



# **RLS UNIVERSAL CO-BROKERAGE AGREEMENT** **RULES AND REGULATIONS**



**As of February 3, 2011**

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## TABLE OF CONTENTS

	<u>Page</u>
INTRODUCTION .....	1
DEFINITIONS.....	1
ARTICLE I LISTING PROCEDURES.....	3
Section 1.    Who Can Participate in the RLS .....	3
Section 2.    Membership in REBNY .....	3
Section 3.    Notification of Missed Payments for Participants who are Not RBD Members .....	4
Section 4.    Types of Listings on the RLS .....	4
Section 5.    Obligation to Distribute and Timing for Distribution of Listings (“24-Hour Dissemination Rule”) .....	4
Section 6.    Changes to Exclusive Listings .....	4
Section 7.    Availability for Appointments .....	4
Section 8.    Withdrawal of Exclusive Listings.....	5
Section 9.    Co-Brokerage Terms for New Developments .....	5
ARTICLE II SELLING/LEASING PROCEDURES .....	5
Section 1.    Appointments .....	5
Section 2.    Inducing Customers to Cancel Appointments .....	5
Section 3.    Back-up Brokers .....	5
Section 4.    Broker Etiquette .....	5
Section 5.    Showing of Exclusive Listings .....	5
Section 6.    Recording of Customer Names.....	6
Section 7.    Communications with Owners.....	6
Section 8.    Negotiations with an Owner .....	6
Section 9.    Board Packages.....	6
Section 10.   Lease Applications.....	6
Section 11.   Disclosure Procedures Among Participants When there are Multiple Bids .....	6
Section 12.   Public Open Houses.....	7
Section 13.   Termination of Exclusive Listing .....	6
Section 14.   Cooperative Co-Exclusive Listing.....	7
Section 15.   Disclosures to Tenants .....	7
ARTICLE III PROHIBITIONS.....	7
Section 1.    Unauthorized Use of Listing Information.....	7

**As of February 3, 2011**

NY 73121005v3  
02/03/11 07:03PM

Section 2.	Prohibited Promotional Activities/Credit to Exclusive Broker .....	8
Section 3.	Solicitation of Exclusive Listings .....	8
Section 4.	Inaccurate Listing Information .....	9
ARTICLE IV COMPENSATION .....		8
Section 1.	Commissions .....	8
Section 2.	Changes in Commissions .....	9
Section 3.	Referral Fees .....	10
Section 4.	REBNY Does Not Establish Commission Rates .....	10
Section 5.	Costs .....	10
Section 6.	Commission Checks and Rent Deposit Checks .....	10
Section 7.	Participant Interest in the Exclusive Property .....	11
Section 8.	Acquisition of Interest in Exclusive Property .....	11
ARTICLE V FEES AND CHARGES .....		11
Section 1.	Establishment of Fees .....	11
Section 2.	Failure to Pay Fees .....	11
ARTICLE VI ENFORCEMENT OF RULES .....		11
Section 1.	Complaints .....	11
Section 2.	Procedures .....	11
Section 3.	Violations of 24-Hour Dissemination Rule .....	12
Section 4.	Proceedings for Violations of the 24-Hour Dissemination Rule .....	12
Section 5.	Violations of Board Code of Ethics .....	12
ARTICLE VII ARBITRATION .....		12
Section 1.	Arbitrations of Disputes .....	12
ARTICLE VIII CONFIDENTIALITY OF RLS INFORMATION .....		13
Section 1.	Confidentiality of RLS Information .....	13
Section 2.	Use and Protection of RLS Information .....	13
Section 3.	Provision of RLS Information to Customers and/or Owners .....	13
Section 4.	No Reproduction of RLS Information .....	13
ARTICLE IX AMENDMENTS .....		14
Section 1.	Amendment of Rules and Regulations .....	14
ARTICLE X OWNERSHIP .....		14
Section 1.	Ownership of Exclusive Listings .....	14

ARTICLE XI PENALTIES FOR VIOLATIONS OF RULES AND REGULATIONS	144
Section 1. Penalties .....	144
Section 2. Notice of Penalties .....	15
ARTICLE XII INDEMNIFICATION .....	16
Section 1. No Representation or Warranty .....	16
Section 2. Extent of Liability of Exclusive Broker .....	16
Section 3. Indemnification by Co-Broker .....	16
EXHIBIT A: LIST OF MANDATORY INFORMATION FOR EXCLUSIVE LISTINGS .....	17
EXHIBIT B: OWNER OPT OUT FORM .....	18

## INTRODUCTION

The Residential Brokerage Division (“RBD”) of The Real Estate Board of New York (“REBNY”) has approved the creation and promulgation of rules regarding the sharing of Exclusive Listings (as defined below) for the purpose of offering or accepting cooperation and compensation among firms providing real estate brokerage services in New York City. The RBD has resolved that all firms that are members of the RBD must participate in the REBNY Listing Service (“RLS”), and any other properly licensed real estate brokerage firms that are not members of the RBD that offer or accept cooperation and compensation to and from members of the RBD or may have real estate listings in the New York City area may participate in the RLS.

This Universal Co-Brokerage Agreement/Rules and Regulations (“Rules and Regulations”) is incorporated in the Applicant Agreement and form a binding legal agreement between REBNY and the applicant. Additionally, all RBD Member firms, as well as all real estate brokers, associate real estate brokers or real estate salespersons (as those terms are defined in New York Real Property Law § 440) shall abide by these Rules and Regulations, and the penalties set forth herein. A list of all firms participating in the RLS can be found on the REBNY website, [www.rebny.com](http://www.rebny.com). Unless otherwise indicated, all amendments to these Rules and Regulations shall be incorporated into this document by January 1 of the following year, and will not require further execution of new Acknowledgements.

The RLS is intended solely for use by Participants in connection with the sale and/or lease of residential property. Rules governing the use of the RLS in connection with the sale or lease of Exclusive Property are outlined below. Use of the RLS is conditioned on agreement and compliance with these Rules and Regulations. **Use of the RLS in connection with Virtual Office Websites (“VOW”) shall be implemented upon the receipt of a request from a VOW to participate in the RLS, and a fully executed VOW Agreement from either the brokerage firm or salesperson that will be responsible for oversight and supervision of the VOW.**

## DEFINITIONS

As used in these Rules and Regulations, the following capitalized terms will have the respective meanings:

- A. “Advertise” shall mean to publish information with respect to any pending or prospective transaction in an effort to induce one or more third parties to participate in a transaction.
- B. “Advertising” shall include offerings in newspapers, periodicals, brochures, Exclusive Listings, rental schedules, hand distributed circular and circularized mail matter, window displays, and all electronic media.
- C. “Buyer” shall mean any Customer whose offer to purchase an Exclusive Property has been accepted by a Seller.
- D. “Contract Sale Price” shall mean the price in the contract of sale executed for the Exclusive Property, unless the Exclusive Agent knows that the closing price reported to

ACRIS is different from the price in the contract. In that case, then the price reported to ACRIS shall constitute the “Contract Sale Price.” The Exclusive Agent must provide the Contract Sale Price for dissemination over the RLS within twenty-four (24) hours of the closing.

- E. “Co-Broker” shall mean any Participant 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.
- F. “Customer” shall mean any person who visits or intends to visit an Exclusive Property and has authorized an agency relationship with a Co-Broker.
- G. “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.
- H. “Exclusive Broker” shall mean a member of the RBD, or other Participant in the RLS, 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.
- I. “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.
- J. “Exclusive Property” shall mean the residential property that is subject to an Exclusive Listing and which is listed in the RLS.
- K. “Landlord” shall mean the Owner of an Exclusive Property that is available for rent by a Tenant.
- L. “Listing Information” shall mean details or information related to the Exclusive Property, including, but not limited to, the information contained in Exhibit A to these Rules and Regulations.
- M. “New York City” shall mean the five boroughs of New York City: the Bronx, Brooklyn, Manhattan, Queens, and Staten Island.
- N. “Open Listing” shall mean any listing for a property in which an Owner has not contracted with an Exclusive Broker either through an exclusive right to sell or exclusive agency listing agreement.
- O. “Owner” shall refer either individually or collectively, as applicable, to both a Seller and/or a Landlord.

- P. “Participant” 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. “Actively” means on a continual and on-going basis during the operation of the Participant’s real estate brokerage business. As stated in REBNY’s Code of Ethics and Professional Practices (the “Code of Ethics”), the membership requirement shall be applied on a nondiscriminatory manner to all Participants or potential Participants.
- Q. “RBD Members” shall mean all firms who are members of the Residential Brokerage Division of REBNY, who receive revenues from brokering the sales or rentals of residential property within New York City.
- R. “Seller” shall mean the seller of an Exclusive Property.
- S. “Tenant” shall mean the person whose offer to lease an Exclusive Property has been accepted by a Landlord.

## ARTICLE I

### LISTING PROCEDURES

Section 1. Who Can Participate in the RLS. RBD Members with offices and/or Exclusive Listings within New York City must participate in the RLS, and adhere to these Rules and Regulations and the Code of Ethics. All new RBD Members with offices and/or Exclusive Listings within New York City, must, within ninety (90) days of joining REBNY, participate in the RLS, adhere to these Rules and Regulations, the Code of Ethics, and be a Broker A member in REBNY. Any other licensed real estate brokerage firm which has an office and/or listings in New York City, or is a firm that is actively engaged in a real estate brokerage business in New York City may also participate in the RLS, and must abide by these Rules and Regulations, as well as abide by the Code of Ethics. A violation of this Section 1 will be reviewed by a subcommittee comprised of at least five (5) members of the RBD Board of Directors and/or Ethics Committee and violations shall be punishable by the imposition of a monetary fine, suspension of access to the RLS, expulsion from the RLS and/or the publication of a statement describing the violation on REBNY’s website and/or the filing of a complaint against the offending Participant and/or firm with the Department of State of New York, as set forth in Article VI of these Rules and Regulations.

Section 2. Membership in REBNY. Each real estate broker, associate real estate broker and/or real estate salesperson associated with an RBD Member must become a member of REBNY. Each RBD Member (and their firm) will be notified by February 1st of each year of any delinquent membership payment(s). Each RBD Member must rectify delinquent payment(s) by the following March 1st. Any new RBD Member who joins REBNY after February 1 of each year shall have thirty (30) days from the date of notice from REBNY of any delinquent membership payments to rectify the delinquency. Failure to rectify any delinquent payments in

accordance with this Section 2 will be deemed an immediate violation of these Rules and Regulations and result in termination of that RBD Member's participation in the RLS. Prior to any removal of a terminated RBD Member's Exclusive Listings from the RLS, the RBD Member will be advised in writing of the intended removal so that the firm may advise its clients.

Section 3. Notification of Missed Payments for Participants that are Not RBD Members. Each Participant who is not an RBD Member will be notified by February 1st of each year of any delinquent payment(s) and will have until the following March 1st to cure such delinquent payment(s). Failure to cure such delinquency will terminate Participant's participation in the RLS. When a Participant has been suspended or expelled from the RLS for failing to pay any required penalties, fees or fines, the RLS is not obligated to continue to include that Participant's Exclusive Listings in the RLS.

Section 4. Types of Listings on the RLS. The RLS will accept Exclusive Listings, and shall not accept Open Listings or oral exclusive listings commonly referred to as "ours alone" listings.

Section 5. Obligation to Distribute and Timing for Distribution of Listings ("24-Hour Dissemination Rule"). Listing Information set forth in Exhibit A must be disseminated via the RLS and shall be transmitted to all other Participants in the RLS within twenty-four (24) hours (except on weekends and postal holidays) after obtaining the Owner's signature on the Exclusive Listing, or disseminated to other Participants in the RLS simultaneously with any public dissemination of such Exclusive Listing. The obligation to disseminate such Listing Information is mandatory unless the Owner has specified in writing that an offer of co-brokerage to other Participants should not be initiated with respect to the Exclusive Listing. To preclude fines for late submissions of Exclusive Listings, Participants should not date Exclusive Listings until the Owner's signature has been affixed to the Exclusive Listing. Only those Exclusive Listings for which the Owner does not wish to be co-brokered through the RLS are exempt from the terms of this Section. No personal information, such as the Exclusive Agent's name, the Exclusive Agent's contact information or other personal information can be included in any property description, comments and/or Internet remarks regarding the Exclusive Listing; the Exclusive Agent's name and contact information must appear only in the mandatory fields set forth for such information.

Section 6. Changes to Exclusive Listings. Any change in the listed price or other change in the original Exclusive Listing, including any change in status, shall be entered into the RLS within twenty-four (24) hours (except on weekends and postal holidays) after the authorized change is received by the Exclusive Agent. Additionally, any transaction involving an Exclusive Listing that has closed should be removed or clearly marked as closed on the Exclusive Broker's website within twenty-four (24) hours after the closing.

Section 7. Availability for Appointments. Appointments to visit an Exclusive Property will be available once the Exclusive Listing is entered into the RLS. The Exclusive Agent can enter approved showing instructions into the RLS.

Section 8. Withdrawal of Exclusive Listings. Exclusive Listings may be withdrawn from the RLS by the Exclusive Agent at the request of any Owner before the expiration date of the Exclusive Listing.

Section 9. Co-Brokerage Terms for New Developments. Unless otherwise agreed to by the Exclusive Broker and the Owner of a new development involving multiple dwellings (a “New Development”), the terms of the Rules and Regulations set forth here are not required to be incorporated in a co-brokerage agreement (a “New Development Co-Brokerage Agreement”) between an Exclusive Broker and the Owner of the New Development. For the avoidance of doubt, in case a conflict arises between the terms of the New Development Co-Brokerage Agreement and the terms set forth here, the terms of the New Development Co-Brokerage Agreement shall govern.

## ARTICLE II

### SELLING/LEASING PROCEDURES

Section 1. Appointments. The Exclusive Agent must respond to requests for appointments promptly. The Exclusive Agent may not deny an appointment to a Co-Broker for any reason whatsoever, with the exception of a previously scheduled appointment or on the specific instruction of the Owner, or as described more fully in Article II, Section 4, below.

Section 2. Inducing Customers to Cancel Appointments. Participants shall not induce a Customer to cancel a previously scheduled appointment.

Section 3. Back-up Brokers. Unless otherwise directed by the Owner, Exclusive Agents must arrange for at least one back-up broker or salesperson to handle appointments and showing of their Exclusive Listing(s) if they are unavailable or on vacation.

Section 4. Broker Etiquette. The minimum time an Exclusive Agent should wait for a Co-Broker and a Customer is 20 minutes. An Exclusive Agent’s responsibility is to show their Exclusive Property, provide Customers with a floor plan and answer questions the Customer and/or Co-Broker may have pertaining to the Exclusive Property. The business card of the Exclusive Agent should never be handed to a Customer.

Section 5. Showing of Exclusive Listings. In the event that a Customer has already visited or been scheduled for an appointment to visit the Exclusive Property, the Exclusive Agent should advise the scheduling Co-Broker of that fact. Participants must not attempt to persuade a Customer to revisit an Exclusive Property with them rather than with the original Co-Broker; a reshew with a different Participant should only take place under circumstances in which a Customer has a reasonable basis to feel abandoned or inadequately represented by the original Co-Broker. In the event that this situation does arise, the second Co-Broker should obtain a letter from the Customer indicating that it seeks to return with the second Co-Broker. This letter should be directed to the Exclusive Agent and the Exclusive Broker. The Exclusive Agent, as the fiduciary of the Owner, should do nothing to discourage or create awkwardness for the Customer.

Section 6. Recording of Customer Names. A Co-Broker must advise the Exclusive Agent of the names of Customers of such Co-Broker when scheduling appointments for them to visit the Exclusive Property. The Exclusive Agent shall record the names of all such Customers in the registry maintained by the Exclusive Agent. If any such Customer fails to visit the Exclusive Property after the Customer's name is recorded, or if the appointment is canceled, the Exclusive Agent shall delete that Customer's name from its registry.

Section 7. Communications with Owners. No Co-Broker may contact the Owner without the Exclusive Agent's prior consent.

Section 8. Negotiations with an Owner. A Co-Broker may only negotiate directly with the Owner with the full knowledge and consent of the Exclusive Agent.

Section 9. Board Packages. It is the responsibility of the Exclusive Agent to supply the board package requirements and the building financials to the Co-Broker and to assist in obtaining other requested documents, if available. The Co-Broker is responsible for delivering a completed board package to the Exclusive Agent and to provide the Exclusive Agent with a reasonable time to review the completed board package prior to submission to the board of the building. The Co-Broker must provide the Exclusive Agent with a copy of any board package submitted to the board of the building. The name, firm and phone number of both the Exclusive Agent and the Co-Broker must appear on the cover sheet of the board package submitted to the board of the building. No firm logos or other identifying marks utilized for advertising purposes should appear in the board package. With respect to Co-Exclusive Listings, each Exclusive Agent should be given a copy of the board package for review prior to submission to the board.

Section 10. Lease Applications. Any application of a Customer to lease an Exclusive Property must be reviewed by the Exclusive Agent, and the Co-Broker, if applicable, prior to submission to the Owner. If the Exclusive Property to be leased is a cooperative apartment, condominium unit, or a property which is part of a homeowners association, the application of the Customer must be reviewed by the Exclusive Agent, and the Co-Broker, if applicable, prior to submission to the cooperative, condominium or homeowner's association.

Section 11. Disclosure Procedures Among Participants When there are Multiple Bids. In the event of multiple offers, the Exclusive Agent shall disclose all of the offers to the Owner and recommend to the Owner the disclosure of the fact of such offers in a timely manner to all Co-Brokers involved. The dollar amount of competing bids need not be disclosed to the Co-Broker. The Exclusive Agent shall disseminate such information according to the Owner's instructions in a manner consistent with the legal requirement that a broker treat all parties in a fair and trustworthy manner. If the Owner is unwilling to honor a verbally accepted offer when a higher bid offer is made, the Exclusive Agent should encourage the Owner to allow the first Customer another bid. The Co-Broker should inform the Customer that it is standard practice to show a property up to the point a contract is fully executed and, until then, a binding commitment does not exist. If a Co-Broker feels that his/her offer is not being communicated to the Owner, he/she should refer the matter to his/her principal broker, if applicable, to communicate directly with the Exclusive Broker.

Section 12. Public Open Houses. When an Exclusive Agent conducts a public open house, the Exclusive Agent has the right to actively solicit as a Customer, for both the open house property and any other available property, anyone who attends the open house, unless the attendee is accompanied by a Co-Broker or acknowledges in writing at the open house on a sign-in-sheet to be provided by the Exclusive Agent that the Customer is represented by a Co-Broker. No Exclusive Agent may deny access to the open house to any other Participant, regardless of whether the Participant is accompanied with or without a Customer.

Section 13. Termination of an Exclusive Listing. Provided the Owner consents, the following language shall be included in each Exclusive Listing:

Within three (3) business days after the expiration of the Exclusive Listing, the Exclusive Broker shall deliver to the Owner a list of no more than six (6) names of persons who visited the Exclusive Property during the term of the Exclusive Listing. If within ninety (90) days after the expiration of the Exclusive Listing a sales contract or lease for the Exclusive Property is executed with one of the six persons on the list, the Exclusive Broker shall be entitled to the commission provided for in the Exclusive Listing.

Section 14. Cooperative Co-Exclusive Listing. The names of both the Co-Exclusive Brokers and Co-Exclusive Agents must be included in the Listing Information that is disseminated over the RLS during the term of the Co-Exclusive Listing. Any advertising must include a designation that it is a Co-Exclusive Listing. Unless otherwise directed by the Owner, the Co-Exclusive Agents should promptly notify each other of any discussion with the Owner concerning a reduction in the price of the Exclusive Property. The Co-Exclusive Agents should share with each other the specific names of Co-Brokers and their Customers who have visited or will be visiting the Exclusive Property, should avoid duplicate appointments, and should discuss any offers that have been received on the Exclusive Property.

- A. Provided the Owner consents, and the language suggested in Section 13 is included in the Exclusive Listing, upon termination of the Co-Exclusive Listing each Co-Exclusive Agent shall submit a list of names of Customers within three (3) business days to the Owner to be protected for ninety (90) days, such list not to exceed six (6) names in the aggregate. Notwithstanding that the Owner has entered into a new Exclusive Listing with a new Exclusive Agent, each Co-Exclusive Agent may reshew the property to the Customers on its submitted list and/or negotiate directly with the Owner with respect to the Customers on the list during the ninety (90) day protected period. Each Co-Exclusive Agent should notify the Co-Broker whose Customer(s) have been placed on the submitted list.

Section 15. Disclosures to Tenants. With respect to the rental of an Exclusive Property, when a Tenant has agreed to pay the commission, the Co-Broker, if applicable, shall inform the Tenant of the potential risk of having to pay more than one commission if the Tenant was shown the property through more than one firm acting as a Co-Broker.

## ARTICLE III

### PROHIBITIONS

Section 1. Unauthorized Use of Listing Information. Except solely as specified in a separate written agreement between REBNY and a Participant, (a) Listing Information shall not be utilized by Participants other than the purposes provided for in these Rules and Regulations and (b) Participants agree that they will not, in any form, disclose, sell, assign, lease, commercially exploit, or otherwise provide to third parties or cause to be disclosed, sold, assigned, leased, commercially exploited, directly or indirectly, the Listing Information contained in the RLS. Any unauthorized attempt, successful or unsuccessful, to disclose, sell, assign, lease, commercially exploit, or otherwise provide Listing Information to third parties could result in loss of the ability to participate in the RLS and/or membership in REBNY, if applicable, and a monetary penalty. Any Participant shall promptly notify REBNY if he or she believes that any use by a Participant is inconsistent with the foregoing.

Section 2. Prohibited Promotional Activities.

A. Without the Exclusive Broker's prior written consent, a Co-Broker may not: (i) advertise the Exclusive Property; (ii) make any mailing or other mass solicitation promoting the Exclusive Property; or (iii) disseminate any information concerning the Exclusive Property to any print, wire, electronic or computer media, publication, listing system, website or service. Nothing contained in this paragraph shall preclude the dissemination of information concerning the Exclusive Property by each Co-Broker to its real estate brokers, associate real estate brokers, real estate salespersons and employees by such internal dissemination methods as each Co-Broker utilizes in its day-to-day business operations, provided that such internal dissemination is kept confidential and disclosed only to Customers. If such internal dissemination is made by means of computer messages, access to such computer messages may not be available to members of the general public.

B. When providing any report, e-mail, or any other Advertising material containing more than three (3) lines of Listing Information or containing media (such as multiple photos, video and/or a floorplan) concerning an Exclusive Property to a Customer, all such materials shall include a notation in a reasonably prominent location and in a font not smaller than the median type face of the document stating "[name of the Exclusive Broker/Participant] Exclusive Listing." Similarly, subject to the permission required in Section 2.A, above, any display on a Participant's website containing more than three (3) lines of Listing Information of another Participant's Exclusive Property shall include a notation in a reasonably prominent location and in a font not smaller than the median type face of the document stating "[name of the Exclusive Broker/Participant] Exclusive Listing."

Section 3. Solicitation of Exclusive Listings. If an Exclusive Property is subject to an Exclusive Listing then, during the term of the Exclusive Listing, a Participant who is not a party thereto or whose firm is not a party thereto ("Participant B"):

A. may not solicit the Owner with respect to the Exclusive Property; but

B. may enter into a separate agreement, such as an Exclusive Listing to lease the Exclusive Property, with the Owner concerning the Exclusive Property where (i) that agreement (the “Second Agreement”) covers matters which are not covered by the Exclusive Listing and (ii) Participant B or his or her firm is specifically requested to do so by the Owner. Before entering into the Second Agreement, Participant B should inform the Owner that by entering into the Second Agreement the Owner could be liable for a commission under both the Exclusive Listing and the Second Agreement.

The term solicit as used in this provision does not include mailings or other multiple solicitations, where it is impractical to distinguish Exclusive Properties that are already subject to Exclusive Listings or instances where the Owner initiates contact with Participant B. If solicited an Owner who is a party to an Exclusive Listing, Participant B may respond to the Owner’s inquiry, but such response cannot affect the original Exclusive Listing in any way.

Section 4. Inaccurate Listing Information. Entries of Listing Information found to have incomplete mandatory items or incorrect data, will be in violation of these Rules and Regulations if a correction has not been made within twenty-four (24) hours following notification sent to the Exclusive Agent.

#### **ARTICLE IV**

#### **COMPENSATION**

Section 1. Commissions. With respect to the sale of an Exclusive Property, if a sale is consummated with a Buyer procured by a Co-Broker, unless the Exclusive Listing specifies otherwise or absent some other agreement, the Exclusive Broker and the Co-Broker shall each be paid an equal share of the commission as specified in the Exclusive Listing. The Co-Broker shall be paid their share of the commission only if: (i) a contract of sale is fully executed by the Buyer and the Owner of the Exclusive Property; (ii) title to the Exclusive Property is passed to such Buyer or other authorized party pursuant to the fully executed contract of sale; and (iii) the Exclusive Broker has received the commission, unless any of the scenarios below are applicable:

A. In the event that: (i) a Co-Broker procures a Buyer for an Exclusive Property; (ii) a contract of sale for the Exclusive Property is fully executed by a Buyer and the Owner; (iii) the Buyer defaults; (iv) the Owner retains all or a portion of the down payment given by the Buyer; and (v) the Owner pays the Exclusive Broker a percentage of the down payment retained by the Owner, then, in the absence of any agreement setting forth a different commission split, the Co-Broker shall be paid an equal share of the amount paid by the Owner to the Exclusive Broker.

B. In the event that: (i) the Exclusive Property is a unit within a condominium (the “Unit”); (ii) a Co-Broker procures a Buyer; (iii) a contract of sale for the Unit is fully executed by the Buyer and the Owner; (iv) the Board of Managers (the “Board of Managers”) exercises its right of first refusal to purchase the Unit; (v) the contract of sale is terminated; (vi) title to the Unit is passed to the Board of Managers;

and (vii) the Exclusive Broker receives a commission payable in accordance with the Exclusive Listing, then, in the absence of any agreement setting forth a different commission split, the Co-Broker shall be paid an equal share of the commission as if the Unit had been sold to the Buyer.

C. With respect to the lease of an Exclusive Property, if the lease is consummated with a Tenant procured by a Co-Broker, unless the Exclusive Listing specifies otherwise or in the absence of any other agreement, the Co-Broker shall be paid an equal share of the commission as specified in the Exclusive Listing. The Co-Broker shall not be entitled to be paid a share of the commission unless: (i) a satisfactory lease is fully executed by the Tenant and the Landlord of the Exclusive Property; (ii) all necessary approvals of the lease have been obtained; and (iii) the Exclusive Broker has received the commission payable in accordance with the Exclusive Listing.

Section 2. Changes in Commissions After Dissemination Over the RLS.

A. Negotiations Involving Reductions in Commissions. Any negotiation of the reduction of a brokerage commission must be done with both the Exclusive Broker and the Co-Broker's approval of the commission reduction. If the Exclusive Broker negotiates a reduced commission with the Owner without the approval of the Co-Broker, the Exclusive Broker must absorb the full amount of the commission reduction.

B. Incorrect Commission Information. It is the obligation of the Exclusive Broker and/or the Exclusive Agent to correct any incorrect information disseminated over the RLS relating to the amount of commission to be received by the Co-Broker. If the Exclusive Broker and/or the Exclusive Agent fail to correct the information regarding the commission to be received by the Co-Broker before the earlier of the first showing of the Exclusive Property to the Co-Broker, or the first offer submitted by that Co-Broker (if there has not been a showing), as applicable, the Exclusive Broker must absorb the full amount of the liability relating to the incorrect information.

Section 3. Referral Fees. Unless the Exclusive Broker and the Co-Broker agree in writing to the contrary, any and all referral fees owed on account of a transaction will be paid by the individual or entity that incurred the liability.

Section 4. REBNY Does Not Establish Commission Rates. REBNY shall not fix, control, recommend, suggest or maintain commission rates or fees for services to be rendered by Participants in the RLS.

Section 5. Costs. If the Exclusive Broker incurs any cost, including, but not limited to attorneys' fees and disbursements, in collecting a commission from the party responsible for its payment, all such costs shall be deducted from the commission received by the Exclusive Broker prior to computing the commission due to a Co-Broker.

Section 6. Commission Checks and Rent Deposit Checks.

A. Sales. When possible, the Exclusive Broker should endeavor to have the Owner's attorney issue separate commission checks for any Co-Broker involved in the

transaction. When only one commission check is issued, the Exclusive Broker should release the Co-Broker's check promptly.

B. Rentals. In the case of the rental of an Exclusive Property, the Co-Broker shall hold the full brokerage commission and the rent deposit checks until such time as leases have been signed by both the Tenant and the Landlord, unless the Landlord requires the checks for rent and security deposit to accompany the rental application and/or lease. In the case of a cooperative or condominium rental, the Co-Broker shall hold the full brokerage commission and security rent deposit checks until consent or a waiver is received. Copies of all checks should always be provided to the Exclusive Broker. Any checks shall be in the form of negotiable funds, i.e., certified checks, money orders, cashier's checks, traveler's checks or cash. The Co-Broker shall not accept personal checks or corporate checks without the prior consent of the Exclusive Broker.

Section 7. Participant Interest in the Exclusive Property. In accordance with Section II(B)(6) of the Code of Ethics, if a Participant has any ownership interest in an Exclusive Property, the Listing Information to be disseminated through the RLS shall disclose that interest.

Section 8. Acquisition of Interest in Exclusive Property. If a Participant seeks to acquire an interest in an Exclusive Property listed by an Exclusive Broker, such interest shall be disclosed, in writing, to the Exclusive Broker no later than the time an offer to purchase is submitted to the Exclusive Broker or Exclusive Agent.

## ARTICLE V

### FEES AND CHARGES

Section 1. Establishment of Fees. REBNY and/or the RBD Board of Directors may establish charges/fees (such as RLS fees, fines, and reinstatement fees, etc.) from time to time.

Section 2. Failure to Pay Fees. Unless otherwise specified in these Rules and Regulations, the failure to pay any fees or charges created under these Rules and Regulations by the due date, and provided that at least ten (10) days notice has been given, shall result in the suspension of any or all RLS privileges until such fees or charges have been paid in full.

## ARTICLE VI

### ENFORCEMENT OF RULES

Section 1. Complaints. The RBD Board of Directors shall give consideration to all signed, written complaints relating to a violation of these Rules and Regulations. Exclusive Brokers may be held responsible for all actions of the real estate brokers, associate real estate brokers, and real estate salespersons associated with their respective firms.

Section 2. Procedures. If an alleged offense is a violation of these Rules and Regulations, a preliminary fact-finding shall be conducted by a five-(5) member subcommittee comprised of members of the RBD Board of Directors and the Ethics Committee. If at least three (3) of the five (5) subcommittee members determine that the complaint has merit, then the

parties to the dispute will be provided notice that a hearing shall be heard before the five-(5) member subcommittee. Such hearing shall be held no later than five (5) business days after the parties have received notice that a hearing is necessary. If either party fails to appear for the hearing, they shall be held in default. If a party is found to be in violation of these Rules and Regulations by at least three (3) members of the subcommittee, then the penalty structure set forth in Article XI below shall be enforced.

Section 3. Violations of 24-Hour Dissemination Rule. With respect to an alleged violation of the 24-Hour Dissemination Rule set forth in Article I, Section 5 hereof, such alleged violation must first be reported to the manager/principal of the offending Exclusive Broker. If the complaint is not resolved, the complainant must e-mail the designated REBNY staff person to report the potential violation of the 24-Hour Dissemination Rule. The complaint must be fact-based; REBNY staff will not entertain complaints based on suspicion or rumor. If the complaint cannot be resolved within an additional twenty-four (24) hour period by REBNY, the complainant may seek a review and determination by a fact-finding committee. Such alleged violation shall be processed and resolved in accordance with Article VI, Section 4.

Section 4. Proceedings for Violations of the 24-Hour Dissemination Rule. With respect to alleged violations of Article VI, Section 3 hereof, a five-(5) person subcommittee comprised of the RBD Board of Directors and Ethics Committee shall convene to determine whether or not a violation has occurred. The subcommittee shall cause a notice to be sent to the parties involved setting forth the date and time of a hearing which shall be conducted no later than five (5) business days from the date of such notice. The subcommittee may make a determination whether or not a party attends the hearing. If the subcommittee determines that there has been a violation of Article VI, Section 3, the party that has committed such violation must remedy the violation within twenty-four (24) hours. If it is a first violation and the violation is remedied within such twenty-four (24) hour time period, that party shall not incur a penalty for the first violation. If the violation is not remedied within such twenty-four (24) hour time period, each successive twenty-four (24) hour period in which the violation is not remedied shall constitute a separate and new violation and additional fines will be imposed for every twenty-four (24) hour period thereafter.

Section 5. Violations of Board Code of Ethics. With respect to an alleged violation of the Code of Ethics, such complaint, grievance, and/or dispute shall be referred to the Residential Ethics Committee and shall be processed and resolved in accordance with Article III of the By-Laws of the RBD.

## **ARTICLE VII**

### **ARBITRATION**

Section 1. Arbitrations of Disputes. All monetary disputes between the Exclusive Broker and any other Participants with respect to an Exclusive Listing shall be resolved by arbitration conducted under the arbitration procedures of REBNY.

## ARTICLE VIII

### CONFIDENTIALITY OF RLS INFORMATION

Section 1. Confidentiality of RLS Information. Any information provided in the RLS to Participants shall be considered official information of the RLS. Such information shall be considered confidential and exclusively for the use of the RLS and Participants.

Section 2. Use and Protection of RLS Information. Participants may not disclose and shall use independent best efforts to protect the confidentiality of restricted fields, names, and addresses included in the RLS; provided, however, the Exclusive Broker and/or the Co-Broker may use information relating to an Exclusive Property in advertising their services if approved in writing by the Buyer/Tenant and Owner and if such information is maintained and compiled apart from the RLS. Similarly, an Exclusive Broker and/or Exclusive Agent may advertise any active Exclusive Listings. Participants agree to use best effort to protect the confidentiality of their passwords and to prevent unauthorized access to the RLS. Additionally, Participants may utilize current Listing Information, information regarding “comparables,” or any other publicly available information to support an estimate of value on a particular Exclusive Property for a particular Owner, for appraisal purposes, and any other services reasonably related to the day-to-day business activities of a licensed real estate brokerage firm.

Section 3. Provision of RLS Information to Customers and/or Owners. Participants may provide Customers and Owners with a reasonable number of individual records (or portion of individual records) relating to Exclusive Properties which the Customer or Owner has a bona fide interest in purchasing, renting, selling, or leasing, as applicable. The term “reasonable,” as used herein, should therefore be construed to permit only limited reproduction of individual records (or portion of individual records) intended to facilitate the decision-making process in the consideration of a potential transaction. Factors which shall be considered in deciding whether the reproductions made are consistent with this intent, and thus “reasonable” in number, shall include, but are not limited to, the total number of listings in the RLS, how closely the types of Exclusive Listings conform with the Customer’s or Owner’s expressed desires and ability to purchase, rent, sell or lease; whether the reproductions were made on a selective basis; and whether the number of records provided is consistent with a reasonable itinerary of Exclusive Properties which would be shown to the Customer, or a reasonable number of records provided to an Owner to determine a sale or lease price.

Section 4. No Reproduction of RLS Information. Except as otherwise expressly provided herein or in a written agreement between REBNY and a Participant, the contents of the RLS, or any information, including statistical information, derived from the RLS, may not, in whole or in part, be reproduced, copied, disseminated, sublicensed, transferred, assigned, entered into a computer database, used as part of or in connection with a mailing list, or otherwise utilized, in any form or manner or by any means, except for the Participant’s individual, personal, and confidential reference. Notwithstanding the foregoing an Exclusive Broker, Exclusive Agent and/or Participant may make statistical information derived from the contents of the RLS available to Customers, prospective Customers, and/or Owners in connection with the marketing of the Exclusive Broker and/or Participant’s brokerage services. However, any print or non-print forms of advertising or other forms of public representations based in whole or in

part on information supplied by the RLS must clearly demonstrate the period of time over which such information is based and must include the following, or substantially similar, notice:

“Based on information from the REBNY Listing Service for the period (date) through (date). The REBNY Listing Service makes no representations or warranties with respect to the accuracy or completeness of such information and shall not be held liable for any omission or inaccuracy of such information thereof.”

## **ARTICLE IX**

### **AMENDMENTS**

Section 1. Amendment of Rules and Regulations. The powers to alter, amend, or repeal these Rules and Regulations is vested in the RBD Board of Directors, subject to review and approval by the Board of Governors of REBNY.

## **ARTICLE X**

### **OWNERSHIP**

Section 1. Ownership of Exclusive Listings. By the act of submission of any Exclusive Listing to the RLS, the Exclusive Broker represents and warrants that he or she owns all right, title and interest in the Exclusive Listing, has obtained necessary consents to comply with these Rules and Regulations, if any, from any third-party to any materials included in such Exclusive Listing, and to grant, and thereby does grant, the RLS (and its service providers and licensees) an irrevocable, worldwide, paid-up, royalty-free, right and license to include the Exclusive Listing in the RLS, including but not limited to, any statistical report or comparables, and to use it and authorize its use for any purpose consistent with the facilitation of the sale, lease and valuation of real property or such other use.

## **ARTICLE XI**

### **PENALTIES FOR VIOLATIONS OF RULES AND REGULATIONS**

Section 1. Penalties. The following penalties are illustrative and not exhaustive, and shall be made payable to REBNY. The penalties may be imposed and appealed pursuant to the procedures set forth herein. The Exclusive Broker shall be responsible for the payment of any penalties issued pursuant to any violation of these Rules and Regulations committed by any Participant associated with the Exclusive Broker.

A. Penalties for Violations of RLS Procedures. Penalties for violations described in Article VI, Section 2 are as follows:

- (i) First Offense - \$500.00.
- (ii) Second Offense within any twelve (12) month period - \$2,000 and notice of second offense shall be posted on REBNY's website.

(iii) Third Offense within any twelve (12) month period - \$5,000 and if there is a pattern of violations of Article 12A of the New York Property Law, a complaint will be filed with the Department of State of New York.

(iv) Fourth Offense within any twelve (12) month period - Exclusive Broker shall be suspended from, and not have access to, the RLS for a period of thirty (30) days and notice of the fourth offense shall be posted on REBNY's website. Any further violation after the fourth offense within a three hundred sixty-five (365) day period by any Exclusive Broker may cause the Exclusive Broker to be subject to expulsion from the RLS and/or REBNY.

(v) If such penalties are not paid within sixty (60) days of notice by the Exclusive Broker, the Exclusive Broker shall be notified (a "RLS Procedures Violation Notice") and have 30 days to make such payment. Failure to make payment within fifteen (15) days of receipt of an RLS Procedures Violation Notice shall result in suspension of that Exclusive Broker's access to the RLS. Failure to make payment within thirty (30) days of receipt of an RLS Procedures Violation Notice may subject the Exclusive Broker (and/or the Participant, if applicable) to expulsion from the RLS and/or REBNY.

B. Penalties for Violation of the 24-Hour Dissemination Rule. Penalties for Exclusive Broker and/or Participant violations of the 24-Hour Dissemination Rule are as follows:

(i) First Offense shall be resolved in accordance with Article VI, Section 4 of these Rules and Regulations, with the penalty to be determined in the discretion of the subcommittee.

(ii) Second Offense within any twelve (12) month period - \$2,000 and notice of second offense shall be posted on REBNY's website.

(iii) Third Offense within any twelve (12) month period - \$5,000 and notice of third offense shall be posted on REBNY's website.

(iv) Fourth Offense within any twelve (12) month period - \$10,000 and notice of fourth offense shall be posted on REBNY's website.

(v) Fifth Offense within any twelve (12) month period - Exclusive Broker shall be suspended from, and not have access to, the RLS for a period of thirty (30) days and notice of the fifth offense shall be posted on REBNY's website. Any further violation after the fifth offense within a three hundred sixty-five (365) day period by any Exclusive Broker may cause the Exclusive Broker to be subject to expulsion from the RLS and/or REBNY.

(vi) An appeal of a decision to suspend the access to the RLS of an Exclusive Broker pursuant to this Section 1.B may be filed with a designated REBNY staff person within five (5) business days after the date of receipt of such written notification suspending such Exclusive Broker's access to the RLS. The

merits of such an appeal shall be determined by the RBD Board of Directors. The determination of the RBD Board of Directors shall be final and non-appealable.

C. Unauthorized Use. REBNY, Exclusive Brokers and all Participants agree that it may be difficult to quantify damages in connection with any breach of these Rules and Regulations and that because damages may not fully compensate REBNY for its losses in connection with a breach of these terms and conditions, REBNY may obtain injunctive relief to prevent the breach of any of these terms and conditions, and may obtain such injunctive relief without posting a bond.

Section 2. Notice of Penalties. The Exclusive Broker, and any Participant, if applicable, involved with any violation of these Rules and Regulations shall receive notice of all penalties, fines, and/or punishments issued in connection with such violation.

## ARTICLE XII

### INDEMNIFICATION

Section 1. 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, 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 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.

Section 2. Extent of Liability of Exclusive Broker. The Exclusive Broker shall have no liability to any Co-Broker or to any Buyer or Tenant procured by the Co-Broker for: (i) any act, error, omission, misrepresentation or default by the Owner of the Exclusive Property, (ii) any prior sale or lease of the Exclusive Property, or (iii) the withdrawal of the Exclusive Property from the sale or rental market by the Owner, as applicable.

Section 3. Indemnification by Co-Broker. If a sale or lease of the Exclusive Property is consummated with a Buyer or Tenant procured by a Co-Broker, such Co-Broker shall indemnify and hold the Exclusive Broker and the Owner of the Exclusive Property harmless against any and all loss, cost, expense or liability, including, without limitation, attorneys' fees and disbursements, arising from any other broker or salesperson claiming to have dealt with the Co-Broker or the Buyer or Tenant in connection with the Exclusive Property. Any liability under this indemnification shall be limited to the amount of any commission received by the Co-Broker pursuant to the Exclusive Listing.

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**EXHIBIT A**

**MANDATORY INFORMATION TO BE CONTAINED IN EXCLUSIVE LISTINGS TO  
BE TRANSMITTED OVER THE RLS**

**Information For Initial Listing Furnished by Exclusive Agent Within 24 Hours:**

Street Address	Number of Bathrooms
Apartment Number	Outdoor Space
Price	Listing Type (Co-Exclusive, etc...)
Co-Broker's Commission	Exclusive Agent(s)
Number of Rooms	Exclusive Agent(s) Telephone Number
Number of Bedrooms	Exclusive Agent(s) E-mail Address

**Information For Initial Listing Furnished By Exclusive Broker Within 24 Hours:**

Borough	Listing Date (Automated)
Geographic Section	Listing Status (Automated)
Neighborhood	Listing I.D. # (Automated)
Zip Code (Automated)	Web I.D. #(Automated)
Building Type	First Showing Date (needs to be defaulted to the date the listing is entered)
Prewar/Postwar	Exclusive Listing Expiration Date
Building Ownership Type	
Lobby Attendance Type	

**Information To Be Completed Within 5 Business Days:**

Block & Lot	Number of Shares or Percentage of Common Elements
Assessment Amount	Maintenance or Common Charges
Assessment Expiration Date	Real Estate Tax
Flip Tax	Showing Instructions
Tax Deduction	Condition
Financing Allowed	Exposures
Pet Policy	Views
Washer/Dryer Policy	URL Media File
Management Company	

**Information To Be Completed Within 24 Hours of Closing:**

Contract Sale Price (see Definition D)

As set forth in Article I, Section 5, no personal information, such as the Exclusive Agent's name, the Exclusive Agent's contact information or other personal information can be included in any property description, comments and/or Internet remarks regarding the Exclusive Listing; the Exclusive Agent's name and contact information must appear only in the mandatory fields set forth for such information.



REAL ESTATE BOARD OF NEW YORK

**ACKNOWLEDGEMENT OF RLS UNIVERSAL CO-BROKERAGE AGREEMENT/RULES AND REGULATIONS**

**Name of Firm:** \_\_\_\_\_

**Address:** \_\_\_\_\_

**Telephone:** (\_\_\_\_) \_\_\_\_\_ **Fax:** (\_\_\_\_) \_\_\_\_\_

**E-Mail Address:** \_\_\_\_\_

**Broker A Member:** \_\_\_\_\_

**Policy Contact:** \_\_\_\_\_ **Email:** \_\_\_\_\_

**Technical Contact:** \_\_\_\_\_ **Email:** \_\_\_\_\_

**Listing Technology Provider:** RealPlus \_\_\_ OLR \_\_\_ AMI-RealtyMX \_\_\_ BrokersNYC \_\_\_

**Solid Earth**\_\_\_

The undersigned represents that it: (i) is a duly licensed real estate broker under the laws of the State of New York; (ii) has received a copy of the RLS Universal Co-Brokerage Agreement/Rules and Regulations; and (iii) the execution of this acknowledgement has been duly authorized.

On behalf of my firm, \_\_\_\_\_, and all of its real estate brokers, associate real estate brokers and salespersons, we agree to abide by the terms and conditions set forth in the RLS Universal Co-Brokerage Agreement/Rules and Regulations.

Dated: \_\_\_\_\_

\_\_\_\_\_  
(Name of Residential Member of REBNY)

By: \_\_\_\_\_

Name:

Title:

Owner Opt-Out Form

A. 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.

B. 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.**



