**Letter of Intent**

**What is a Letter of Intent (LOI) and …… Why are We doing one?**

* A Letter of Intent is a non-binding proposed Term Sheet – from the Attorney Perspective
* A Letter of Intent is term sheet that is binding as to some or all of its parts – from the Broker’s perspective
* Number One Reason to do one – It’s Common in the Baltimore Market
	+ Let’s Buyer gauge interest without huge expenditure of professional fees
	+ Let’s Buyer move quickly to another property if no Seller traction
	+ Broker will usually draft these
		- Sometimes the term sheet will be passed to the Attorney to review
* **Top Techniques in Drafting**
	+ From Broker’s perspective include key items but don’t get overly detailed unless its key to making the deal work
	+ From the Attorney’s perspective, some commentators say make sure it’s a **non-binding letter**
		- Some attorney’s will include disclaimer of duty, otherwise implied by law, to negotiate in good faith
		- have you agreed to agree? Do you intend that?
	+ On the other hand you may want to make the LOI **binding** in some respects to hold the deal together until you can paper it….
		- What is the risk when you do that and what is the benefit?
* **Common Issues to Consider** Consider making this binding in the LOI
	+ No shop
	+ Confidentiality

**SAMPLES of LOIs**

Mr. Joe Smith

ABCD Company

A Road, Suite 1

Anywhere, State 00000

**Re: Letter of Intent to Purchase / Building Address**

Dear Joe:

We have been authorized by MadeUp Partners, LLC or its assign ("Purchaser") to present this Letter of Intent to summarize the basic terms and conditions pursuant to which Purchaser is prepared to buy from AB2AB Companies ("Seller") the property known as 100 Street, City, State 00000 ("Property"). Provided that the terms of this Letter of Intent are acceptable, we are prepared to immediately forward a Contract of Sale ("Contract") to you, setting forth in greater detail the basic terms and conditions outlined below:

1. **Property.** The following paragraphs summarize the Purchaser’s understanding of the Property.

 a. The Property contains 34,882 ± rentable square feet and is contained within Suite 130 at 100 Street, City, State 00000

 b. Seller has not participated in or approved, nor has there occurred any production, disposal or storage on the Property of any hazardous waste or toxic substance nor, to Seller’s knowledge, does such waste or substance exist on the Property. At closing Seller shall represent and warrant that the property is clear of any hazardous or toxic materials.

 c. All equipment (including lights and unit heaters) shall that is currently in the space shall remain in the space and be included within the purchase price.

 d. The Seller shall deliver the premises fully demised and separately metered.

2. **Purchase Price**. The Purchase Price shall be One Million Seven Hundred Forty Four Thousand Dollars ($1,744,000.00).

3. **Study Period.** The Buyer shall have a period of forty-five (45) days from the date of execution of an Agreement of Sale to study the property and perform whatever tests or studies deemed necessary to determine the condition of the property. During this study period, as well as the time leading up to Closing, the Buyers, its employees and contractors, shall have reasonable access to the property to perform these tests and studies provided they do not materially interfere with the current occupant’s use of the property. If, during or at the end of this forty-five (45) day study period the Buyer determines the property is not to their satisfaction, the Buyer shall have the right to terminate this agreement and be entitled to a complete refund of the deposit. In this event, the Seller shall be entitled to copies of all tests and studies conducted by Buyer during the study period.

Immediately upon the execution of an Agreement of Sale, the Seller shall deliver to Buyer pertinent information regarding this property.

4. **Financing.** This Letter of Intent to Purchase is not contingent upon Buyer securing financing as purchaser will be paying cash for the property.

5. **Title and Escrow.** At Closing, Seller will deliver good, marketable and insurable title to Purchaser, free and clear of all liens, rights, claims or encumbrances, except those conditions not excepted to following the receipt of a preliminary title report to be obtained and approved by Purchaser.

6. **Document Production.** Within five (5) business days after execution of the Contract, Seller agrees to deliver and/or make available to the Purchaser, copies of all items in the Seller’s possession related to the construction, operation, maintenance, occupancy and use of the Property, including and not limited to:

 a. Current and historic operating statements itemizing income and expenses, as well as a list of capital expenditures made by the Owner on the Building over the past three (3) years.

 b. Current year budget plus narrative.

 c. Working drawings and as-built plans for the improvements on the Property.

 d. Certificates of occupancy for the improvements on the Property.

 e. All service and maintenance contracts, warranties, guarantees or indemnities.

 f. Engineer’s reports, soil reports, environmental reports (including asbestos reports if any), and other professional reports or surveys in the possession of, or available to, Seller.

 g. Current preliminary title report, including legible copies of all exceptions.

 h. All property tax statements, existing assessments, bonds, impositions, and information on any contemplated future assessments to be levied against the Property.

1. Other information that the Purchaser may reasonably request.

7. **Settlement.** Settlement shall occur within thirty (30) days after the expiration of the study period. The property shall be conveyed at the time of settlement.

8 **Assignment.** Purchaser shall have the right to assign the Contract to an entity owned and/or controlled by principals of the Purchaser.

9. **Adjustments & Closings.** At the time of settlement, all governmental charges shall be adjusted between the parties on a pro rata basis and thereafter be assumed by the Buyer. These adjustments shall include real estate taxes, water and sewer benefit charges. All normal Closing costs to include state and city transfer taxes, and recordation taxes shall be evenly divided between Buyer and Seller.

10. **Brokerage.** The parties hereby recognize ABCD Company, in cooperation with MacKenzie Commercial Real Estate Services, LLC, as the sole brokers involved in this transaction. The parties agree and understand that the Seller shall be responsible for a market commission of six percent (6%), to be split evenly between buyer’s and seller’s agent that is due and payable to said Brokers at settlement.

11. **Contract of Sale.** Within ten (10) business days, or less if possible, of the mutual execution of this “Letter of Intent”, Purchaser and Seller shall enter into a Contract based upon the general terms and conditions set forth above, including commercially reasonable representations and warranties.

12. **Acceptance.** This "letter of intent" constitutes an offer to Seller which summarizes the basic business terms and conditions under which Purchaser proposes to purchase the Property. Seller shall have until 5:00 p.m. on Wednesday, November 15, 2012 to accept this "letter of intent". Upon acceptance, Seller agrees to remove the Property from the market for a period of not less than thirty (30) days during which time Seller and Purchaser will negotiate in good faith to arrive at a mutually acceptable Contract which shall embody the terms and understandings set forth herein, and subject to such other additional terms and conditions as may be mutually agreed upon between the parties.

Provided the Seller is in agreement with the foregoing, please have the Seller execute a copy of this Letter of Intent and return same to me. We look forward to the working with you and await your response. If you should have any questions, please feel free to contact me directly (410-494-4892) or Bob (410-494-4885).

Sincerely,



F. Joseph Bradley, III, SIOR Robert J. Aumiller

Vice President

Agreed and accepted

SELLER: ABCD Company

By: Date:

 Tom Tom, Managing Member

BUYER: MadeUp Partners, LLC

By: Date:

 Joe Smith, Partner

FJB/tb

**Another Example:**

Mr. Joe Smith

ABCD Real Estate

A Road, Suite 1

Anywhere, State 00000

**Re: Property Address**

Dear Joe:

Please be advised that I have been authorized to present this proposal to purchase the above referenced property.

PROPERTY: All that property located at 100 Street, City, State 00000 containing 1.59 acres of land area and improved by an 18,596 square foot ± office building, commonly known as the Office Building, as shown on County Tax Map 73, Parcel 731 and recorded in the Land Records of County under Liber 02255/00156.

BUYER: MadeUp Partners, LLC

SELLER: AB2AB Companies

PRICE: At and for the price of $1,650,000

DEPOSIT: A total deposit in the amount of $25,000 shall be paid to MacKenzie Commercial Real Estate Services, LLC and placed in escrow, for the benefit of the Seller until the time of Closing, unless returned to the Buyer as provided herein.

STUDY PERIOD: The Buyer shall have a period of sixty (60) days from the date of execution of an Agreement of Sale to study the property and perform whatever tests or studies deemed necessary to determine the condition of the property. During this study period, as well as the time leading up to Closing, the Buyers, its employees and contractors, shall have reasonable access to the property to perform these tests and studies provided they do not materially interfere with the current occupants use of the property. However, Buyer shall have the right to meet briefly with each Tenant. If during or at the end of this sixty (60) day study period the Buyer determines the condition of the property is not to their satisfaction, the Buyer shall have the right to terminate this agreement and be entitled to a complete refund of the deposit. In this event, the Seller shall be entitled to copies of all tests and studies conducted by Buyer during the study period.

 Immediately upon the execution of an Agreement of Sale, the Seller shall deliver to Buyer copies of all current leases, operating statements (with supporting documentation) for the last three (3) years, any existing HVAC warranties, roof warranties, State of Maryland inspection certificate for the elevator, as well as any other pertinent information regarding this property.

TITLE: Immediately upon the execution of an agreement of sale, the Buyer shall, at its expense, order a report which indicates a “fee simple” title to the property, good and sufficient and insurable at normal rates for properties in the surrounding area. Within sixty (60) days from the date of the Agreement of Sale, should the Buyer discover the title does not meet these requirements, the Buyer may terminate the Agreement of Sale and be entitled a complete refund of the deposit.

SETTLEMENT: Settlement shall occur within sixty (60) days after the expiration of the study period. The property shall be conveyed at the time of settlement, subject to all current leases and tenancies.

ADJUSTMENTS &

CLOSING COSTS: At the time of settlement, all governmental charges shall be adjusted between the parties on a pro rata basis and thereafter be assumed by the Buyer. These adjustments shall include real estate taxes, water and sewer benefit charges. All normal Closing costs to include state and city transfer taxes, and recordation taxes shall be evenly divided between Buyer and Seller.

LEGAL FEES: Each party shall be responsible for their own legal fees associated with this transaction.

BROKERAGE: The parties hereby recognize ABCD Real Estate in cooperation with MacKenzie Commercial Real Estate Services, LLC as the sole brokers involved in this transaction. The parties agree and understand that the Seller shall be responsible for all fees and commissions due and payable to said Brokers pursuant to a separate agreement between Seller and ABCD Commercial Real Estate Services. However, in no event shall MacKenzie Commercial Real Estate Services receive a commission less than 3% of the purchase price.

I am hopeful these terms and conditions will meet with the approval of the Seller and form the basis for a formal Agreement of Sale. Assuming this to be the case, please have this proposal signed where indicated and return an executed copy to my attention. Immediately upon receipt, the Buyer shall draft an Agreement of Sale for your review.

Thank you for your consideration.

Sincerely,

MacKenzie Commercial Real Estate Services, LLC

(agent for MadeUp Partners, LLC)



F. Joseph Bradley, III, SIOR

Vice President

FJB/tb

Agreed and accepted

SELLER: AB2AB Companies

By: Date:

 Tom Tom, Managing Member

BUYER: MadeUp Partners, LLC

By: Date:

 Joe Smith, Partner