SETTLEMENT AGREEMENT
BETWEEN
THE MISSOURI REAL ESTATE COMMISSION,
SHIRLEY M. SPENCER-BOGGESS,
SHIRLEY SPENCER REAL ESTATE LLC,
AND
MAXIMUM PROPERTY RENTALS LLC

Shirley M. Spencer-Boggess (Spencer), Shirley Spencer Real Estate LLC (Spencer LLC), MAXimum Property Rentals LLC, and the Missouri Real Estate Commission (MREC) enter into this Settlement Agreement for the purpose of resolving the question of whether the following real estate licenses will be subject to discipline:

- Spencer's broker-salesperson license, no. 1999144324;
- Spencer's broker associate real estate license, no 1999086161;
- Spencer LLC's association license, no. 2001010762; and
- MAXimum LLC's association license, no. 2008010651.

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. 2010. The MREC, Spencer, Spencer LLC, and MAXimum LLC, jointly stipulate and agree that a final disposition of this matter may be effectuated as described below pursuant to § 621.045, RSMo Supp. 2010.

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

Spencer, Spencer LLC, and MAXimum LLC acknowledge that they understand the various rights and privileges afforded them by law, including the right to a hearing of the charges against them; 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 them at the hearing; the right to present evidence on their behalf at the hearing; the right to a decision upon the record of the hearing by a fair and impartial administrative hearing commissioner concerning the charges pending against them; 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 they 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 them by law, Spencer, Spencer LLC, and MAXimum LLC knowingly and voluntarily waive each and every one of these rights and freely enter into this Settlement Agreement and agree to abide by the terms of this document as they pertain to them.

Spencer, Spencer LLC, and MAXimum LLC acknowledge that they have 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. Spencer, Spencer LLC, and MAXimum LLC stipulate that the factual

allegations contained in this Settlement Agreement are true and stipulate with the MREC that Spencer's and Spencer LLC's real estate licenses, as listed above, are subject to disciplinary action by the MREC in accordance with the relevant provisions of Chapter 621, RSMo, and §§ 339.010 – 339.205 and 339.710 – 339.855, RSMo, as amended.

The parties stipulate and agree that the disciplinary order agreed to by the MREC, Spencer, Spencer LLC, and MAXimum LLC in Part II herein is based only on the agreement set out in Part I herein. Spencer, Spencer LLC, and MAXimum LLC understand that the MREC may take further disciplinary action against them based on facts or conduct not specifically mentioned in this document that are either now known to the MREC or may be discovered, except as to any and all violations and matters identified by the audits and examinations conducted during December 2006 through July 2009 by the MREC of the real estate activities of Spencer, Spencer LLC, and MAXimum LLC.

I.
Joint Stipulation of Facts and Conclusions of Law

Based upon the foregoing, the MREC, Spencer, Spencer LLC, and MAXimum LLC herein jointly stipulate to the following:

1. Spencer holds a broker-salesperson license, number 1999144324, which is, and was at all times relevant hereto, current and active. Spencer previously held a broker-associate license, no. 1999086161, which is expired.

2. Spencer LLC holds a real estate association license, number 2001010762, which is, and was, at all times relevant hereto, current and active.

3. MAXimum LLC holds a real estate association license, number 2008010651, which is, and was, at all times relevant hereto, current and active.

4. At all times relevant to the stipulated facts set forth in this Settlement Agreement, Spencer was the registered agent and designated broker for Spencer LLC and MAXimum LLC.

5. From December 2006 until July 2007, the MREC conducted an examination of the real estate activities of Spencer and Spencer LLC ("Prior Spencer LLC Audit"). As Spencer LLC's designated broker at the time and during the period examined, Spencer bears responsibility for her own conduct, as well as for that of Spencer LLC. Spencer's license is culpable for the conduct and violations revealed by the Prior Spencer LLC Audit.

6. During September and October 2008, the MREC re-examined the real estate activities of Spencer and Spencer LLC ("Spencer LLC Re-Audit"). As Spencer LLC's designated broker at the time and during the period examined, Spencer bears responsibility for her own conduct, as well as for that of Spencer LLC. Spencer's license is culpable for the conduct and violations revealed by the Spencer LLC Re-Audit.

7. During June and July 2009, the MREC examined Spencer and MAXimum LLC ("MAXimum LLC Audit"). As MAXimum LLC's designated broker at the time and during the period examined, Spencer bears responsibility for her own conduct, as well as

for that of MAXimum LLC. Spencer's license is culpable for the conduct and violations revealed by the MAXimum LLC Audit.

PRIOR SPENCER LLC AUDIT

8. In at least two instances, Spencer and Spencer LLC failed to ensure that earnest money was properly maintained in an escrow account, in violation of 20 CSR 2250-8.120(1) and (4), which state:

> (1) All money received by a licensee as set out in § 339.100.2(1), shall be deposited in the escrow or trust account maintained by the broker no later than ten (10) banking days following the last date on which the signature or initials, or both, of all the parties to the contract are obtained, unless otherwise provided in the contract. Earnest money received prior to acceptance of a written contract may be deposited into the escrow account by the broker with the written authorization of the party(ies) providing the funds.
>
> . . .
>
> (4) Each broker shall deposit into the escrow or trust account all funds coming into the broker's possession as set out in § 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, 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 § 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.

9. The failure of Spencer and Spencer LLC to ensure that earnest money was properly maintained in an escrow account is also a violation of § 339.105.1, RSMo, which states:

> 1. 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.

10. In at least two instances, Spencer and Spencer LLC failed to ensure that earnest money was properly maintained in an escrow account, in violation of 20 CSR 2250-8.120(1) and (4), and § 339.105.1, RSMo.

11. In at least two instances, Spencer and Spencer LLC failed to ensure the accuracy of property owners' statements, providing cause to discipline Spencer's and Spencer LLC's licenses under § 339.100.2(3), RSMo.

12. Spencer's and Spencer LLC's property management escrow account carried a net shortage balance of $3,349.60, resulting from numerous errors in managing, recording, and accounting for the funds, including an unidentified shortage of $1,748.31, in violation of § 339.105.1, RSMo.

13. Spencer's and Spencer LLC's security deposit escrow account carried a net overage balance of $1,929.62, resulting from numerous errors in management of and accounting for the funds, including an unidentified shortage in the amount of $1,044.48, in violation of § 339.105.1, RSMo.

14. In at least two instances, Spencer and Spencer LLC commingled their funds with those properly left in the property management escrow account, by leaving their commission from the 15290 Top Drive lease listing in the account, and by leaving the broker's management fees in the account for more than a month, in violation of § 339.105.1, RSMo.

15. In at least one instance, Spencer and Spencer LLC commingled their funds with those properly left in the security deposit escrow account, by leaving too great an amount of the broker's funds in the account, in violation of § 339.105.1, RSMo.

16. Spencer's and Spencer LLC's sales escrow account carried a net shortage balance of $5,188.15, resulting from numerous errors in management of and accounting for the funds, including an unidentified shortage in the amount of $523.12, in violation of § 339.105.1, RSMo, and 20 CSR 2250-8.120(4).

17. In at least one instance, Spencer and Spencer LLC commingled their funds with those properly left in the sales escrow account, by leaving too great an amount of the broker's funds in the account, in violation of § 339.105.1, RSMo, and 20 CSR 2250-8.120(4).

18. In numerous instances, Spencer and Spencer LLC failed to maintain records necessary to determine the adequacy of the property management escrow account, including, but not limited to, failing to itemize payments from the property management escrow account; failing to identify transactions related to deposits; and failing to provide accurate breakdowns for management fee, in violation of § 339.105.3, RSMo, which states:

> 3. 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.

19. In numerous instances, Spencer and Spencer LLC failed to maintain records necessary to determine the adequacy of the sales escrow account, including, but not limited to, holding earnest monies for a transaction that fell through, while failing to possess the contracts associated with such transactions, in violation of § 339.105.3, RSMo.

20. In numerous instances, Spencer and Spencer LLC held money belonging to others when they did not have written authorization to do so, in violation of § 339.105.3, RSMo.

21. In six instances, Spencer and Spencer LLC failed to disburse disputed escrow monies to the State Treasurer within 365 days of the projected closing date, in violation of § 339.105.4, RSMo, which states:

> 4. Whenever the ownership of any escrow moneys received by a broker pursuant to this section is in dispute by the parties to a real estate sales transaction, the broker shall report and deliver the moneys to the state treasurer within three hundred sixty-five days of the date of the initial projected closing date in compliance with sections 447.500 to 447.595. The parties to a real estate sales transaction may agree in writing that the funds are not in dispute and shall notify the broker who is holding the funds.

22. In eleven instances, a licensee working under Spencer and Spencer LLC entered into a listing agreement without a written authorization signed by Spencer, in violation of § 339.780.1, RSMo, and 20 CSR 2250-8.090(4)(A)(11). Section 339.780.1, regarding lessor brokerage service agreements, states:

> All written agreements for brokerage services on behalf of a seller, landlord, buyer, or tenant shall be entered into by the designated broker on behalf of that broker and affiliated licensees, except that the designated broker may authorize affiliated licensees in writing to enter into the written agreements on behalf of the designated broker.

Rule 20 CSR 2250-8.090(4)(A)(11), regarding lessor agency agreements, states:

> (A) Every written listing agreement or other written agreement for brokerage services shall contain all of the following:
>
> . . .
>
> 11. The signatures of all owners and the listing broker or listing agent as authorized by the broker[.]

23. In six instances, Spencer and Spencer LLC managed properties without an agreement with the owner of the property, in violation of § 339.780.2, RSMo, and 20 CSR 2250-8.200(1). Section 339.780.2 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.

Rule 20 CSR 2250-8.200(1), requiring management agreements, 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.

24. In ten instances, Spencer and Spencer LLC managed properties without a current management agreement with the owner of the property, in violation of § 339.780.2, RSMo, and 20 CSR 2250-8.200(1).

25. In twenty-five instances, Spencer and Spencer LLC disbursed funds from the property management escrow account when the owner's account balance was not sufficient to cover the disbursement in violation of 20 CSR 2250-8.220(1), which states:

> A broker shall establish and maintain a separate escrow account(s), to be designated as a property management escrow account(s), for the deposit of current rents and money received from the owner(s) or on the owner's(s') behalf for payment of expenses related to property management. Before making disbursements from a property management escrow account, a broker shall ensure that the account balance for that owner's(s') property(ies) is sufficient to cover the disbursements.

26. In numerous instances, Spencer and Spencer LLC failed to indicate the related transaction on each property management escrow account deposit ticket, in violation of 20 CSR 2250-8.220(8), which states:

> Each check written on an escrow account, or each corresponding check stub, or other record of disbursement of funds from the account and each deposit ticket shall indicate the related transaction. Each check written on an escrow account for licensee fees or commission shall be made payable to the licensee who is owed the fee or commission or to the firm's general operating account.

SPENCER LLC RE-AUDIT

27. In six instances, Spencer and Spencer LLC failed to timely account for monies which belonged to others, in violation of § 339.790.2(1), RSMo, which states:

> 2. A real estate broker and an affiliated licensee owe no further duty or obligation after termination, expiration, completion or performance of the brokerage agreement, except the duties of:
>
> (1) Accounting in a timely manner for all money and property related to, and received during, the relationship[.]

28. In numerous instances, Spencer and Spencer LLC failed to timely remit funds which belonged to others, in violation of § 339.790.2(1), RSMo.

29. In seven instances, Spencer and Spencer LLC failed to ensure accuracy in the owner's statements kept by Spencer and Spencer LLC for properties they manage, providing cause to discipline the licenses of Spencer and Spencer LLC pursuant to § 339.100.2(19), RSMo.

30. Spencer's and Spencer LLC's security deposit escrow account carried a net shortage balance of $329.62, in violation § 339.105.1, RSMo.

31. Spencer's and Spencer LLC's property management escrow account carried a net shortage balance of $6,087.99, in violation of § 339.105.1, RSMo.

32. Spencer's and Spencer LLC's sales escrow account carried a net shortage balance of $538.47, in violation of § 339.105.1, RSMo, and 20 CSR 2250-8.120(4).

33. In one instance, Spencer and Spencer LLC failed to maintain records necessary to determine the adequacy of the security deposit escrow account, in violation of § 339.105.3, RSMo.

34. In one instance, Spencer's and Spencer LLC's commission was removed from the property management escrow account before the fee was earned, in violation of § 339.105.5, RSMo, which states:

> 5. A broker shall not be entitled to any money or other money paid to him or her in connection with any real estate sales transaction as part or all of his or her commission or fee until the transaction has been consummated or terminated, unless agreed in writing by all parties to the transaction.

35. In 103 instances, Spencer and Spencer LLC failed to retain the following records: voided check number 6925 from the property management escrow account; voided check number 1385 from the security deposit escrow account; in violation of 20 CSR 2250-8.160(2), which states:

> Every broker shall retain for a period of at least three (3) years true copies of all property management agreements, correspondence or other written authorization relating to each real estate transaction relating to leases, rentals or management activities the broker has handled. The broker must also retain all business books, accounts and records unless these records are released to the owner(s) or transferred to another broker by written detailed receipt or transmittal letter agreed to in writing by all parties to the transaction.

36. In 101 instances, Spencer and Spencer LLC failed to maintain property owner statements for managed properties, in violation of 20 CSR 2250-8.160(2).

37. In one instance, Spencer and Spencer LLC disbursed funds from the property management escrow account when the owner's balance in such account was not sufficient to cover the disbursal, in violation of 20 CSR 2250-8.220(1).

MAXIMUM AUDIT

38. In 88 instances, Spencer and MAXimum LLC disbursed funds from the property management escrow account when the owner's balance in such account was not sufficient to cover the disbursal, in violation of 20 CSR 2250-8.220(1).

39. In one instance, Spencer and MAXimum LLC failed to deposit and maintain rent received in a separate escrow account., in violation of § 339.105.1, RSMo, 20 CSR 2250-8.120(4), and 20 CSR 2250-8.220(3). Rule 20 CSR 2250-8.220(3) states:

> (3) 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.

40. Spencer and MAXimum LLC failed to account for monies which belonged to others by failing to reconcile, and then inaccurately reconciling, the escrow account, in violation of § 339.790.2(1), RSMo.

41. In ten instances, Spencer and MAXimum LLC prepared and provided inaccurate owner's statements which failed to report income and expenses, reflected management fees different than those taken, and had beginning balances which did not match the prior month's ending balance, in violation of § 339.790.2(1), RSMo..

42. Spencer and MAXimum LLC maintained a net shortage of $1,462.95 in the property management escrow account, in violation of § 339.105.1, RSMo.

43. Spencer and MAXimum LLC failed to maintain records necessary to determine the adequacy of the property management and security deposit escrow accounts, including incomplete deposit records, inaccurate deposit slips that were inconsistent with the deposits, check numbers were inaccurately recorded, checks were not used in sequential order leaving unaccounted for checks, unidentified military direct

deposits, unsupported adjusting entries, voided entries that cleared the bank, and no bank reconciliation reports prior to December 2008, in violation of 339.105.3.

44. In one instance, Spencer and MAXimum LLC failed to perform the terms of the written agreement with the landlord by holding a security deposit that should have been forwarded to the landlord, in violation of § 339.730.1(1), which states:

> 1. A licensee representing a seller or landlord as a seller's agent or a landlord's agent shall be a limited agent with the following duties and obligations:
>
> (1) To perform the terms of the written agreement made with the client[.]

45. In eight instances, Spencer and MAXimum LLC failed to perform the terms of the written agreement with the landlord by failing to remove management fees from the escrow account, in violation of § 339.730.1(1) and 20 CSR 2250-8.220(6). Rule 20 CSR 2250-8.220(6), states:

> (6) Fees or commissions payable to a broker must be withdrawn from a property management escrow account at least once a month unless otherwise agreed in writing. Any rent paid in advance as a deposit for the last month's rent or as rent other than the current month's rent held by a broker shall be deposited in the property management escrow account unless otherwise agreed to in writing.

46. In 24 instances, Spencer and MAXimum LLC managed properties without a written management agreement, in violation of § 339.780.2, RSMo, and 20 CSR 2250-8.200(1).

47. In numerous instances, Spencer and MAXimum LLC failed to maintain voided checks, in violation of 20 CSR 2250-8.160(2).

48. In five instances, Spencer and MAXimum LLC held security deposits in the property management escrow account without written authorization from the owner, in violation of 20 CSR 2250-8.220(2), which states:

> (2) All security deposits held by a broker shall be maintained, intact, in an escrow account other than the property management account(s), pursuant to section 339.105, RSMo, unless the owner(s) have agreed otherwise in writing.

49. In 22 instances, Spencer and MAXimum LLC failed to record the related transaction(s) on the deposit ticket for the security deposit escrow account, in violation of 20 CSR 2250-8.220(8).

50. In numerous instances, Spencer and MAXimum LLC failed to record the related transaction(s) on the deposit ticket for the property management escrow account, in violation of 20 CSR 2250-8.220(8).

51. Based on the violations found through the Prior Spencer LLC Audit, the Spencer LLC Re-Audit, and the MAXimum LLC Audit, cause exists to discipline the real estate licenses of Spencer, Spencer LLC, and MAXimum LLC pursuant to § 339.100.2(1), (3), (15), & (19), RSMo, which states:

> 2. The commission may cause a complaint to be filed with the administrative hearing commission as provided by the provisions of chapter 621, RSMo, 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 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;

. . .

(3) Failing within a reasonable time to account for or to remit any moneys, valuable documents or other property, coming into his or her possession, which belongs to others;

. . .

(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;

. . .

(19) Any other conduct which constitutes untrustworthy, improper or fraudulent business dealings, or demonstrates bad faith or incompetence, misconduct, or gross negligence[.]

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 §§ 621.045.3 and 621.110, RSMo Supp. 2010.

1. **Each license is on probation.** Spencer's licenses as a real estate broker-associate and a real estate broker-salesperson, Spencer LLC's license as a real estate association, and MAXimum LLC's license as a real estate association are each hereby placed on PROBATION for a period of TWO YEARS. The period of probation shall constitute the "disciplinary period." During the disciplinary period, Spencer, Spencer LLC, and MAXimum LLC shall be entitled to practice as a real estate broker-salesperson and as a real estate association, respectively, under §§ 339.010 - 339.205 and 339.710 - 339.855, RSMo, as amended, provided each adheres to all the terms of this agreement.

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

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

B. Spencer, Spencer LLC, and MAXimum LLC shall timely renew their real estate license(s), timely pay all fees required for license renewal and shall comply with all other requirements necessary to maintain their license(s) in a current and active status. This term and condition does not apply to Spencer's real estate broker-associate license, no. 1999086161, which is no longer current or active.

C. Spencer, Spencer LLC, and MAXimum LLC 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. Spencer, Spencer LLC, and MAXimum LLC 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, Spencer, Spencer LLC, and MAXimum LLC 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. If at any time during the disciplinary period, Spencer, Spencer LLC, and/or MAXimum LLC changes their residence from the State of Missouri, ceases to be currently licensed in Missouri under Chapter 339, RSMo, as amended, fails to timely pay all fees required for license renewal, or fails to keep the MREC advised of all current places of residence and business, the time of absence, unlicensed status, delinquency in paying fees for license renewal or unknown whereabouts shall not be deemed or taken as any part of the disciplinary period.

G. Spencer, Spencer LLC, and MAXimum LLC shall comply with all relevant provisions of Chapter 339, RSMo, as amended, all rules and regulations duly

promulgated thereunder, and 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.

3. Upon the expiration of the disciplinary period, the licenses of Spencer, Spencer LLC, and MAXimum LLC shall be fully restored if all requirements of law have been satisfied; provided, however, that in the event the MREC determines that Spencer, Spencer LLC, or MAXimum LLC have 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 the license(s) of Spencer, Spencer LLC, and/or MAXimum LLC.

4. 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.

5. This Settlement Agreement does not bind the MREC or restrict the remedies available to it concerning any future violations by Spencer, Spencer LLC, or MAXimum LLC of §§ 339.010 - 339.205 and 339.710 - 339.855, RSMo, as amended, or the regulations promulgated thereunder, or of the terms and conditions of this Settlement Agreement.

6. 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, except as to any and all violations and matters identified by the audits and examinations conducted during December 2006 through July 2009 by the MREC of the real estate activities of Spencer, Spencer LLC, and MAXimum LLC.

7. 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 disciplenary action. Spencer agrees and stipulates that the MREC has continuing jurisdiction to hold a hearing to determine if a violation of this Settlement Agreement has occurred.

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

9. 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.

10. 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 339, 610, and 324, RSMo, as amended.

11. Spencer, Spencer LLC, and MAXimum LLC, together with their partners, members, managers, heirs, assigns, agents, employees, representatives and attorneys, do 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.

12. This Settlement Agreement goes into effect 15 days after the document is signed by the Executive Director of the MREC.

LICENSEES

Shirley M. Spencer 8-24-11
Shirley M. Spencer Date

SHIRLEY SPENCER REAL ESTATE LLC

By: Shirley Spencer-Boggess 8-24-11
Shirley Spencer-Boggess Date
Member

MAXIMUM PROPERTY RENTALS LLC

By: Shirley Spencer-Boggess 8-24-11
Shirley Spencer-Boggess Date
Member

MISSOURI REAL ESTATE COMMISSION

Janet Carder, Executive Director
Date: 9-1-2011

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