



VIRTUAL OFFICE WEBSITE AGREEMENT



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VIRTUAL OFFICE WEBSITE AGREEMENT

THIS VIRTUAL OFFICE WEBSITE AGREEMENT (this “Agreement”) is entered into as of _____, 20__, between the Real Estate Board of New York, Inc., a New York not-for-profit corporation (“REBNY”) and the real estate brokerage firm whose name and contact information appear on the signature page of this Agreement designated “Participant Information” (the “Participant”). Any capitalized term used herein shall have the meaning attributed to such term in Section 1.1 hereof.

WHEREAS, Participant is an RLS Broker that owns and operates, either itself or through an AVP, one or more Virtual Office Websites (each such Virtual Office Website, a “Participant VOW”);

WHEREAS, the Participant and REBNY shall either enter into on the date hereof or have already entered into that certain RLS Universal Co-Brokerage Agreement/Rules and Regulations (the “Co-Brokerage Agreement”) and has designated an RLS Vendor authorized by REBNY (“RLS Vendor”), and a list of RLS Vendors is annexed hereto as Exhibit C;

WHEREAS, it is a condition precedent to the operation of a VOW that each RLS Broker that owns and operates, either itself or through an AVP, a VOW shall have executed and delivered this Agreement to REBNY;

WHEREAS, on the terms and subject to the conditions set forth herein, the Participant desires to participate in the REBNY Listing Service (“RLS”) through a Participant VOW.

NOW, THEREFORE, in consideration of good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto hereby agree as follows:

ARTICLE I Definitions

1.1 Certain Definitions. The following terms shall have the meanings set forth below (and such meanings shall be equally applicable to both the singular and plural form of the terms defined, as the context may require):

“Affiliated VOW Partner” or “AVP” shall have the meaning set forth in Section 3.1.

“AVP Agreement” shall have the meaning set forth in Section 3.3.

“Co-Broker” shall mean any RLS Broker representing a Customer and/or Buyer, as applicable, with whom it has authorized an agency relationship relating to the provision of real estate brokerage services. For purposes of this definition, “Buyer” shall mean any Customer whose offer to purchase an Exclusive Property has been accepted by a Seller.

“Co-Brokerage Agreement” shall have the meaning ascribed to it in the recitals to this Agreement.

“Customer” shall mean any person who visits or intends to visit an Exclusive Property and has authorized an agency relationship with a Co-Broker.

“Exclusive Agent” shall mean the real estate broker, associate real estate broker or real estate salesperson (as those terms are defined in New York Real Property Law § 440) affiliated with the Exclusive Broker, who has been appointed as the exclusive or co-exclusive sales or rental agent for an Exclusive Property.

“Exclusive Broker” shall mean a member of the RBD, or other RLS Broker who has been appointed in writing the exclusive or co-exclusive sales or rental agent of residential property by the Owner of such residential property, such as a Seller or Landlord.

“Exclusive Listing” shall mean a written agreement setting forth the terms and conditions by which the Owner of residential property has appointed the Exclusive Broker, including any subsequent amendments thereto. Exclusive Listing includes both exclusive right to sell and exclusive agency listing agreements. Unless otherwise specified, the definition of Exclusive Listing shall also include Co-Exclusive Listing.

“Exclusive Property” shall mean the residential property that is subject to an Exclusive Listing and which is listed in the RLS.

“Landlord” shall mean the Owner of an Exclusive Property that is available for rent by a Tenant. For purposes of this definition, “Tenant” shall mean the person whose offer to lease an Exclusive Property has been accepted by a Landlord.

“Listing Information” shall mean details or information related to the Exclusive Property, including, but not limited to, the information contained in Exhibit A to the Co-Brokerage Agreement, except for Confidential Listing Information contained in Section 2.3.

“New York City” shall mean the five boroughs of New York City: the Bronx, Brooklyn, Manhattan, Queens, and Staten Island.

“Owner” shall refer either individually or collectively, as applicable, to both a Seller and/or a Landlord.

“Participant” shall have the meaning ascribed to it in the recitals to this Agreement.

“Participant VOW” shall have the meaning ascribed to it in the recitals to this Agreement. Each reference to “Participant VOW” or “Participant VOWs” herein shall refer to all Participant VOWs, whether operated by the Participant, a Salesperson, or by an AVP.

“RBD” shall mean Residential Brokerage Division of the Real Estate Board of New York.

“RLS Broker” shall mean a licensed real estate broker, associate real estate broker, real estate salesperson (as those terms are defined in New York Real Property Law § 440) associated with any firm who (a) is a member of the RBD, or (b) has an office and/or listings in New York City, or is a firm that actively endeavors during the operation of its real estate brokerage business

to list residential property of the type listed on the RLS and/or to accept offers of cooperation and compensation made by Exclusive Brokers in the RLS. For purposes of this definition, “actively” means on a continual and on-going basis during the operation of the RLS Broker’s real estate brokerage business.

“Registrants” shall have the meaning set forth in Section 2.1.

“RLS” shall have the meaning ascribed to it in the recitals to this Agreement.

“Salesperson” shall mean a real estate broker, associate real estate broker or real estate salesperson affiliated with an RLS Broker.

“Seller” shall mean the seller of an Exclusive Property.

“Terms of Use” shall have the meaning set forth in Section 4.1(a).

“Virtual Office Website” or “VOW” means an Internet website, or a feature of an Internet website, through which an RLS Broker or Salesperson is capable of providing real estate brokerage services to consumers with whom the RLS Broker or the Salesperson has first established a broker-consumer relationship (as defined by New York state law) where the Customer has the opportunity to search non-confidential RLS Listing Information, subject to an RLS Broker’s oversight, supervision, and accountability.

1.2 Construction and Usage. All References to “Articles,” “Sections,” and “Exhibits” contained in this Agreement are, unless specifically indicated otherwise, references to articles, sections, schedules, or exhibits of or to this Agreement. The following usages apply to any interpretation or construction of this Agreement, unless the context clearly indicates otherwise: (i) wherever the term “including” is used, it means “including, but not limited to,” (ii) the singular and plural numbers and masculine, feminine, and neuter genders of words are fully interchangeable, and (iii) wherever the term “law” is used, it means all applicable statutes, regulations, and case law, both state and federal, as they are amended.

ARTICLE II Virtual Office Websites

2.1 Brokerage Services. Subject to the terms and conditions herein, the Participant shall have the right, but not the obligation, to provide brokerage services by the use of a Participant VOW; provided, that such brokerage services shall only include making active, non-confidential Listing Information available to consumers with whom the Participant has first established a lawful consumer-broker relationship, including completion of all actions required by New York state law in connection with providing real estate brokerage services to consumers and Owners (the “Registrants”). Such actions shall include, but are not limited to, satisfying all applicable agency, non-agency, and other disclosure obligations, and execution of any required agreement(s).

2.2 Right to Display Listings Information.

(a) The Participant's right to display Listings Information in the RLS in response to Registrant's searches shall be limited to the display of non-confidential Listings Information and data supplied by the RLS. Such limitation does not preclude the Participant, if the Participant has offices, from participating in different listing services, including but not limited to (i) participating in other multiple listings services and (ii) operating a master website with links to such offices' VOWs.

(b) The display of Listing Information on a Participant VOW shall not require separate permission from the other RLS Brokers whose Exclusive Listings shall be available on such Participant VOW.

2.3 Confidential Listing Information Which Cannot be Displayed to Registrants. The Participant VOW may not make available for search by or display to Registrants the following data intended exclusively for other RLS Brokers:

- (a) Expired, withdrawn, or pending Exclusive Listings;
- (b) The compensation offered to other RLS Brokers;
- (c) Any commission information relating to the Exclusive Listing;
- (d) The type of listing agreement (*i.e.*, exclusive right to sell or exclusive agency);
- (e) The Owner(s) (and occupant(s)) name(s), phone number(s) and e-mail address(es), when available;
- (f) Instructions or remarks intended for Co-Brokers only, such as those regarding showing or security of the Exclusive Property; and
- (g) Any other information relating to Owners for which Owners request confidentiality (including but not limited to, opting out of the display of any address information).

2.4 Internet Websites. In addition to the VOW services described herein, the Participant shall be permitted to provide other features, information, or services on its Internet websites, including those operated by AVPs, as defined in Section 3.1.

ARTICLE III Affiliated VOW Partner

3.1 AVP. The Participant shall have the right to designate an Affiliated VOW Partner (an "Affiliated VOW Partner" or "AVP") to operate a Participant VOW on behalf of the Participant, subject to that Participant's supervision and accountability and the terms of this Agreement, the Co-Brokerage Agreement and the AVP Agreement.

3.2 Salesperson. A Salesperson affiliated with the Participant shall have the option to operate a VOW or have a VOW operated on its behalf by an AVP; provided, that such a VOW is subject to (i) obtaining the Participant's prior written consent, (ii) such Salesperson's and the Participant's supervision and accountability, and (iii) the terms of this Agreement, the Co-Brokerage Agreement and the AVP Agreement.

3.3 AVP Agreement. An executed AVP Agreement substantially similar to the form attached in Exhibit B hereto between the AVP and the Participant or an affiliated Salesperson, as applicable (the "AVP Agreement"), shall be delivered by the Participant to REBNY: (x) if the Participant is currently employing, engaging or otherwise retaining an AVP for the Participant VOW, simultaneously with the execution of this Agreement, and/or (y) if an AVP is hired, employed, engaged or otherwise retained subsequent to the date of this Agreement, within forty-eight (48) hours of the time the AVP is retained.

3.4 No Independent Participation Rights. As set forth in the AVP Agreement, an AVP operating a Participant VOW on behalf of the Participant or an affiliated Salesperson shall have no independent participation rights in the RLS by virtue of its right to receive Listing Information on behalf the Participant. Further, an AVP shall have no right to use the RLS Listing Information except in connection with the operation of the Participant VOW on behalf of the Participant or an affiliated Salesperson, as applicable, and pursuant to the terms of the AVP Agreement. Such rights of the AVP to access the RLS Listing Information are derived from the rights of the Participant under this Agreement and the Co-Brokerage Agreement.

ARTICLE IV Registrants

4.1 Identity of Registrant. The Participant shall obtain identifying information with respect to each Registrant as follows:

(a) The Participant shall cause each Registrant to provide its name and a valid e-mail address to the Participant. The Participant shall send an e-mail to the address provided by the Registrant to confirm that such Registrant has agreed to the Terms of Use (described more fully in Section 4.2(a) below). The Participant shall not permit the Registrant access to the Participant VOW until the Participant has verified that the e-mail address provided is valid and that Registrant received the Terms of Use confirmation.

(b) Each Registrant shall utilize a unique user name and a password before being permitted to search and retrieve Listing Information from the RLS using the Participant VOW. The user name and password may be established by the Registrant or may be supplied by the Participant, at the option of the Participant. The Participant shall ensure that each e-mail address may be associated with only one user name and password, but the same user name and password may be utilized by a Registrant on Related VOWs, as defined in Section 6.2. The Registrant's password and access shall expire after one hundred twenty (120) days of receipt but may be renewed by changing or reconfirming the password. The Participant shall validate the e-mail address of the Registrant pursuant to sub-paragraph (a) above each time its password and access are renewed.

(c) The Participant shall maintain at all times a record of the name and e-mail address supplied by the Registrant, and the username and current password of each Registrant. Such records shall be retained for not less than one hundred eighty (180) days after the expiration of the validity of the Registrant's password.

(d) In the sole discretion of REBNY, if the Participant, an affiliated Salesperson or an AVP engaged by the Participant has caused or permitted a breach in the security of the RLS's Listing Information or other data, or if the Participant violates any section under this Article IV, the Participant shall, upon request, provide to REBNY a copy of the record of the name, e-mail address, user name, current password, and audit trail, if requested, of any Registrant identified by REBNY to be suspected of involvement in the violation.

4.2 Terms of Use. The Participant shall cause each Registrant to agree to the Terms of Use of the Participant VOW, as follows:

(a) The Participant shall require each Registrant to review and affirmatively to express agreement to a "Terms of Use" provision ("Terms of Use") that requires the Registrant to open and review an agreement that includes, but is not limited to, the following:

(i) The Registrant acknowledges entering into a lawful consumer-broker relationship with the Participant;

(ii) All Listing Information obtained from the Participant VOW is intended only for the Registrant's personal, non-commercial use;

(iii) The Registrant has a bona fide interest in the purchase, sale, or lease of an Exclusive Property of the type being offered through the Participant VOW;

(iv) The Registrant shall not copy, redistribute, or retransmit any of the Listing Information or data provided by the Participant VOW, except in connection with the Registrant's consideration of the purchase, sale or lease of an individual Exclusive Property; and

(v) The Registrant acknowledges each other RLS Broker's ownership of, and the validity of their respective copyright in, the Exclusive Listings that are transmitted over the RLS.

(b) Subsequent to the Registrant opening and viewing the Terms of Use agreement, the Participant shall require the Registrant to acknowledge agreement to the Terms of Use terms and conditions with a "mouse click."

(c) The Terms of Use agreement shall also expressly authorize REBNY and RLS Brokers (and each of their duly authorized representatives) to access the Participant VOW for the purposes of verifying compliance with the provisions of this Agreement relating to monitoring display of Listing Information by the Participant VOW. Any

formal complaints regarding the Participant VOW shall be filed with REBNY and resolved in accordance with the RLS VOW Policy.

(d) The Terms of Use agreement shall not impose a financial obligation on the Registrant or create an actual or implied representation of the Registrant by the Participant. If the Participant and Registrant desire to enter into an agreement imposing a financial obligation or creating a representation by the Participant, such agreement shall be entered into separately from the Terms of Use, must be prominently labeled as such, and may not be accepted solely by a “mouse-click.”

4.3 Contact Information. The Participant VOW shall prominently display an e-mail address, telephone number, or specific identification of another mode of communication (*e.g.*, live chat) by which a Registrant can contact the Participant to ask questions or obtain additional information about properties displayed on the Participant VOW. The Participant, or a Salesperson affiliated with the Participant VOW, shall respond knowledgeably to inquiries from Registrants about Exclusive Properties transmitted over the RLS and displayed on the Participant VOW.

4.4 Protection of Listing Information. The Participant VOW shall protect the Listing Information from misappropriation and employ reasonable efforts to monitor for and prevent “scraping” or other unauthorized accessing, reproduction, or use of the RLS Listing Information.

ARTICLE V Additional Requirements

5.1 Additional Requirements. The Participant shall comply with the following additional requirements:

(a) Owner Opt-Out From Internet Display of Information. The Exclusive Broker shall communicate to REBNY that an Owner has elected not to permit display of the Exclusive Listing on the Internet. The Participant VOW shall not display Exclusive Properties of Owners who have affirmatively directed their Exclusive Broker to withhold their Exclusive Property from display on the Internet. Notwithstanding the foregoing, the Participant VOW may provide to Registrants by means of other delivery mechanisms, such as e-mail, fax, or otherwise, the Exclusive Listings of Owners who have determined not to have their Exclusive Property displayed on the Internet.

(b) If the Participant lists an Exclusive Property for an Owner who elected not to have the Exclusive Property displayed on the Internet, the Participant shall cause the Owner to execute a document that conforms to the form attached hereto as Exhibit A. The Participant shall retain a copy of such form(s) for at least one year from the date the form(s) is signed, and shall make any executed form available to REBNY for review, within twenty-four (24) hours of the request for the form(s).

(c) With respect to a Participant VOW that:

(i) permits third-parties to write comments or reviews about particular Exclusive Properties or displays a hyperlink to such comments or reviews in immediate conjunction with a particular Exclusive Property, or

(ii) displays an automated estimate of the market value of the Exclusive Property (or hyperlink to such estimate) in immediate conjunction with the Exclusive Property,

the Participant VOW shall disable or discontinue either or both of those features as to that Exclusive Property at the request of the Owner. The Exclusive Broker or Exclusive Agent shall communicate to REBNY and its RLS Vendor that the Owner has elected to have one or both of these features disabled or discontinued on all other RLS Broker's websites. Except for the foregoing and subject to subparagraph (d) below, a Participant VOW shall have the right, but not the obligation, to communicate the Participant's professional judgment concerning any Exclusive Property. Nothing shall prevent the Participant from notifying its Registrants that a particular feature has been disabled "at the request of the Owner."

(d) A Participant VOW shall maintain a means (*e.g.*, e-mail address, telephone number) to receive comments about the accuracy of any information or other data that is added by or on behalf of the Participant VOW beyond the Listing Information supplied by the RLS and that relates to a specific property displayed on the Participant VOW. The Participant VOW shall correct or remove any false data or information that is added by the Participant VOW relating to a specific Exclusive Listing upon receipt of a communication from the Exclusive Broker for that Exclusive Listing explaining why the new information is false. However, the Participant VOW shall not be obligated to remove or correct any information or other data that simply reflects its good faith opinion, advice, or professional judgment.

(e) Each Participant VOW shall refresh RLS data available on the Participant VOW at least once every three (3) days.

(f) Except as provided elsewhere in this Agreement, in the Co-Brokerage Agreement or the AVP Agreement, if applicable, or the Exclusive Listing relating to a specific Exclusive Property, no portion of the Listing Information transmitted over the RLS shall be distributed, provided, or made accessible to any other person or entity.

(g) Each Participant VOW shall display a privacy policy that informs Registrants of the ways in which information obtained from them will be used.

ARTICLE VI

Requirements on the Operations of VOWs and the Participant

6.1 Compliance with this Agreement. The Participant shall cause the Participant VOW to be readily accessible to REBNY for purposes of verifying compliance with this Agreement, the Co-Brokerage Agreement and any other applicable RLS rules or policies.

6.2 Multiple VOWs. The Participant has the right to operate more than one Participant VOW, either by itself or through an AVP (“Related VOWs”). If the Participant operates a Participant VOW itself, the Participant shall not be precluded from also operating Participant VOW(s) in conjunction with AVPs.

6.3 Estimated Costs. If the Participant shall download Listing Information, REBNY, or the Participant’s designated RLS Vendor, shall pass on to the Participant the reasonably estimated costs incurred by the RLS or the RLS Vendor in adding or enhancing its “downloading” capacity to enable the operation of the Participant VOWs. To the extent applicable, REBNY shall provide the Participant with 30-days notice of the estimated costs of the download.

6.4 Costs of Auditing. The Participant shall be responsible for the actual costs incurred by REBNY with respect to any review and/or audit (the “Audit”) of the security protections, Terms of Use, and other features of the Participant’s VOW. Such Audit of the Participant VOW may be conducted by REBNY, or by a third party retained by REBNY, and shall occur as soon as reasonably practicable after the Participant VOW’s commencement of operations through the RLS, but no later than two weeks after such commencement of operations through the RLS. Failure by the Participant to allow the conducting of the Audit within the two-week time period set forth in this Section 6.4 will result in the immediate suspension of the Participant VOW until satisfactory completion of the audit. Subsequent Audits will be conducted approximately once every 6 months during the first year of operations in the RLS of the Participant VOW, and then yearly.

(a) Payment of Costs of Auditing. Payment for the first Audit contemplated under Section 6.4 for the first year of operations of the Participant’s VOW must be received by REBNY upon the date of execution of this Agreement set forth in the first paragraph of this Agreement (the “Execution Date”). Payment for the second Audit contemplated under Section 6.4 for the first year of operations of the Participant’s VOW must be received by REBNY sixty (60) days before the scheduled date of the second Audit. All payments for subsequent Audits must be received by REBNY on the following anniversary date(s) of the Execution Date. The cost of each Audit shall be no more than three thousand seven hundred fifty dollars (\$3,750.00) and is subject to change.

(b) Audit Deficiencies. A Participant shall have 30 days to cure any deficiencies, omissions or other non-compliance identified during the Audit, as determined in the discretion of either REBNY or any third party engaged by REBNY to conduct the Audit. Participant shall have 30 days to remedy any deficiencies identified during the Audit prior to the suspension of the Participant VOW from its participation in the RLS. The Participant VOW may have additional time to cure any deficiencies identified in the Audit based on the mutual agreement of the parties to this Agreement.

(c) Failure to Pay for Audit. The failure by any Participant VOW to pay for any Audit within the deadlines set forth in Section 6.4(a) will result in suspension of the Participant VOW’s participation in the RLS. If the Participant VOW fails to pay for the

Audit within 30 days of the payment due date, it shall be terminated from the RLS without notice, but may be reinstated upon receipt of payment by REBNY.

6.5 Security Protection. The Participant shall (i) utilize appropriate security protection, such as firewalls, as long as such requirement does not impose security obligations greater than those employed concurrently by the RLS, and/or (ii) maintain an audit trail of Registrants' activity on each Participant VOW and make that information available to REBNY if REBNY has reason to believe that a Participant VOW has caused or permitted a breach in the security of the data or a violation of this Agreement or the Co-Brokerage Agreement.

6.6 Deceptive Advertising. The Participant VOW shall not advertise properties deceptively, and REBNY reserves the right to institute additional rules that prohibit deceptive or misleading advertising or co-branding. For purposes of this Section 6.6, co-branding shall be presumed not to be deceptive or misleading if the Participant's logo and contact information (or that of at least one RLS Broker, in the case of a Participant VOW established and operated by or for more than one RLS Broker) is displayed in immediate conjunction with that of every other party, and the logo and contact information of all RLS Brokers displayed on the Participant VOW is as large as the logo of the VOW and larger than that of any third party.

6.7 Exclusion of Exclusive Listings. The Participant shall have the right, but not the obligation, to exclude Exclusive Listings from display on the Participant VOW based only on objective criteria, including, but not limited to, factors such as geography, list price, type of property.

6.8 Operation of a Participant VOW. REBNY shall provide the Participant with the opportunity to operate a VOW, and to "download" or receive a "datafeed" from the Participant's designated RLS Vendor of all Listing Information, including without limitation address fields, photographs, and links to other media. Confidential data includes that information contained in Section 2.3 as well as any information which any Exclusive Broker in the RLS is prohibited from providing to any Registrant orally or by any other delivery mechanism, including but not limited to the information set forth in Section 2.3. It shall be the responsibility of either the Participant, or the Participant's AVP, to separate out Confidential Listing Information from any non-Confidential Listing Information for display on the Participant's VOW.

6.9 Content of Listing Information. The content of Listing Information that is displayed on a Participant VOW shall not be changed from the content as it is provided in the RLS, except as provided in Section 2.3 of this Agreement. Listing Information may be augmented with additional data or information not otherwise prohibited from display as long as the source of such other data or information is clearly identified. This requirement does not restrict the format of Listing Information displayed on a Participant VOW or display of fewer than all of the Exclusive Listings or fewer authorized data fields.

6.10 Notice. There shall be a notice on all Listing Information displayed on the Participant VOW indicating that the data is deemed reliable but is not guaranteed accurate by the RLS. The Participant VOW may also include other appropriate disclaimers necessary to protect the Participant and/or the RLS from liability.

6.11 Display of Exclusive Listing. Any Exclusive Listing displayed on a Participant VOW shall identify the name of the Exclusive Broker in a readily visible color, and reasonably prominent location, and in a typeface not smaller than the median typeface used in the display of Exclusive Listing data.

6.12 Number of Exclusive Listings. The number of Exclusive Listings that Registrants may view, retrieve, or download on or from a Participant VOW in response to a single search inquiry may be limited to the lesser of (i) 250 Exclusive Listings or (ii) 5% of the Exclusive Listings in the RLS.

6.13 Listings Obtained From Other Sources. Participant VOWs that display exclusive listings obtained from other sources (*e.g.*, other multiple listing services, non-participating brokers, etc.) shall display the source from which each such listing was obtained. REBNY shall not be responsible in any way for any breach by the Participant VOW of the rules and/or regulations of any other multiple listing service or co-brokerage arrangement from which the Participant VOW may obtain exclusive listings.

6.14 Enhancement of VOW. Participants may enhance a Participant VOW by providing additional information obtained from sources other than the RLS, additional technological services (such as mapping functionality), or other information derived from non-confidential RLS Listing Information (such as an estimated monthly payment derived from the listed price), or regulate the use or display of such information or technological services on any VOW.

ARTICLE VII Violations; Penalties; Termination

7.1 Violation Procedures; Penalties for Violations.

(a) Subject to sub-paragraph (b) below, the following sections of the Co-Brokerage Agreement are hereby incorporated by reference with full force and effect as if set forth in this Agreement: Article VI, Section 2; Article XI, Section 1; Article XI, Section 1A; Article XI, Section 1C; and Article XI, Section 2.

(b) For purposes of the sections incorporated by reference described in sub-paragraph (a) above: (i) as used in the Co-Brokerage Agreement, references to the term “all Participants”, as applied to this Agreement shall mean “the Participant” ; (ii) as used in the Co-Brokerage Agreement, references to the term “these Rules and Regulations”, as applied to this Agreement shall mean “this Agreement”; (iii) as used in the Co-Brokerage Agreement, references to the term “Exclusive Broker”, as applied to this Agreement shall mean “the Participant”; (iv) with respect to the incorporation of Article VI, Section 2, as used in the Co-Brokerage Agreement, references to the terms “the parties”, “either party”, or “a party”, as applied to this Agreement shall mean “the Participant”; and (v) with respect to the incorporation of Article XI, Section 1, as used in the Co-Brokerage Agreement, references to the term “any Participant” shall mean “any person or entity.”

7.2 Termination. This Agreement shall be terminated and the transactions contemplated hereby abandoned at the earlier of (i) the termination of the Co-Brokerage

Agreement pursuant to its terms, (ii) at any time by the written agreement of REBNY and the Participant, except as provided for in Section 6.4(c).

ARTICLE VIII
Miscellaneous

8.1 Amendments. This Agreement may be amended, modified, or supplemented only pursuant to a written instrument making specific reference to this Agreement and signed by each of the parties hereto.

8.2 Assignment. This Agreement and the rights and obligations hereunder shall not be assigned, delegated, or otherwise transferred (whether by operation of law, by contract, or otherwise) without the prior written consent of the other party hereto.

8.3 Binding Effect. Except as otherwise expressly provided herein, this Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and permitted assigns.

8.4 Counterparts. This Agreement may be executed in multiple counterparts, each of which when so executed shall be deemed to be an original and all of which taken together shall constitute one and the same instrument.

8.5 Entire Agreement. This Agreement constitute the entire agreement of the parties hereto in respect of the subject matter hereof and thereof, and supersede all prior agreements or understandings, among the parties hereto in respect of the subject matter hereof and thereof.

8.6 Governing Law. This Agreement shall be enforced, governed, and construed in all respects in accordance with the laws of the State of New York applicable to contracts executed and performable solely in such state.

8.7 Headings. The article and section headings of this Agreement are for convenience of reference only and shall not be deemed to alter or affect the meaning or interpretation of any provision hereof.

8.8 Arbitration. Any controversy or claim arising out of or relating to this Agreement, or the breach thereof, shall be settled under the arbitration procedures of the American Arbitration Association (Commercial Arbitration Rules), and judgment upon the award rendered by the arbitrator(s) may be entered in any court in the County of New York, State of New York.

8.9 Notices. Any notice, demand, request, instruction, correspondence, or other document required or permitted to be given hereunder by any party to the other shall be in writing and delivered (i) in person, (ii) by a nationally recognized overnight courier service requiring acknowledgment of receipt of delivery, or (iii) by United States certified mail, postage prepaid and return receipt requested, as follows: (a) to REBNY, at 570 Lexington Avenue, 2nd Floor, New York, NY, 10022, Attention: Ossie Shemtov, and (b) to the Participant, at the address listed on the signature page to this Agreement. Notice shall be deemed given, received, and effective on: (i) if given by personal delivery or courier service, the date of actual receipt by

the receiving party, or if delivery is refused on the date delivery was first attempted; and (ii) if given by certified mail, the third business day after being so mailed if posted with the United States Postal Service. Any person entitled to notice may change any address to which notice is to be given to it by giving notice of such change of address as provided in this Section 8.9. The inability to deliver notice because of changed address of which no notice was given shall be deemed to be receipt of the notice as of the date such attempt was first made.

8.10 Severability. If any provision of this Agreement or the application of such provision to any person or circumstance shall be held (by a court of competent jurisdiction) to be invalid, illegal, or unenforceable under the applicable law of any jurisdiction, (i) the remainder of this Agreement or the application of such provision to other persons or circumstances or in other jurisdictions shall not be affected thereby, and (ii) such invalid, illegal, or unenforceable provision shall not affect the validity or enforceability of any other provision of this Agreement.

8.11 No Representation or Warranty. REBNY and the RLS make no representation or warranty, whether explicit or implied, with respect to the completeness, inaccuracy, or misrepresentation of any information contained in the RLS. In no event shall REBNY, the RLS, or any associated organization be held liable by a Participant, AVP, Seller, Landlord, Owner, Buyer or Tenant for any incompleteness, inaccuracy, misrepresentation, or other mistake in any information contained in the RLS. The sole remedy or recourse for any damages arising from such mistakes in information shall be against the Exclusive Broker or Exclusive Agent who listed such information. Each Exclusive Agent, and the Exclusive Broker, shall indemnify and hold REBNY, the RLS and the Residential Brokerage Division Board of Directors (the "RBD") harmless against any and all loss, cost, expense or liability, including, without limitation, attorneys' fees and disbursements, arising from any claim brought against REBNY, the RLS and/or RBD arising from or relating to the incompleteness, inaccuracy or other mistake in any Listing Information transmitted over the RLS.

IN WITNESS WHEREOF, the undersigned have executed this Agreement as of the date first above written.

**REAL ESTATE BOARD OF NEW
YORK, INC.**

By: _____

Name:

Title:

[]

By: _____

Name:

Title:

PARTICIPANT INFORMATION:

Name of Firm/Salesperson (if applicable): _____

Principal Broker's name: _____

Address: _____

(Number and Street) _____

(City) (State) (Postal Code) (Country)

Telephone number: _____ Facsimile number: _____

Participant VOW Website Address: _____

E-mail address: _____

Owner Opt-Out Form

(i) Check one of the following:

I have advised my broker or sales agent that I do not want my Exclusive Property to be displayed on the Internet at all (Exclusive Listing will still be transmitted to other brokers and agents via the RLS);

or

I have advised my broker or sales agent that I do not want the address of my Exclusive Property to be displayed on the Internet.

(ii) I understand and acknowledge that, if I have selected to not have my Exclusive Property to be displayed on the Internet, that Registrants who conduct searches for property listings on the Internet will not see information about my Exclusive Property in response to their searches.

Signature of Owner

Important Instructions for Agents:

- 1) Original of this document must be retained by Exclusive Broker.**
- 2) A copy (either electronic or hard copy) should be sent to the Exclusive Broker's RLS Vendor, if applicable.**

AVP Agreement

(Attached)

List of Listings Technology Vendors Utilized by RLS Participants

1. On-line Residential, Inc.
2. RealPlus LLC
3. BrokersNYC
4. AMI/RealtyMX

A Participant may also utilize their own proprietary software, which receives a data feed or interface with one of the above Listings Technology Vendors.