein jointly stipulate to the following:

1. The MREC is an agency of the State of Missouri created and existing pursuant to Section 339.120, RSMo Supp. 2013, for the purpose of executing and enforcing the provisions of Sections 339.010 to 339.205 and Sections 339.710 to 339.855, RSMo (as amended), relating to real estate salespersons and brokers.

2. Rui Ting is licensed by the MREC as a real estate association, license no. 2009002162. At all relevant times herein, Rui Ting's license was active and current.

Applicable Statutes and Regulations

3. Section 339.100.2, RSMo Supp. 2013 states, in pertinent part:

> The commission may cause a complaint to be filed with the administrative hearing commission as provided by the provisions of chapter 621 against any person or entity licensed under this chapter or any licensee who has failed to renew or has surrendered his or her individual or entity license for any one or any combination of the following acts:
>
> > (1) Failure to maintain and deposit in a special account, separate and apart from his or her personal or other business accounts, all moneys belonging to others entrusted to him or her while acting as a real estate broker or as the temporary custodian of the funds

of others, until the transaction involved is consummated or terminated, unless all parties having an interest in the funds have agreed otherwise in writing;

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(15) Violation of, or attempting to violate, directly or indirectly, or assisting or enabling any person to violate, any provision of sections 339.010 to 339.180 and sections 339.710 to 339.860*, or of any lawful rule adopted pursuant to sections 339.010 to 339.180 and sections 339.710 to 339.860*;

(16) Committing any act which would otherwise be grounds for the commission to refuse to issue a license under section 339.040[.]

4. Section 339.040.1, RSMo Supp. 2013 states, in pertinent part:

Licenses shall be granted only to persons who present, and corporations, associations, partnerships, limited partnerships, limited liability companies, and professional corporations whose officers, managers, associates, general partners, or members who actively participate in such entity's brokerage, broker-salesperson, or salesperson business present, satisfactory proof to the commission that they:

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(3) Are competent to transact the business of a broker or salesperson in such a manner as to safeguard the interest of the public.

5. Section 339.105.1, RSMo Supp. 2013, states:

Each broker who holds funds belonging to another shall maintain such funds in a separate bank account in a financial institution which shall be designated an escrow or trust account. This requirement includes funds in which he or she may have some future interest or claim. Such funds shall be deposited promptly unless all parties having an interest in the funds have agreed otherwise in writing. No

broker shall commingle his or her personal funds or other funds in this account with the exception that a broker may deposit and keep a sum not to exceed one thousand dollars in the account from his or her personal funds, which sum shall be specifically identified and deposited to cover service charges related to the account.

6. Section 339.105.3, RSMo Supp. 2013, states:

In conjunction with each escrow or trust account a broker shall maintain books, records, contracts and other necessary documents so that the adequacy of said account may be determined at any time. The account and other records shall be provided to the commission and its duly authorized agents for inspection at all times during regular business hours at the broker's usual place of business.

7. Section 339.780.2, RSMo Supp. 2013, states:

Before engaging in any of the activities enumerated in section 339.010, a designated broker intending to establish a limited agency relationship with a seller or landlord shall enter into a written agency agreement with the party to be represented. The agreement shall include a licensee's duties and responsibilities specified in section 339.730 and the terms of compensation and shall specify whether an offer of subagency may be made to any other designated broker.

8. Regulation 20 CSR 2250-8.200(1), states:

When managing property a licensee shall not rent or lease, offer to rent or lease, negotiate, or offer or agree to negotiate, the rent or lease, list or offer to list for lease or rent, assist or direct in procuring of prospects calculated to result in the lease or rent, assist or direct in the negotiation of any transaction calculated or intended to result in the lease or rent, or show that property to prospective renters or lessees unless the licensee's broker holds a current written property management agreement or other written authorization signed by the owner of the real estate or the owner's authorized agent.

9. Regulation 20 CSR 2250-8.120(4), states:

Each broker shall deposit into the escrow or trust account all funds coming into the broker's possession as set out in section 339.100.2(1), RSMo, including funds in which the broker may have some future interest or claim and including, but not limited to, earnest money deposits, prepaid rents, security deposits, loan proceeds, and funds paid by or for the parties upon closing of the transaction. No broker shall commingle personal funds or other funds in the broker's escrow account except to the extent provided by section 339.105.1, RSMo. Commissions payable must be removed from the escrow account at the time the transaction is completed. After the transaction is completed, interest payable shall be disbursed to the appropriate party(ies) from the escrow account no later than ten (10) banking days following the receipt of the next statement of the escrow account. When the licensee receives all interest earned, interest payable to a licensee must be removed from the escrow account within ten (10) banking days following the receipt of the next statement of the escrow account.

10. Regulation 20 CSR 2250-8.220(3), states:

All money received by a broker in connection with any property management must be deposited within ten (10) banking days to the escrow or trust account maintained by the broker.

11. Regulation 20 CSR 2250-8.096(1), states:

Licensees acting with or without a written agreement for brokerage services pursuant to sections 339.710 to 339.860, RSMo, are required to have such relationships confirmed in writing by each party to the real estate transaction on or before such party's first signature to the real estate contract. Nothing contained herein prohibits the written confirmation of brokerage relationships from being included or incorporated into the real estate contract, provided that any addendum or incorporated document containing the written confirmation must include a separate signature section for acknowledging the written confirmation that shall be signed and dated by each party to the real estate transaction.

<u>Violations Discovered during First Audit</u>

12. On April 19, 2012, Rui Ting was audited by the MREC.

13. Between April 1, 2011 and April 19, 2012, Rui Ting failed to maintain an escrow account and commingled funds by depositing rents into the brokerage operating account and a personal bank account, in violation of Section 339.105.1, RSMo Supp. 2013, Regulation 20 CSR 2250-8.220(3), and Regulation 20 CSR 2250-8.120(4), providing cause for discipline pursuant to Section 339.100.2(1) and (15), RSMo Supp. 2013.

14. Between April 1, 2011 and April 19, 2012, Rui Ting managed a property without a current written management agreement, in violation of Section 339.780.2, RSMo Supp. 2013 and Regulation 20 CSR 2250-8.200(1), providing cause for discipline pursuant to Section 339.100.2(15), RSMo Supp. 2013.

15. Rui Ting's conduct above demonstrates the inability to competently transact the business of a broker or salesperson in such a manner as to safeguard the interest of the public, which would be grounds to refuse to issue a license under Section 339.040.1, RSMo Supp. 2013, providing cause for discipline pursuant to Section 339.100.2(16), RSMo Supp. 2013.

Violations Discovered during Second Audit

16. Between September 1, 2012 and October 29, 2013, Rui Ting failed to maintain a multi-owner escrow account and deposited rents and a security deposit into a brokerage operating account and a personal bank account, in violation of Section

339.105.1, RSMo Supp. 2013, Regulation 20 CSR 2250-8.220(3), and Regulation 20 CSR 2250-8.120(4), providing cause for discipline pursuant to Section 339.100.2(1) and (15), RSMo Supp. 2013.

17. Between September 1, 2012 and October 29, 2013, Rui Ting took $200.00 from its property management account, Commerce Bank account no. xxx-xxx-048, and then deposited the $200.00 into Helton's personal bank account, in violation of Section 339.105.1, RSMo Supp. 2013 and Regulation 20 CSR 2250-8.120(4), providing cause for discipline pursuant to Section 339.100.2(1) and (15), RSMo Supp. 2013.

18. Between September 1, 2012 and October 29, 2013, Rui Ting, on more than one occasion, received cash for rent that was not deposited in an escrow account, trust account or any other special account, in violation of Section 339.105.1, RSMo Supp. 2013, Regulation 20 CSR 2250-8.220(3), and Regulation 20 CSR 2250-8.120(4), providing cause for discipline pursuant to Section 339.100.2(1) and (15), RSMo Supp. 2013.

19. Between September 1, 2012 and October 29, 2013, Rui Ting failed to maintain records necessary to determine the adequacy of its property management account, Commerce Bank account no. xxx-xxx-048, in violation of Section 339.105.3, RSMo Supp. 2013, providing cause for discipline pursuant to Section 339.100.2(15), RSMo Supp. 2013, as follows:

i. Failed to complete reconciliations;

ii. Failed to produce accurate owner statements;

iii. Failed to maintain records of cash;

iv. Use of personal and brokerage accounts for escrow funds;

v. Provided loans without agreements or recordkeeping; and

vi. Inaccurate and incomplete recordkeeping, generally.

20. Between September 1, 2012 and October 29, 2013, Rui Ting, on at least two occasions, managed properties without current written management agreements, in violation of Section 339.780.2, RSMo Supp. 2013 and Regulation 20 CSR 2250-8.200(1), providing cause for discipline pursuant to Section 339.100.2(15), RSMo Supp. 2013.

21. Between September 1, 2012 and October 29, 2013, Rui Ting, on at least six occasions, failed to disclose the brokerage relationship in writing, in violation of Regulation 20 CSR 2250-8.096(1), providing cause for discipline pursuant to Section 339.100.2(15), RSMo Supp. 2013.

22. Rui Ting's conduct above demonstrates the inability to competently transact the business of a broker or salesperson in such a manner as to safeguard the interest of the public, which would be grounds to refuse to issue a license under Section 339.040.1, RSMo Supp. 2013, providing cause for discipline pursuant to Section 339.100.2(16), RSMo Supp. 2013.

II.
Joint Agreed Disciplinary Order

Based on the foregoing, the parties mutually agree and stipulate that the following shall constitute the disciplinary order entered by the MREC in this matter under the authority of § 536.060, RSMo, and §§ 621.045.4 and 621.110, RSMo Supp. 2013.

23. **Rui Ting's license is on probation.** Rui Ting's license as a Real Estate Association is hereby placed on PROBATION for a period of FIVE YEARS. The period of probation shall constitute the "disciplinary period." During the disciplinary period, Rui Ting shall be entitled to practice as a Real Estate Association under §§ 339.010 to 339.205 and §§ 339.710 to 339.855, RSMo, as amended, provided Rui Ting adheres to all the terms of this agreement.

24. **Terms and conditions of the disciplinary period.** The terms and conditions of the disciplinary period are as follows:

A. Rui Ting shall keep the MREC apprised at all times of its current address and telephone number at each place of residence and business. Rui Ting shall notify the MREC in writing within ten (10) days of any change in this information.

B. Rui Ting shall timely renew its real estate license(s), timely pay all fees required for license(s) renewal and shall comply with all other requirements necessary to maintain its license(s) in a current and active status. During the disciplinary period, Rui Ting shall not place its real estate license(s) on inactive status as would otherwise be allowed under 20 CSR 2250-4.040. Alternatively, without violating the terms and conditions of this Settlement Agreement, Rui Ting

may surrender its real estate license(s) by submitting a letter to the MREC and complying with 20 CSR 2250-8.155. If Rui Ting applies for a real estate license(s) after surrender, Rui Ting shall be required to requalify as if an original applicant and the MREC will not be precluded from basing its decision, wholly or partially, on the findings of fact, conclusions of law, and discipline set forth in this Settlement Agreement.

C. Rui Ting shall meet in person with the MREC or its representative at any such time or place as required by the MREC or its designee upon notification from the MREC or its designee. Said meetings will be at the MREC's discretion and may occur periodically during the probation period.

D. Rui Ting shall immediately submit documents showing compliance with the requirements of this Settlement Agreement to the MREC when requested by the MREC or its designee.

E. During the probationary period, Rui Ting shall accept and comply with unannounced visits from the MREC's representative to monitor compliance with the terms and conditions of this Settlement Agreement.

F. Rui Ting shall comply with all relevant provisions of Chapter 339, RSMo, as amended, all rules and regulations duly promulgated thereunder, all local, state, and federal laws. "State" as used herein includes the State of Missouri and all other states and territories of the United States. Any cause to discipline Rui Ting's

license as a real estate association under § 339.100.2, RSMo, as amended, that accrues during the disciplinary period shall also constitute a violation of this Settlement Agreement.

G. For the first THREE YEARS of the disciplinary period Rui Ting shall, at its own expense, ensure that quarterly audits of its registered escrow account(s), including account number xxx-xxx-048, maintained at Commerce Bank is conducted and completed by a certified public accountant ("CPA") approved by the MREC. Within 15 calendar days of the effective date of this Settlement Agreement, Rui Ting shall submit to the MREC in writing a list of at least three CPAs, including the CPA's name, address and relationship to Rui Ting. The MREC may approve one of the listed CPAs or may require Rui Ting to submit additional names for consideration and approval. The quarterly report should contain a three-way reconciliation from the check register to the bank balance to the owner balance(s). Such quarterly audits shall begin with the ~~first~~ second quarter of 2015 and continue throughout the disciplinary period, ending with the ~~fourth~~ first quarter of 2018. Within 30 days of the quarter's end date, Rui Ting shall cause the CPA who conducted the audit to mail to the MREC by certified mail, return receipt requested, a signed statement from the CPA confirming that the CPA completed a reconciliation of the account(s) and matched the reconciled balance to the check register and the total of all reported owner and/or tenant balances. All documents

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necessary to prove the reconciliation should be submitted with the CPA's statement. If the CPA should find that the three-way reconciliation does not match, the CPA report should include the detail and documentation necessary to show that all discrepancies were identified and corrected.

25. Upon the expiration of the disciplinary period, the license of Rui Ting shall be fully restored if all requirements of law have been satisfied; provided, however, that in the event the MREC determines that Rui Ting has violated any term or condition of this Settlement Agreement, the MREC may, in its discretion, after an evidentiary hearing, vacate and set aside the discipline imposed herein and may suspend, revoke or otherwise lawfully discipline Rui Ting's license.

26. No additional discipline shall be imposed by the MREC pursuant to the preceding paragraph of this Settlement Agreement without notice and opportunity for hearing before the MREC as a contested case in accordance with the provisions of Chapter 536, RSMo.

27. This Settlement Agreement does not bind the MREC or restrict the remedies available to it concerning any future violations by Rui Ting of Sections 339.010 to 339.205 and Sections 339.710 to 339.855, RSMo (as amended), relating to real estate salespersons and brokers, or the regulations promulgated thereunder, or of the terms and conditions of this Settlement Agreement.

28. This Settlement Agreement does not bind the MREC or restrict the remedies available to it concerning facts or conduct not specifically mentioned in this Settlement Agreement that are either now known to the MREC or may be discovered.

29. If any alleged violation of this Settlement Agreement occurred during the disciplinary period, the parties agree that the MREC may choose to conduct a hearing before it either during the disciplinary period, or as soon thereafter as a hearing can be held, to determine whether a violation occurred and, if so, may impose further disciplinary action. Rui Ting agrees and stipulates that the MREC has continuing jurisdiction to hold a hearing to determine if a violation of this Settlement Agreement has occurred.

30. Each party agrees to pay all their own fees and expenses incurred as a result of this case, its litigation, and/or its settlement.

31. The terms of this Settlement Agreement are contractual, legally enforceable, and binding, not merely recital. Except as otherwise contained herein, neither this Settlement Agreement nor any of its provisions may be changed, waived, discharged, or terminated, except by an instrument in writing signed by the party against whom the enforcement of the change, waiver, discharge, or termination is sought.

32. The parties to this Settlement Agreement understand that the MREC will maintain this Settlement Agreement as an open record of the MREC as required by Chapters 324, 339, and 610, RSMo, as amended.

33. Rui Ting, together with its partners, members, managers, successors, agents, employees, representatives and attorneys, does hereby waive, release, acquit and forever discharge the MREC, its respective members, employees, agents and attorneys including former members, employees, agents and attorneys, of, or from any liability, claim, actions, causes of action, fees, costs, expenses and compensation, including, but not limited to, any claim for attorney's fees and expenses, whether or not now known or contemplated, including, but not limited to, any claims pursuant to § 536.087, RSMo, as amended, or any claim arising under 42 U.S.C. § 1983, which now or in the future may be based upon, arise out of, or relate to any of the matters raised in this case or its litigation or from the negotiation or execution of this Settlement Agreement. The parties acknowledge that this paragraph is severable from the remaining portions of the Settlement Agreement in that it survives in perpetuity even in the event that any court or administrative tribunal deems this agreement or any portion thereof void or unenforceable.

34. Rui Ting understands that it may, either at the time the Settlement Agreement is signed by all parties, or within fifteen days thereafter, submit the agreement to the Administrative Hearing Commission for determination that the facts agreed to by the parties constitute grounds for disciplining Rui Ting's license. If Rui Ting desires the Administrative Hearing Commission to review this Settlement Agreement, Rui Ting may

submit its request to: Administrative Hearing Commission, Truman State Office Building, Room 640, 301 W. High Street, P.O. Box 1557, Jefferson City, Missouri 65102.

35. If Rui Ting requests review, this Settlement Agreement shall become effective on the date the Administrative Hearing Commission issues its order finding that the Settlement Agreement sets forth cause for disciplining Rui Ting's license. If the Administrative Hearing Commission issues an order stating that the Settlement Agreement does not set forth cause for discipline, then the MREC may proceed to seek discipline against Rui Ting as allowed by law. If Rui Ting does not request review by the Administrative Hearing Commission, this Settlement Agreement goes into effect 15 days after the document is signed by the Executive Director of the MREC.

RUI TING REALTY LLC

By: _____
Ruiting Adriana Helton

Title: Broker

Date: 3/19/15

MISSOURI REAL ESTATE COMMISSION

_____
Joseph Denkler, Executive Director
Date: 3/25/2015

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_____
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