



## EXCLUSIVE RIGHT TO REPRESENT

(Buyer/Lessee Broker Agreement)

Date \_\_\_\_\_ 20\_\_\_\_

This agreement made by and between \_\_\_\_\_, residing at \_\_\_\_\_  
(herein-after "Client") and \_\_\_\_\_, with offices located at \_\_\_\_\_  
(hereinafter "Broker") is for the purpose of Client's retaining Broker to exclusively represent Client in the purchase or rental of residential, commercial and industrial improved property or vacant land.

### EXCLUSIVE EMPLOYMENT

1. Client 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 directly with any Owner in connection with the purchase or rental in New York State of any type of property whatsoever for the length of this agreement in the following locations: \_\_\_\_\_

2. If the Client enters into a contract to purchase or lease any properties in any of the aforementioned locations, the Client agrees to pay the Broker a commission in the amount of \$ \_\_\_\_\_ or \_\_\_\_\_ % of the purchase or rental price. Said commission shall be deemed earned at the time the Client enters into contract of sale for purchase or a written or oral lease agreement for any rental of any property during the time of this Agreement, or, if shown to the Client during the term of this Agreement, if the Client purchases or rents the property within \_\_\_\_\_ days after the termination of this Agreement. The commission shall be collected at the time the sale closes or the rental commences unless the Client willfully defaults, in which case the commission is due immediately upon such default. Should a Client who leases a property found by Broker later purchase said property, Client agrees to pay an additional commission to Broker of \$ \_\_\_\_\_ or \_\_\_\_\_ % of the purchase price at the time of closing.

3. Client agrees that the aforesaid commission shall be paid by Client directly to the Broker, however, should a Listing Agent for a cooperating sale or rental agree to pay the Broker, the Client's fee shall be reduced by the amount paid to the Broker by the Listing Agent but the Client shall remain liable to Broker for any remainder due to the Broker under the terms of this Agreement. Furthermore, Broker is required to attempt to be paid the commission by Seller if no compensation has been offered to a Buyer Broker by a Listing Broker or, should there be a balance of the commission still due from the Client to the Broker after payment of the amount offered by the Listing Agent, the Broker shall attempt to obtain that balance from the Seller. In any event, if the commission cannot be obtained either from a Listing Agent or a Seller, the Client shall owe the Broker the whole of the amount set forth in this Agreement.

4. Client shall pay Broker a non-refundable retainer fee of \$ \_\_\_\_\_ upon signing this Agreement, which amount shall be credited against the commission received by Broker upon the consummation of a transaction by Client.

### SERVICES PROVIDED BY THE BROKER

5. The Broker shall only have such duties which are specifically set forth in this Agreement. If the Client wishes the Broker to perform any other services, the Client shall enter into a separate Agreement for said additional services and the Client shall have no right against the Broker to demand any such additional services absent a signed writing enumerating the additional services to which the Client states the Broker has agreed. The following are the services the Broker is bound to provide under the terms of this Agreement:

- The Broker shall use reasonable efforts to locate the property which would meet the Client's reasonable expectations.
- The Broker will accurately and faithfully provide to the Client any and all information actually known by the Broker concerning any property for which the Client has expressed an interest to purchase or lease.
- The Broker shall give advice to the Client regarding the range of the fair market value of the property shown by the Broker and in which the Client has shown such interest, although the Client understands the range of value given by the Broker is not based on exact scientific principles and only gives the opinion of the Broker based on the Broker's knowledge of comparable properties recently sold or rented and the market conditions prevailing as the Broker explains them to the Client. Should the opinion of the Broker prove incorrect, the Broker shall only be liable to the Client for damages if the opinion was arrived at as a result of the Broker's gross negligence or bad faith.
- The Broker shall negotiate on the Client's behalf with the property owner or the agent of the property owner and act at all times in the best interest of the Client.

6. The Client is hereby put on notice that, in dealing with the Broker, the Client is dealing with one particular agent of said Broker. The Client understands the Broker has other agents in addition to the agent with whom the Client is dealing. The Client is hereby made aware and hereby agrees that the Broker, either through an agent other than the agent with whom the Client is working or through the agent with whom the Client is working, has the right to present offers to the owner of a property made by other Buyers or Tenants in competition with the offer or offers being made by the Client. The Client understands and agrees in such a case that there is no obligation created by this Agreement which requires such agent to reveal to the Client the amount, terms or conditions of any competing offer. No obligation is created in this Agreement for the agent who is working with the Client for the agent to ascertain whether or not other agents working with other Buyers or Tenants are negotiating on a property upon which the Client is negotiating. In the event the Client's agent acquires actual knowledge of such a competing offer, the Broker's sole obligation shall be to continue to advise the Client 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 Client and to report to the Client all information which the owner or owner's agent authorized the Broker to disclose to the Client. To the extent that any Law or Regulation contravenes this section of the Agreement, the Client hereby waives the same and agrees to the terms and conditions set forth above.

7. **Fair Housing: The Client understands that the Broker is committed to compliance with all fair housing laws and will present Properties to Client in full compliance with federal, state and local laws against discrimination involving any and all classes protected by said laws.**

### SERVICES NOT PROVIDED BY THE BROKER

8. The Broker shall not undertake any of the following, nor shall the Client make any claim or bring any action, proceeding or complaint based upon the Broker's failure to provide any of the following services:
- The Broker shall not counsel the Client on legal matters, express opinions or perform any other services or take any action that may constitute the practice of law.
  - The Broker shall not inspect or give 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 Client is advised not to rely on any statements contained in any listing agreement, multiple listing form or other written or any oral statement concerning the condition of the property expressed to the Client by the Broker. **This Agreement places upon the Client the absolute obligation to obtain information concerning the condition of the property from sources other than the Broker. The Broker recommends the Client to hire an engineer or licensed home inspector for the purpose of ascertaining the physical condition of the property.**
  - The Broker shall not research, ascertain or give advice or opinion concerning applicable zoning, building or health department, fire or other regulatory matters affecting the property or improvements located thereon and its compliance with laws, codes and regulations.
  - The Broker shall not provide or give opinions concerning surveys diagramming the property.
  - The Broker shall not give tax or financial advice with respect to the purchase, sale or ownership of the property.
  - The Broker shall not give advice regarding the applicability of the Home Equity Theft Prevention Act to the property being bought or rented.
  - The Broker shall not review any public records concerning the property, including but not limited to documents on file with 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.
  - The Broker shall not search for, discover or give opinions regarding environmental conditions concerning 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 Client has any question with respect to environmental conditions or problems affecting the property or the locale in which the property is located, the Client hereby specifically undertakes to hire the necessary environmental experts and consultants to satisfy themselves concerning such environmental conditions. **Under no circumstances is the Client entitled to rely on any statement or representation of the Broker with respect to environmental condition whether such statement is oral or written.**
  - The Broker shall not search, review or discover any public or private record revealing crime scenes, sex offenders or other matters.
9. **Notwithstanding the provisions of Paragraph 8 above, the broker hereby agrees to truthfully and honestly disclose to the Client any and all information affecting both the property and the locale within which the property is located of which the Broker has actual knowledge.**
10. Governing Law: This Agreement will be governed by and construed under the laws of the State of New York.

### DISPUTES

11. Any dispute between the Parties arising out of this Agreement shall be settled in a New York Court of competent jurisdiction in the county wherein the purchased or leased property lies or the Broker's office is maintained.
12. In any action or proceeding to enforce any provision of this Agreement or for damages caused by default, the prevailing Party shall be entitled to reasonable Court costs and related expenses, attorney's fees, and any necessary additional costs, such as expert witness fees and fees paid to investigators.

### MISCELLANEOUS

13. The Parties acknowledge and agree that neither LIBOR nor MLSLI are parties to this Agreement and the Broker is not an agent of either organization and has no authority to make any representation agreement or commitment with respect to either organization other than those contained in the printed portion hereof.
14. All notices, requests, demands and other communications hereunder shall be in writing and shall be deemed duly given if delivered by first class, certified or registered mail, by fax, text, e-mail or other verifiable electronic communication. Notices given in any of the above manners by the Party's attorney shall be deemed notice given by the Party represented by said attorney.
15. Address: The Parties hereby agree to notify each other of any change in that Party's address by the above means upon such change of address.
16. This Agreement shall 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, although each Party must sign at least one counterpart for this Agreement to be effective.
17. **Agency Disclosure: The Client signing this Agreement hereby acknowledges that he or she has been given a copy of the New York State Agency Disclosure Form mandated to be presented to that Party under Section 443 of the NYS Real Property Law and that he or she has signed said disclosure in duplicate, returned one copy to the Broker and has kept the second copy for his or her own records.**
18. This Agreement may be amended only by a signed writing of the Parties herein named.
19. Neither Party may waive any rights or accept any additional obligations except by signing an instrument which clearly states the waiver or acceptance of said rights and/or obligations.
20. This Agreement contains the entire understanding of the Parties with respect to the subject matter contained herein and supersedes all prior understandings and agreements, whether oral or written.
21. This Agreement shall begin on \_\_\_\_\_, 20\_\_\_\_ and end on \_\_\_\_\_, 20\_\_\_\_. The undersigned Client has thoroughly read, understood and approved each of the provisions contained herein and acknowledges receipt of a copy hereof.

\_\_\_\_\_  
Client

\_\_\_\_\_  
Client

\_\_\_\_\_  
Brokerage  
by:

\_\_\_\_\_  
Agent

Date \_\_\_\_\_, 20\_\_\_\_