

## BUYER BROKER AGREEMENT EXCLUSIVE RIGHT TO REPRESENT

COMMISSIONS OR FEES FOR REAL ESTATE SERVICES TO BE PROVIDED ARE NEGOTIABLE BETWEEN BROKER AND CLIENT. **THIS IS A LEGALLY BINDING AGREEMENT.** YOU MAY WISH TO CONSULT AN ATTORNEY BEFORE SIGNING IT. FOR THE PURPOSES OF THIS AGREEMENT, THE TERM "BUYER" SHALL BE USED TO DESCRIBE PROSPECTIVE PURCHASER(S) OR TENANT(S).

This agreement made by and between EXR GROUP COMPANIES LLC with offices at 160 Havemeyer St. Str. 7, Brooklyn, NY 11211 (hereinafter referred to as "BROKER") and the person or persons who are named below and signed this agreement residing at \_\_\_\_\_ (hereinafter referred to as "BUYER").

### I. Definitions.

- a. Buyer. Whenever the term BUYER is used in this Agreement, the same shall be construed to mean the BUYER who executed the Agreement as well as any other person, firm, limited liability company or corporation acting for the BUYER or on the BUYER'S behalf.
- b. Residential Real Property. Residential real property means property improved by a one to four family dwelling or vacant land which can be so improved.

II. Location. The BUYER hereby retains BROKER for the purpose of locating residential real property to be purchased by BUYER in the State of New York, in the County(ies) of \_\_\_\_\_ for use as a \_\_\_\_\_ family dwelling under terms and conditions acceptable to BUYER.

III. Term. This agreement shall commence on \_\_\_\_\_ and terminate on \_\_\_\_\_.

IV. Exclusive Employment. The BUYER agrees to work exclusively with the BROKER and agrees not to retain or utilize the services of any other real estate broker or to negotiate with any owner in connection with the purchase of residential real property during the entire term of this Agreement.

V. Commission. If the BUYER or any other person acting for BUYER or on BUYER'S behalf enters into a contract to purchase residential real property in the aforesaid county(ies) during the term of this contract or for a period of one hundred twenty (120) days after the expiration of such term, the BUYER agrees to pay the BROKER a commission of:

\$ \_\_\_\_\_ or \_\_\_\_\_ % of the purchase price if the property is listed with a real estate broker or  
\$ \_\_\_\_\_ or \_\_\_\_\_ % of the purchase price if the property is not so listed.

Said commission shall be deemed earned at the time the buyer enters into a contract of sale for the purchase of said residential real property but shall not be payable until closing of title or the failure of the transaction to close because of the buyer's acts or omissions.

VI. Lease Option. If BUYER leases any such property with an option to purchase the same, then in addition to the commission set forth above, the BUYER agrees to pay an additional commission at the time that the BUYER exercises such option or any successor in interest to the BUYER or assignee of the BUYER exercises such option in the sum of \$ \_\_\_\_\_.

- VII. **Commission May be Included in Price.** BUYER and BROKER agree that the commission set forth in Section V above may be included in the purchase price and paid on behalf of the BUYER by the seller should the seller so agree. However, in such event, BUYER shall remain responsible for the payment of same if the seller does not pay the commission.

Broker agrees that it will not accept a commission from the owner or the owner's agent of a property purchased by BUYER unless such commission is applied to the commission owed by the BUYER to the BROKER.

- VIII. **Services Provided By Broker.** The BROKER shall only have such duties as are specifically set forth in this Agreement. If the BUYER desires any other services to be performed by the BROKER, the BUYER shall enter into a written agreement for such services with the BROKER. Absent such a written agreement, the BUYER shall be foreclosed from enforcing any oral or implied agreement with respect to claimed obligations of the BROKER not set forth in this Agreement. The BROKER undertakes to do the following:
- a. To use reasonable efforts to locate property which would meet the BUYER'S desired with respect to residential real property.
  - b. To accurately and faithfully provide to the BUYER any and all information actually known by the BROKER concerning any property for which the BUYER has expressed an interest to purchase.
  - c. To advise the BUYER of the BROKER'S opinion of the range of the fair-market value of residential real property to which the BROKER has introduced the BUYER. The BUYER understands and agrees the BROKER does not warrant the accuracy of such opinion and, if the opinion is not accurate, the BROKER shall only be liable to the BUYER in the event the BROKER has been guilty of gross negligence in formulating such opinion, or has acted in Bad Faith.
  - d. To negotiate with owners of real property on behalf of the BUYER and to act in the BUYER'S best interest in such negotiations.
- IX. **Other Agents.** The BUYER is hereby put on notice that in dealing with the BROKER they are dealing with one particular agent of said BROKER. The BUYER understands the BROKER has other agents in addition to the agent with whom the BUYER is dealing. The BUYER is hereby made aware and hereby agrees the BROKER, either through an agent other than the agent with whom the BUYER is working or the same agent with whom the BUYER is working, has the right to present offers to the owner of a property made by other buyers in competition with the offer or offers being made by the BUYER. The BUYER understands and agrees in such a case, there is no obligation created by this Agreement which requires such agent to reveal to the BUYER the amount, terms or conditions of any competing offer. No obligation is created by this Agreement for the agent who is working for the BUYER to ascertain whether or not other agents working with other buyers are negotiating on a property upon which the BUYER is negotiating. In the event the BROKER'S agent acquires actual knowledge of such a competing offer, the BROKER'S sole obligation shall be to continue to advise the BUYER of the BROKER'S estimate of the fair market value of the property; to submit to the owner or the owner's agent, all offers made by the BUYER; and to report to the BUYER all information which the seller or seller's agent authorizes the BROKER to disclose to the BUYER. To the extent any law or regulation contravenes this section of the Agreement, the BUYER hereby waives the same and agrees to the terms and conditions set forth above.
- X. **Services Not Provided By the Broker.** The BROKER shall not undertake any of the following NOR SHALL the BUYER make any claim or bring any action, proceeding or complaint based upon the BROKER'S failure to do any of the following:
- a. Counsel the BUYER on legal matters, express opinions or perform any other services or do any action which would constitute the practice of law.

- b. Inspect or issue an opinion concerning the physical condition of the property, the need for repair, the existence of water damage, termite or other infestation, asbestos, Radon or Lead Paint. Specifically, the buyer is advised that they cannot rely on any statement contained in any listing agreement, multiple listing form or oral or written statement concerning the condition of residential real property expressed to the BUYER by the BROKER. This Agreement places upon the BUYER the absolute obligation to obtain information concerning the condition of residential real property from sources other than the BROKER. The BROKER recommends the BUYER hire an engineer or qualified home inspector duly licensed by the State of New York for the purpose of ascertaining the physical condition of the property.
- c. Research, ascertain or give advice or opinions concerning applicable zoning, building department, health department, fire regulations or other regulatory matters affecting the property or improvements located thereon and its compliance with laws, codes and regulations.
- d. Provide or give opinions concerning surveys diagramming the property.
- e. Give tax or financial advice with respect to the purchase, sale or ownership of the property.
- f. Review any public records concerning the property including, but not limited to, documents on file with the county clerk's office of the county in which the property is located, Federal, State or local court offices and records in any town or village in which said property is located.
- g. Searching for, discovering or giving opinions concerning environmental conditions affecting the property or the locale in which the property is located including, but not limited to, the location of toxic sites, underground infiltration of pollutants, asbestos, buried oil tanks and any other conditions which are not readily observable upon the property. In the event the BUYER has any question with respect to environmental conditions or problems affecting the property or the locale in which the property is located, the BUYER hereby specifically undertakes to hire the necessary environmental experts and consultants to satisfy themselves concerning such environmental conditions. Under no circumstances is the BUYER entitled to rely on any statement or representation of the BROKER with respect to environmental conditions whether said statement is oral or in writing.
- h. Search, review or discover any public or private record revealing crime scenes, sex offenders or other matters.

- XI. **Truth and Honesty.** Notwithstanding the provisions of Section X above, the BROKER hereby agrees to truthfully and honestly disclose to the BUYER any and all information affecting both the property and the locale within which the property is located of which the BROKER has actual knowledge.
- XII. **Governing Law.** This Agreement will be governed by and construed in accordance with the law of the State of New York.
- XIII. **Arbitration.** Any dispute between the parties arising out of this agreement shall be resolved by arbitration before one arbitrator. The arbitration shall be held in any county in which the real estate, which is the subject matter of this agreement, is located. The arbitration shall be governed by the rules of the National Arbitration and Mediation and judgment on the award rendered by the arbitrator may be entered in any court having jurisdiction thereof.
- XIV. **Attorney's 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, fees paid to investigators, fees paid to arbitration tribunals and arbitrator's fees.
- XV. **Notices.** All notices, requests, demands and other communications hereunder shall be in writing and shall be deemed duly given if delivered or mailed, first class, postage prepaid, certified, registered or express mail, return receipt requested.

Either party may change that party's address for purposes hereof by giving written notice of such change of address to the other party herein in the manner herein provided for the giving of notice. A notice given by counsel shall be deemed to be notice by the party represented by such attorney.

- XVI. **Counterparts.** This Agreement may be executed in counterparts with the same force and effect as if all the signatures were on one document. It is not necessary that all parties sign all or any one of the counterparts, but each party must sign at least one counterpart for this Agreement to be effective.
- XVII. **Facsimile Signatures.** The Parties agree that signatures transmitted by facsimile or email transmissions shall be accepted as if original and the Parties shall be bound by the terms of the contract they executed in said manner.
- XVIII. **Amendments.** This Agreement may be amended only by an instrument in writing signed by the parties hereto.
- XIX. **Waiver of Rights.** Neither party may waive any of its rights or any obligation of the other party or any provision of this Agreement except by an instrument in writing signed by that party.
- XX. **Entire Agreement.** This Agreement contains the entire understanding of the parties with respect to the subject matter of the agreement, and it supersedes all prior understandings and agreements, whether written or oral, and all prior dealings of the parties with respect to the subject matter herein.

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Buyer (Signature)

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EXR Group Companies LLC (Signature)

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Buyer (Print Name)

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EXR Group Companies LLC (Print Name)

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Date

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Date