

NEW YORK STATE COMMERCIAL ASSOCIATION OF REALTORS®

PROFESSIONAL SERVICES AGREEMENT

Exclusive Right to Sell

This Exclusive Right To Sell listing agreement for the Sale of Real Property is made by and between: SVN Deegan-Collins Commercial Realty, licensed real estate broker in the State of New York, herein thereafter referred to as "Broker" and, the Town of Marletown, an incorporated municipality in the State of New York, hereinafter referred to as "Owner."

1. OWNER'S AUTHORIZATION

Owner grants to the Broker the Exclusive Right to Sell the property identified herein at a price and upon the terms listed below or upon any other price, terms or exchange to which Owner may consent. Broker is authorized to list the property on any available database and to cooperate with all other Brokers to secure a buyer as quickly as possible. Broker may share the commission with any other cooperative agent authorized under law to receive a commission. Owner agrees to refer any and all inquiries about the property to the Broker.

2. BROKER'S AUTHORITY

Broker is licensed by New York State as a Real Estate Broker and will act as the limited agent of the Owner with respects to the negotiations for the sale of the property. Broker is a member of the New York State Commercial Association of REALTORS® (NYSCAR).

Broker, in consideration of this Exclusive Right to Sell Agreement, will develop an appropriate marketing approach for the sale or exchange of the property and utilize its best efforts to find a Purchaser for the listed premises.

Broker may use the listing information and sales price and terms upon closing for Broker's Market Evaluation, Networking and Appraisal purposes, and for disclosing to other persons as Broker may deem desirable, including disclosing the information in a computer on-line property network.

Broker's firm represents both Sellers and Buyers. This means that it is possible that a buyer whom Broker represents will want to purchase a property owned by a seller whom Broker represents. A real estate firm or agent may represent more than one party in the same transaction known as "Dual Agency" only with the knowledge and informed consent of all parties for whom the agent acts. Owner acknowledges Broker may act as a "Dual Agent."

In the event a Buyer is interested in Owner's property, Owner and such buyer will be promptly notified and mutual consent by both clients will be required before proceeding with such proposed transaction. If mutual consent is not obtained from all parties, where a Buyer/Client selects the listed property, the listing will continue and the Buyer/Client will be given the option to (I) elect customer status as to the listed property, or (II) terminate the Buyer Agency Agreement as to the listed property.

3. PROPERTY:

DESCRIPTION AND ADDRESS: 0.65 acres, improved with a 2,515 square foot masonry and stone building. Located at 535 North Marletown Road, Kingston, (Town of Marletown), Ulster County, New York

LEGAL DESCRIPTION: Tax ID; 62.1-3-6 Deed Book; 7200 Page 286.

4. SALES PRICE AND TERMS: Three Hundred Seventy-Nine Thousand Dollars, (\$379,000.00).

5. TERMS OF AGREEMENT

A) This Listing Agreement shall begin upon the date last written herein below, and shall expire at 11:59 on the date 180 days following.

B) EARLY TERMINATION- Owner agrees that if the listing Broker's authority is terminated prior to the expiration of its term, the Listing Broker shall retain its contract rights to a commission and recovery of advertising expenses and any other damages incurred by reason of said early termination of this agreement.

C) "SALE" INCLUDES- As used in this Agreement, the term "sale" shall include an exchange of the Property, and also the granting of an option to purchase the Property. Owner agrees that in the event such an option is granted, Owner shall pay Broker a

sales commission in accordance with the Schedule on the price paid for the option and for any extensions thereof. This commission shall be paid upon receipt by Owner of any such payment(s). In the event such an option is exercised, whether during the Term or thereafter, Owner shall also pay Broker a sales commission on the gross sales price of the Property in accordance with the Schedule. Notwithstanding the foregoing, to the extent that all or part of the price paid for the option or any extension thereof is applied to the sales price of the Property, then any commission previously paid by Owner to Broker on account of such option payments shall be credited against the commission payable to the Broker on account of the exercise or the option.

D) LEASE IN LIEU- In the event the Owner agrees to lease said property to a "Buyer" introduced by the Broker "in lieu" of a sale, Owner will be responsible to pay a commission to the Broker based upon the lease term and Broker's commission schedule attached herein. This agreement shall be extended for the full term of said lease and any extension period and if said "Buyer" elects to purchase this property at a future date, Owner agrees to pay Broker's sales commission as defined in this Agreement.

6. PROFESSIONAL SERVICE FEES (COMMISSIONS)

A) SALE OF PROPERTY - If, during the term of this agreement, or any extension thereof, a transfer, sale or exchange of the property or any portion thereof is made, effected or agreed upon with anyone, the Owner agrees to pay the Broker a commission equal to Five Percent (5.0%) of the sale or exchange price of the property if the sale is procured by the Listing Broker, and Six Percent (6%) if the sale involves a cooperating broker.

B) EXTENSION - If within 180 days after the expiration of this agreement the property is sold or exchanged to or with any person or party to whom the property was shown during the term of the listing, Owner agrees to pay Broker the commission set forth herein as if the broker had made the sale.

C) WHEN PAYABLE - If said property is sold, leased, transferred or exchanged pursuant to this agreement, the compensation to be paid the Broker as set forth herein shall be paid solely to the Broker as the listing broker and shall be deemed earned and be due and payable, without demand, upon the Owner entering into an agreement, either written or oral, for the sale, exchange or lease of the property.

D) ESCROW - If, for any reason, the Broker is not paid the compensation set forth herein on the due date, the Owner shall establish an escrow account with a party mutually agreeable to the Broker and Owner or, in the absence of mutual agreement, with the Owner's attorney, and shall place into said escrow account an amount equal to the compensation as set forth herein. These monies shall be held in escrow until the parties' rights to the escrow monies have been determined (I) by the written agreement of the parties, (II) by order of a court of competent jurisdiction, or (III) some other process to which the parties agree in writing.

E) EXPENSE REIMBURSEMENT - In the event the property does not sell during the term of this agreement or any extension hereof or during the protection period set forth above, owner shall nonetheless be obligated to reimburse broker for actual expenses incurred in marketing the property up to the amount of \$0.00.

7. ATTORNEY'S FEES

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

8. LEGAL, PROFESSIONAL AND TECHNICAL ADVICE

The OWNER acknowledges that the Broker is not qualified to and will not provide Owner with advice on legal matters, tax matters (including, but not limited to, non-recognition of gain or loss from exchanges pursuant to 26 USC section 1031), building inspection, public health, surveying, environmental, or other technical matters. Upon request, Broker will assist Owner in engaging qualified professionals to consult in such fields. The Owner also acknowledges that the Broker has advised and recommended that the Owner seek independent legal, tax and other counsel prior to entering into this agreement or into an agreement for the sale, exchange or lease of property.

9. CONDITIONS

A) DEPOSITS- the Owner hereby authorizes the listing Broker to hold any and all deposits made by a Purchaser in an escrow account until the date of closing or until written mutual consent of the parties to the cancellation of the contract. In the event of a claim of default by either party, the deposit will be held by the Broker in an escrow account pending final resolution of the dispute or

written mutual consent of the parties. Broker is authorized to pay and apply the deposits received towards the brokerage fee which is due under the agreement.

B) **SUIT BY OWNER** – If seller successfully prosecutes a suit against a Buyer who breached a purchase or, exchange agreement concerning the Property and collects all or any part of the monetary damages proximately caused by such breach as a result of trial, compromise, settlement or otherwise, then, after deducting Seller's reasonable attorney's fees and court costs, Seller shall pay Broker an amount equal to one-half (1/2) of the funds received by Seller; but, the maximum amount that Seller shall be obligated to pay to the Broker shall not exceed the amount of Broker's commission.

C) **LEGAL COMPLIANCE** – Owner and Broker agree that the property will be offered in compliance with all applicable anti-discrimination laws.

D) **DISCLOSURES** – To Owner's knowledge, other than as disclosed by Owner to Broker in writing, the Property (I) does not have any material latent, structural or construction defects, and (II) is not contaminated with any toxic or hazardous substances in violation with applicable laws and regulations. Owner hereby authorizes Broker to disclose to Prospects all information about the condition of the Property whether disclosed by Owner orally or in writing, or otherwise discovered by Broker. Owner shall indemnify Broker against any and all claims, damages and costs of every kind and character (including but not limited to reasonable attorney's fees and court costs) resulting from or related to: (I) any incomplete incorrect, misleading or inaccurate information furnished by Owner about the Property; or (II) concealment by Owner of any material information about the Property. Owner hereby acknowledges that Broker, any cooperating brokers and Prospects will be relying upon the accuracy and completeness of the information furnished by Owner.

10. ENTIRE UNDERSTANDING

This agreement contains an entire understanding of the parties and it may not be changed orally and is binding upon the heirs, executors, administrators, successors and assignees of the respective parties hereto. The undersigned represents and warrants that (he) (she) is the legal Owner of the Subject property, or that (he) (she) has full legal authority to execute this Agreement for and on behalf of the legal Owner and hereby accepts the within agreement.

This is a legally binding contract. If not fully understood, we recommend consulting an attorney before signing. This form is not appropriate for listing a property for exchange under IRC 1031 regulations.

SVN Deegan-Collins Commercial Realty

Town of Marbletown

Thomas A. Collins, Managing Director

By:

DATE

DATE