

**THIS AGREEMENT** is effective \_\_\_\_\_, 200\_\_, and confirms that \_\_\_\_\_ has (have) appointed \_\_\_\_\_ to act as Agent for the sale of property known as \_\_\_\_\_, New York.

In return for the Agent's agreement to use Agent's best efforts to sell the above property, the Owner(s) agree(s) to grant the Agent an exclusive agency to sell this property under the following terms and conditions:

#### PERIOD OF AGREEMENT

1. This agreement shall be effective from the above date and shall expire at midnight on \_\_\_\_\_, 200\_\_.

#### PRICE AT WHICH PROPERTY WILL BE OFFERED AND AUTHORITY

2. The property will be offered for sale at a list price of \_\_\_\_\_ and shall be sold, subject to negotiation, at such price and upon such terms to which Owner(s) may agree. The word Owner refers to each and ALL parties who have ownership interest in the property and the undersigned represent(s) they are the sole and exclusive owners and are fully authorized to enter into this agreement.

#### COMMISSION TO BE PAID TO AGENT

3. The Agent shall be entitled to and Owner shall pay to Agent one commission of \_\_\_\_\_ of the selling price. Both the Owner(s) and the Agent acknowledge that the above commission rate was not suggested nor influenced by anyone other than the parties to this Agreement. Owner(s) hereby authorizes Agent to make an offer of cooperation to any other licensed real estate broker with whom Agent wishes to cooperate. Any commission due for a sale brought about by a Sub-Agent (another broker who is authorized by Agent to assist in the sale of Owner(s) property) or to an authorized Buyer(s) Agent shall be paid by the Agent from the commission received by the Agent pursuant to this Paragraph.

The commission offered by Agent to Sub-Agents shall be \_\_\_\_\_ of the gross selling price. The commission offered by Agent to Buyer(s) Agents shall be \_\_\_\_\_ of the gross selling price.

In the event that Owner(s) authorizes Agent to compensate a Buyer's Agent, Owner(s) acknowledges Owner's(s)' understanding that such Buyer's Agent is not representing Owner(s) as Sub-Agent and that the Buyer's Agent will be representing only the interests of the prospective purchaser.

Owner(s) will not be obligated to pay a commission to Agent if Owner(s) sells Owners'(s)' property without the efforts of either Agent, any Sub-Agent or a Buyer's Agent whose services have been authorized by Agent.

#### OWNER(S) OBLIGATIONS AFTER THE EXPIRATION OF THIS AGREEMENT

4. Owner(s) understands and agrees to pay the commission referred to in paragraph 3, if this property is sold or transferred or is the subject of a contract of sale within \_\_\_ months after the expiration date of this agreement involving a person with whom the Agent or a Cooperating Broker negotiated or to whom the property was offered, quoted or shown by Agent or any Cooperating Broker during the period of this listing agreement. Owner(s) will not, however, be obligated to pay such commission if Owner(s) enters into a valid Exclusive Listing Agreement with another New York State licensed real estate broker after the expiration of this agreement.

#### WHO MAY NEGOTIATE FOR OWNER(S)

5. Owner(s) elect(s) to have all offers submitted through Agent \_\_\_ or Cooperating Agent \_\_\_.

#### SUBMISSION OF LISTING TO MULTIPLE LISTING SERVICE

6. Both Owner(s) and Agent agree that the Agent immediately is to submit this listing agreement to the Westchester-Putnam Multiple Listing Service, Inc. ("W-PMLS"), for dissemination to its Participants. No provision of this agreement is intended to nor shall be understood to establish or imply any contractual relationship between the Owner(s) and W-PMLS nor has W-PMLS in any way participated in any of the terms of this agreement, including the commission to be paid. Owner(s) acknowledge(s) that the Agent's ability to submit this listing to W-PMLS, or to maintain such listing amongst those included in any compilation of listing information published by W-PMLS, is subject to Agent's continued status as a Participant in good standing of W-PMLS.

Data including photographs and sketches relating to Owner's property will be aggregated with that of other properties listed by Participants of W-PMLS, and will become the copyrighted data of W-PMLS. Owner and Listing Agent hereby assign to W-PMLS all rights of ownership and copyright to such data, for dissemination to its Participants and others as W-PMLS may elect pursuant to its copyrights.

#### FAIR HOUSING

7. Agent and Owner agree to comply fully with local, state and federal fair housing laws against discrimination on the basis of race, color, religion, sex, national origin, handicap, age, marital status and/or familial status, children or other prohibited factors.

#### OTHER SERVICES

8. Owner acknowledges that Agent has fully explained to Owner(s) the services and marketing activities which Agent has agreed to provide.

#### REQUIREMENTS FOR PUBLICATION IN W-PMLS COMPILATION

9. This listing agreement is not acceptable for publication by W-PMLS unless and until the Owner(s) has duly signed this agreement and an acknowledgment reflecting receipt of the definitions of "Exclusive Right to Sell" and "Exclusive Agency" required by the New York State Department of State - Division of Licensing Services. The Authorization by Owner to publish this listing in the W-PMLS compilation also includes the right of Agent to advertise the listing information, in any medium or media including electronic formats and including but not limited to, the Internet.

#### RENTAL OF PROPERTY

10. Should the Owner(s) desire to rent the property during the period of this agreement, Agent is hereby granted the sole and exclusive agency to rent the property, exclusive "FOR RENT" sign privilege and the Owner(s) agrees to pay Agent a rental commission of \_\_\_\_\_. The applicable commission for the lease term is due and will be paid \_\_\_ upon the execution of the lease \_\_\_ upon the date of occupancy. The commission for each and any subsequent renewal thereof, is due and will be paid upon the commencement of each renewal term.

#### COMMISSION PAYMENT

11. [a] Escrow. If, for any reason, Agent is not paid the compensation set forth herein on the due date, Owner shall establish an escrow account with a party mutually agreeable to Agent and Owner or a title insurance agent or company, and shall place into said escrow account an amount equal to the compensation set forth herein. The escrow monies shall be paid by Owner to said escrow agent and shall be held in escrow until the parties' rights to the escrow monies have been determined (i) by the written agreement of the parties; (ii) pursuant to an arbitration award; (iii) by order of a court of competent jurisdiction; or (iv) some other process to which the parties agree to in writing.

[b] Attorneys Fees. In any action, proceeding or arbitration to enforce any provision of this Agreement, or for damages caused by default, the prevailing party shall be entitled to reasonable attorney's fees, costs and related expenses, such as expert witness fees and fees paid to investigators. In the event Agent hires an attorney to enforce the collection of any brokerage commission due hereunder and is successful in collecting all or any portion thereof with or without commencing a legal action or proceeding, Owner agrees to pay the reasonable attorney's fees, costs and related expenses incurred by Agent.

[c] Arbitration. All claims, disputes or other matters in question between Agent (or any cooperating subagent or buyer's agent) and Owner, arising out

of or relating to this Agreement shall be determined by arbitration before the American Arbitration Association in New York, New York, pursuant to its Commercial Arbitration Rules. The award rendered by the arbitrator shall be final, and judgment may be entered upon it in accordance with applicable law in any court of competent jurisdiction.

**TERMINATION**

12. Owner(s) understands that if Owner(s) terminates the Agent's authority prior to the expiration of its term, Agent shall retain its contract rights (including but not limited to recovery of its commission, advertising expenses and/or any other damages) incurred by reason of an early termination of this agreement.

**ADDITIONAL POINTS**

13. Additional Points of Agreement, if any: \_\_\_\_\_

**IN-HOUSE SALES**

14. If the Broker has an agency relationship with the buyer ["buyer's broker"], and that buyer expresses interest in property owned by a seller who also has an agency relationship with the Broker ["seller's broker"], a conflict has arisen.

The Broker shall immediately advise both the buyer client and the seller client of the pertinent facts including the fact that a dual agency situation has arisen, and that the **following options are available:**

[a] **The Broker and buyer could dissolve their Agency relationship.** The buyer may then seek to retain another broker, and/or an attorney, or may represent (her)himself. This would release the buyer from any Broker employment contract which was entered into with the Broker. Broker may continue to act as agent for the seller.

[b] **The Broker and the seller could dissolve their Agency relationship.** The seller may then seek to retain another broker, and/or an attorney, or may represent (her)himself. This would release the seller from any listing agreement which was entered into with Broker. The Broker may continue to act as Agent for the buyer.

[c] **With fully informed consent, the buyer and seller may elect to continue with the brokerage firm serving as a consensual dual agent, which is the exception to the general rule that agents serve one principal.** As a dual agent, the firm and its licensee agents have a duty of fairness to both principals. By mutual agreement the buyer and seller may identify who will negotiate for each principal. For example: [a] the licensee who signed the buyer as a principal of the brokerage firm may negotiate on behalf of the buyer principal and [b] the licensee who signed the seller as a principal of the firm may negotiate on behalf of the seller principal.

In either case, the brokerage commission will be paid by the seller in accordance with the listing agreement with the seller, unless different arrangements have been negotiated.

**As a dual agent, the firm and its agents cannot furnish undivided loyalty to either party.**

**As a dual agent, the firm and its licensee agents have a duty not to disclose confidential information given by one principal to the other principal, such as the price one is willing to pay or accept. Such information may already be known to the firm and its agents. If the information is of such a nature that the agent cannot fairly give advice without disclosing it, the agent cannot properly continue to act as an agent.**

The buyer, seller and broker shall memorialize the option of their mutual choice by executing a statutory disclosure notice. If there is no mutual agreement, the proposed transaction between buyer and seller shall not be pursued.

**ALL MODIFICATIONS TO BE MADE IN WRITING**

15. Owner(s) and Agent Agree that no change, amendment, modification or termination of this Agreement shall be binding on any party unless the same shall be in writing and signed by the parties.

\_\_\_\_\_  
(OWNER) (DATE)

\_\_\_\_\_  
(AGENT)

\_\_\_\_\_  
(OWNER) (DATE)

By: \_\_\_\_\_  
(Authorized Representative) (DATE)

Owner's Mailing Address: \_\_\_\_\_

Agent's Address: \_\_\_\_\_

Owner's Telephone: \_\_\_\_\_

Agent's Telephone: \_\_\_\_\_

**DEFINITIONS**

In accordance with the requirements of the New York State Department of State the undersigned Owner(s) does (do) hereby acknowledge receipt of the following:

- 1. Explanation of "Exclusive Right to Sell" listing;
- 2. Explanation of "Exclusive Agency" listing

**EXPLANATION OF EXCLUSIVE RIGHT TO SELL:** (As worded verbatim by the Department of State)

An "exclusive right to sell" listing means that if you, the owner of the property find a buyer for your house, or if another broker finds a buyer, you must pay the agreed commission to the present broker.

**EXPLANATION OF EXCLUSIVE AGENCY:** (As worded verbatim by the Department of State)

An "exclusive agency" listing means that if you, the owner of the property find a buyer, you will not have to pay a commission to the broker. However, if another broker finds a buyer, you will owe a commission to both the selling broker and your present broker.

**"THE FAIR HOUSING ACT"**

The Civil Rights Act of 1968 known as the Federal Fair Housing Law makes illegal any discrimination based on race, color, religion, sex or national origin in connection with the sale or rental of housing. The 1988 amendment to this Act (The Fair Housing Amendments Act of 1988) expands the coverage of this law to handicapped persons and families with children. Agent and Owner agree to comply fully with State and local statutes and Federal Fair Housing laws.

**Article 10 of the REALTOR Code of Ethics states:**

"REALTORS shall not deny equal professional services to any person for reasons of race, color, religion, sex, handicap, familial status, or national origin. REALTORS shall not be parties to any plan or agreement to discriminate against a person or persons on the basis of race, color, religion, sex, handicap, familial status, or national origin."

\_\_\_\_\_  
Owner

\_\_\_\_\_  
Owner