



**PACE LAW SCHOOL**  
P A C E U N I V E R S I T Y

***ESSENTIAL RESIDENTIAL REAL ESTATE LAW:  
CONTRACT TO CLOSING WITHOUT A HEADACHE***

*APRIL 6, 2013*

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**--from a Declaration of Principles, jointly adopted by the American Bar Association and the Committee of Publisher and Associations.**

**PREPARING TO REPRESENT A CLIENT IN A REAL ESTATE TRANSACTION**

**BY:**

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# INITIAL ATTORNEY PREPARATION IN A REAL ESTATE MATTER

## 1. BEING PREPARED

- a) Do not handle matters that you have little or no experience in skills. Refer to others (i.e., high end new construction).
- b) Provide good service to your clients; return phone calls and emails as soon as possible, even if it is just a note saying, "I haven't heard back from the other side, I will ring you tomorrow". Make your client feel like they are your only client.
- c) Send an engagement letter and define scope of representation
- d) Avoid clients who appear to be nothing but trouble (you will learn to spot this on the very first phone call).
- e) Make sure your representation of a client does not conflict with an existing client.
- f) Make memos to your file from your discussions with your clients and others working on the file, especially when it comes to important dates and issues.
- g) Use Professional conduct at all times- do not engage in negative emails- (this goes for clients, other attorneys and real estate brokers).
- h) Spend time with your clients on the telephone and make sure this is someone you want to represent.

## 2. THE INITIAL CLIENT INTERVIEW

### **If you represent a Buyer:**

#### **What do they want from this home?**

This initial interview may be via telephone, email or in person, but should still be substantive. If you represent a buyer, find out what your client wants- is it your clients' dream to put in an Olympic size pool in the backyard? Then you better make sure there are no easements, covenants or restrictions on title and on the survey. Do your clients want to put build an addition with an extra bedroom and bath? Make sure the building codes will allow it. Always obtain the building card and assessor's card and survey, if possible prior to your clients signing the contract. This will give you basic information on the house, and what the building department has on record for the house. Did your clients want to be in a particular school district? Are your clients purchasing a coop? Do they own pets? Do they play music/an instrument for a living? Do they need parking? Storage? Many coops do not come with parking.

#### **Can they afford the property they want to purchase?**

Most of the time, by the time the purchaser comes to you, they have already discussed their financial situation with a mortgage broker, banker or real estate broker and they are comfortable with the purchase price. However, you can save yourself and them some time and stress if you discuss a little what is expected of them, the fees involved etc.

**Timing:** What is their timetable; their personal circumstances (are they currently renting; having a baby; job move, any vacation planned). Discuss closing scheduling – make sure they understand that the date in the contract is not written in stone. You will have to remind most clients that each side has 30 days to play with. If this is a short sale or property in foreclosure, the timing will be different and unknown. In a short sale, the transaction could take anywhere from 3 months to a year.

**Overview of the Closing Process:** Go over the entire closing process- try to explain the main milestones in closing- Inspections, Contract signing, Title order, mortgage process, clearing title issues and mortgage conditions, scheduling a closing, closing date. Ask them if they have a local bank account. You will be

surprised how many (young) people have online banks and never write a check. This is important on the day of closing when a Certified/Bank check will be required.

**Inspections:** Discuss the various inspections available to them engineering, termites, mold, radon, water, septic, oil tank, pool. I generally encourage all clients to have a radon test and separate mold test if there is any presence of water damage in the house (and don't forget to document your file accordingly). Let them know that the square footage most likely in the listing is wrong. Ask them if this will be a problem for them.

**Fees:** Discuss fees – real estate taxes; mansion tax (1% of purchase over \$1,000,000.00), Mortgage Tax; title fees, homeowners insurance, flood insurance. Advise them of escrowing at time of closing and what that means. Let them know that on the day of closing any taxes will be pro-rated between the buyer and seller.

**Contract and Mortgage Matters:** Mortgage Matters-lender & broker fees. I like to have the name, number and email of the mortgage person they are using as soon as possible. It is a good idea to keep in touch with them throughout the transaction so you know if your client will be getting a mortgage commitment by the mortgage contingency date, or if you will need an extension. See if they are planning to lock in a rate and advise them not to lock in too soon. Explain to your client what a mortgage contingency is, what it means and when they can cancel a contract if they are denied a mortgage. Confirm with them if they need to sell any property prior to making the purchase and what the consequences are in most contracts if you cannot sell the property. I generally remind my clients that should they “change their mind” about purchasing the house after they have signed the contract, and want to cancel the deal, they will lose their downpayment. You must relay the consequences of signing the contract and what happens if they lose their job and are relocated for work. Good Faith Estimate – remind your client that a mortgage broker is required to give them a good faith estimate.

### **If you represent a Seller-**

**Certificate of Occupancy:** Ask them about any alterations or additions made to the home. Is there a deck, pool, attic bedroom, finished basement, basement bathroom? Do they have CO's (certificate of occupancy or certificate of completions)?

**Old Mortgages:** Are there any mortgages currently on the premises? Is the mortgage less than the purchase price of the house? If the mortgage is close to the purchase price, then you may have to consider a short sale. Ask if they received any notices from the Lender and find out if a potential foreclosure is looming. What about old mortgages? Do they have any paperwork, satisfactions on the old mortgages? (invariably one or six (yes, I had a deal with six open mortgages) mortgages will be open and you will have to find or re-recreate the satisfactions by closing.

**Closing Date:** Timetable- explain how a closing works and that they will have to vacate the house on the day of closing (you will be shocked how many people don't know this). Discuss a post-occupancy only if you think it is absolutely necessary.

**Vacant and Broom Clean-** If your client is 90 years old and has lived in the house for 50 years, they will not be moving themselves out. They will think that leaving 12 cans of old paint and 3 rusty ladders in the garage is a house warming gift. Explain to them that everything must be out of the house, and of the property by the day of closing.

**Where will the Seller go:** Now what your Seller's plan is and if they are going to be renting something, buying something or moving in with someone. The timing will be important if your Seller is purchasing a

home. If your Seller is selling a Cooperative, then until their buyer has been board approved and has their mortgage, your Seller is at risk to sign a lease or contract (unless they are financially sound). If your Seller is already out of the house, and has moved outside New York State, make sure you check to see if they need to file a RPT IT-2663 for non-residents tax return and pay the estimated tax on their profit.

### **3. Coops, Condos, PUD's and Homeowners Associations:**

When you represent someone purchasing a coop or condo you must do some due diligence in obtaining basic information about the complex prior to your clients signing the contract of sale. Generally, this is done by speaking to the managing agent, as well as reviewing the Offering plan, By-laws, financials and house rules. There are several questions that you can ask the managing agent:

1. Confirm the unit number (believe it or not)
2. What is the current maintenance or common charge of this unit?
3. Are there any current assessments? Do you expect any in the near future? Were there any last year?
4. When was the last maintenance increase? Do you expect one this year?
5. Is there any litigation going on at this time?
6. Have you had any environmental issues? (oil tank leaks, asbestos etc.)
7. Is there parking included with the unit? Assigned? Deeded?
8. Do you allow pets?
9. Have you had any issues with this particular unit? (ie., water issues)
10. How are the financials? When is the mortgage due?
11. How much of the building is owner occupied?
12. Are there any current owners in default? Foreclosure? In arrears?
13. When was the last time a unit sold in this complex and did those buyers get a mortgage? Who was the mortgage with?
14. What fees will be expected of my client at or prior to closing?
15. Is there a Board Application? A Board interview? How long do they usually take to review a Board package and schedule the interview (this could take anywhere from 2-6 weeks. Make sure your clients know this ahead of time so they don't lock in a rate too early).

You should also peruse the offering plan which the seller is required to provide. I tell my clients that I am not a CPA and that they should have an accountant review the financials. I always look at them so I can have an idea of whether my clients will be able to get a mortgage. The building must have a reserve fund and cash on the books. Your clients' lender will also be reviewing the financials. In New York City, you are allowed to go review the board minutes. You should ask your client if they want you to review them. If you represent a Seller, and the Seller has a mortgage on the Coop, make sure that your order your Stock and Proprietary Lease as soon as possible. This can take 4-6 weeks and will delay a closing if you don't have it ahead of time.

**Condominiums:** You must obtain the Offering plan, by-laws, house rules, financials and application for a condominium purchase too. Your clients will be required to submit an application as well pay certain fees in advance of closing. Most fees include a reserve fund or working capital fee (generally 2 months of common charges). Make sure this is done in enough time as the managing agent will not be happy to process an application too close to closing and this could delay your closing. If you represent a Seller, you must obtain the Waiver of Right of First Refusal and Condo Power of Attorney ahead of closing. Again, don't wait until the last minute to ask for it. Fees will also be required from your Seller and it is best to know all the fees up front so you can advise your clients.

**PUD's:** A PUD is a planned unit development and is different than a Condominium in that the owner actually owns the land upon which the premises sits. In addition, a PUD will have an Offering Plan and financials, but it will not have a Declaration of Condominium. This will be an important distinction if

your client is getting a mortgage. Unfortunately, many municipalities still do not understand the difference and may have a PUD recorded as a condo in the tax or assessor's office.

**Homeowner's Associations:** Some homes are part of a homeowners association and it will be important to find out before signing contracts. You will need the By-laws, financials, dues and responsibilities of the association so you can explain them to your client. If there is a common meeting house, pool or gym, then it most likely is part of a homeowners association. You will also need a letter at closing demonstrating that the Seller has paid their dues to date. Try to find out if there is any litigation going on.

#### **4.CONTRACTS**

- Residential
- Condominium
- Cooperative
- Contract Riders-the last word
- Escrows Accounts
  - Role of Escrow Agent
  - Keeping funds separate

February 20, 2013

Mr. & Mrs. John Smith

Re: Purchase of 9 Blossom Lane, White Plains, NY 10606

Dear John and Jane:

Thank you for engaging this firm to represent you in connection with the above mentioned transaction. Although this letter may appear a bit formal, as is customary with all of my clients, I am providing you with a letter of engagement that will serve as my agreement for representing you and govern my mutual rights and obligations in this matter.

1. **Attorney's Services and Terms of Engagement.** The services to you will include:

- Review, advice and negotiation of the terms of your purchase and sale agreement.
- Ordering a survey, if necessary, the cost of which is to be paid by you upon completion of the survey by the surveyor;
- Ordering and reviewing title insurance for you in the amount of your purchase price and your mortgage loan;
- Preparation of a closing statement and the documents customarily delivered by the purchaser in this transaction including any affidavits required by the title company;
- Communication with necessary parties to ensure all documents are prepared;
- Communication with necessary parties to schedule the Closing;
- Attendance at the closing and reviewing the transfer and loan documents;
- Delivery to the title company at Closing, any documents required to be recorded by the purchaser; and
- Assisting you with calculating the amount of funds (certified or bank check) to deliver at closing;
- Providing you with a Closing Book, which will include all legal and closing documents herein.

Services are strictly limited to the above and do not include any litigation arising from this transaction. I shall be happy to recommend a litigation attorney to you, if the need arises.

Please note that once the contract of sale is signed, there are generally only two ways for you to get out of the transaction and receive your downpayment back. We will discuss this more at length, but they are if you do not receive a mortgage commitment within the delineated time frame, or if the Seller cannot give you good title. **You will lose your downpayment if you terminate the contract because you have changed your mind or fail to come up with the funds to close once you receive the mortgage. Also, although you have a mortgage contingency, please note that the contract provides that if you are denied based on the fact that you own another property, that is not a**



**good enough reason. The contract assumes that you have already assessed your risk. As we discussed, please confirm again with your mortgage person that in the event you do not sell your current home, you will still be able to get a mortgage.**

2. **Legal Fees and Disbursements.** You shall be provided with the services outlined above for a fee of \$      provided this transaction is a normal closing. If the closing takes place outside Westchester County, a small supplemental fee, to be determined based upon distance and time spent, will be charged. Where problems arise such as controversy or disagreement between the parties as the meaning of the terms of the purchase and sale agreement, the status of title, pre or post closing possession, re-negotiation of the agreement, drafting or negotiating private mortgage or other loan documents, or excessive time spent at Closing (beyond 2.5 hours) excessive requirements by Lender or if there are other extraordinary or unusual circumstances, an additional fee will be charged based upon the standard hourly or unusual circumstances, and additional fee will be charged based upon the standard hourly rate of \$      per hour. Our fee is payable at Closing, or if the Closing does not occur, at the conclusion of this transaction.
3. **Cancellation of Transaction.** If the transaction fails to close for any reason, the time spent on your file will be reviewed and you will be billed based upon the services provided and time spent as of the date of cancellation. No less than one-half of the fee together with all incurred disbursements, is deemed earned upon signing your Contract.
4. **Disbursement and related fees.** In addition to the fees described above, you are responsible to pay for costs incurred for your benefit including, courier services, charges for long distance telephone calls, photocopying , overnight mail charges and postage.
5. **Closing Costs.** You will be required to pay for your closing costs which include, but are not limited to, costs of title insurance and abstract fees, surveys, clerk's fees to record your documents and the loan documents, any charges and taxes imposed by governmental authorities, or by your agreement in connection with this transaction, including mansion tax of 1% of the purchase price (if over \$1,000,000.00), New York , all charges imposed by your lender, or fees you have agreed to pay, which are provided in your purchase and sale agreement in connection with this transaction.

In addition to informing you of the cash necessary to close, I will provide you with an estimate of your closing costs once your loan officer has given me the bank fees, so that you can budget accordingly. In order to accurately prepare this data sheet, however, please provide me with the terms of your mortgage as soon as you receive the information.

6. **Client's Cooperation and Duties.** It is your responsibility to obtain any necessary homeowner's or other required insurance (other than title), open accounts with utility companies (ie. Con Edison) and place deposits for them, if necessary. The Seller should notify all of the utility companies to read meters as of the day of closing and you should arrange for opening new accounts and for continuous service as of that date. You will also be responsible for completing and filing any necessary applications for financing and any required approvals for your purchase.

New York State is a "Buyer Beware" State and it is incumbent upon the buyer to discover defects in the condition of the Premises and you may not be protected against defects discovered after closing. Therefore, if you have not already done so, I strongly recommend that you engage the

services of a licensed professional engineering firm or home inspection company to inspect and prepare a report about the condition of the property (including a termite inspection, oil tank test, water quality test, radon test, swimming pool test, possibly mold test...). If you have any questions concerning these reports, please contact me and I can review them with you.

In addition, as I am sure you can appreciate, in order to represent you effectively, your cooperation is critical at all times. Your cooperation will include assembling any documents you deem pertinent, and such other documents we advise are necessary or advisable to produce. In the unlikely event that your cooperation is not forthcoming pertaining to any matters within the scope of this engagement, we reserve the right to withdraw as your counsel. Also, I reserve the right to withdraw from this matter if you fail to honor this Agreement or for any reason permitted or required under the New York Code of Professional Responsibility or as permitted by the Rules of Court of the State of New York. Notification of withdrawal shall be made in writing to you. In the event of such withdrawal, you agree to promptly pay for all services rendered and all other fees, charges and expenses incurred pursuant to his agreement.

You have the right to terminate my representation without any cause at any time, and you agree to notify me in writing of any such termination. In the event of termination, you agree to promptly pay this firm for all services rendered and all other fees, charges, and expenses incurred pursuant to this Agreement prior to the date of such termination.

If the foregoing meets with your approval, please sign this letter in the space indicated and return to me in the reply envelope provided, and keep a copy for your records. I look forward to working with you toward a swift and successful closing. Should you have any questions, please feel free to call.

Very truly yours,

Mary Brown, Esq.

Terms of Engagement and fee approved by:

\_\_\_\_\_

\_\_\_\_\_  
Date

\_\_\_\_\_

\_\_\_\_\_  
Date

Jointly prepared by the Real Property Section of the New York State Bar Association, the New York State Land Title Association, the Committee on Real Property Law of the Association of the Bar of the City of New York and the Committee on Real Property Law of the New York County Lawyers' Association

WARNING: NO REPRESENTATION IS MADE THAT THIS FORM OF CONTRACT FOR THE SALE AND PURCHASE OF REAL ESTATE COMPLIES WITH SECTION 5-702 OF THE GENERAL OBLIGATIONS LAW ("PLAIN LANGUAGE").

CONSULT YOUR LAWYER BEFORE SIGNING THIS AGREEMENT

NOTE: FIRE AND CASUALTY LOSSES AND CONDEMNATION

This contract form does not provide for what happens in the event of fire, or other casualty loss or condemnation before the title closing. Unless different provision is made in this contract, Section 5-1311 of the General Obligations Law will apply. One part of that law makes a Purchaser responsible for fire and casualty loss upon taking possession of the Premises before the title closing.

Residential Contract of Sale

Contract of Sale made as of April , 2012

BETWEEN

Address:

Social Security Number/Fed. I.D. No.(s):

hereinafter called "Seller" and

Social Security Number/Fed. I.D. No.(s):

hereinafter called "Purchaser"

The parties hereby agree as follows:

1. Premises. Seller shall sell and Convey and Purchaser shall purchase the property, together with all buildings and improvements thereon (collectively the "Premises"), more fully described on a separate page marked "Schedule A", annexed hereto and made a part hereof and also known as:

Street Address:

Tax Map Designation:

Together with Seller's ownership and rights, if any, to land lying in the bed of any street or highway, opened or proposed, adjoining the Premises to the center line thereof, including any right of Seller to any unpaid award by reason of any taking by condemnation and/or for any damage to the Premises by reason of change of grade of any street or highway. Seller shall deliver at no additional cost to Purchaser, at Closing (as hereinafter defined), or thereafter, on demand, any documents that Purchaser may reasonably require for the conveyance of such title and the assignment and collection of such award or damages.

2. Personal Property. This sale also includes all fixtures and articles of personal property now attached or appurtenant to the Premises, unless specifically excluded below. Seller represents and warrants that at Closing they will be paid for and owned by Seller, free and clear of all liens and encumbrances, except any existing mortgage to which this sale may be subject. They include, but are not limited to, plumbing, heating, lighting and cooking fixtures, chandeliers, bathroom and kitchen cabinets and counters, mantels, door mirrors, switch plates and door hardware, venetian blinds, window treatments, shades, screens, awnings, storm windows, storm doors, window boxes, mail box, TV aerials, weather vane, flagpole, pumps, shrubbery, fencing, outdoor statuary, tool shed, dishwasher, washing machine, clothes dryer, garbage disposal unit, range, oven, built-in-microwave oven, refrigerator, freezer, air conditioning equipment and installations, wall to wall carpeting and built-ins not excluded below (strike out inapplicable items). All to the extent that they exist and in "as is" condition.

Excluded from this sale are furniture and household furnishings and Curtains.

3. Purchase Price. The purchase price is \$ payable as follows:

(a) On the signing of this contract, by Purchaser's good check payable to the Escrowee (as hereinafter defined), subject to collection, the receipt of which is hereby acknowledged, to be held in escrow pursuant to paragraph 6 of this contract (the "Downpayment"):

\$

(b) By allowance for the principal amount unpaid on the existing mortgage on the date hereof, payment of which Purchaser shall assume by joinder in the deed: \$

(c) By a purchase money note and mortgage from Purchaser to Seller: \$

(d) Balance at Closing in accordance with paragraph 7: \$

4. Existing Mortgage. (Delete if inapplicable) If this sale is subject to an existing mortgage as indicated in paragraph 3(b) above:

(a) The Premises shall be conveyed subject to the continuing lien of the existing mortgage, which is presently payable, with interest at the rate of percent per annum, in monthly installments of \$ which include principal, interest and escrow amounts, if any, and with any balance of principal being due and payable on

(b) To the extent that any required payments are made on the existing mortgage between the date hereof and Closing which reduce the unpaid principal amount thereof below the amount shown in paragraph 3(b), then the balance of the price payable at Closing under paragraph 3(d) shall be increased by the amount of the

payments of principal. Seller represents and warrants that the amount shown in paragraph 3(b) is substantially correct and agrees that only payments required by the existing mortgage will be made between the date hereof and Closing.

- (c) ~~If there is a mortgage escrow account, Seller shall assign it to Purchaser, if it can be assigned, and in that case Purchaser shall pay the amount in the escrow account to Seller at Closing.~~
- (d) ~~Seller shall deliver to Purchaser at Closing a certificate dated not more than 30 days before Closing signed by the holder of the existing mortgage, in form for recording, certifying the amount of the unpaid principal, the date to which interest has been paid and the amounts, if any, claimed to be unpaid for principal and interest, itemizing the same. Seller shall pay the fees for recording such certificate. If the holder of the existing mortgage is a bank or other institution as defined in Section 274-a of the Real Property Law it may, instead of the certificate, furnish a letter signed by a duly authorized officer, employee or agent, dated not more than 30 days before Closing, containing the same information.~~
- (e) ~~Seller represents and warrants that (i) Seller has delivered to Purchaser true and complete copies of the existing mortgage, the note secured thereby and any extensions and modifications thereof, (ii) the existing mortgage is not now, and at the time of Closing will not be, in default, and (iii) the existing mortgage does not contain any provision that permits the holder of the mortgage to require its immediate payment in full or to change any other term thereof by reason of the sale or conveyance of the Premises.~~

~~**5. Purchase Money Mortgage.** (Delete if inapplicable) If there is to be a purchase money mortgage as indicated in paragraph 3(e) above:~~

- (a) ~~The purchase money note and mortgage shall be drawn by the attorney for Seller in the form attached or, if not, in the standard form adopted by the New York State Land Title Association. Purchaser shall pay at Closing the mortgage recording tax, recording fees and the attorney's fees in the amount of \$ \_\_\_\_\_ for its preparation.~~
- (b) ~~The purchase money note and mortgage shall also provide that it is subject and subordinate to the lien of the existing mortgage and any extensions, modifications, replacements or consolidations of the existing mortgage, provided that (i) the interest rate thereof shall not be greater than \_\_\_\_\_ percent per annum and the total debt service thereunder shall not be greater than \$ \_\_\_\_\_ per annum, and (ii) if the principal amount thereof shall exceed the amount of principal owing and unpaid on the existing mortgage at the time of placing such new mortgage or consolidated mortgage, the excess is to be paid to the holder of such purchase money mortgage in reduction of the principal thereof. The purchase money mortgage shall also provide that such payment to the holder thereof shall not alter or affect the regular installments, if any, of principal payable thereunder and that the holder thereof will, on demand and without charge therefore, execute, acknowledge and deliver any agreement or agreements further to effectuate such subordination.~~

#### **6. Downpayment in Escrow.**

- (a) Seller's attorney ("Escrowee") shall hold the Downpayment in escrow in a segregated bank account at:  
Hudson Valley Bank, Port Chester, NY

until Closing or sooner termination of this contract shall pay over or apply the Downpayment in accordance with the terms of this paragraph. Escrowee shall hold the Downpayment in a ( non-interest-bearing account for the benefit of the parties. If interest is held for the benefit of the parties, it shall be paid to the party entitled to the Downpayment and the party receiving the interest shall pay any income taxes thereon. If interest is not held for the benefit of the parties, the Downpayment shall be placed in an IOLA account or as otherwise permitted or required by law. The Social Security or Federal Identification numbers of the parties shall be furnished to Escrowee upon request. At Closing, the Downpayment shall be paid by Escrowee to Seller. If for any reason Closing does not occur and either party gives Notice (as defined in paragraph 25) to Escrowee demanding payment of the Downpayment, Escrowee shall give prompt Notice to the other party of such demand. If Escrowee does not receive Notice of objection from such other party to the proposed payment within 10 business days after the giving of such Notice, Escrowee is hereby authorized and directed to make such payment. If Escrowee does receive such Notice of objection within such 10 day period or if for any other reason Escrowee in good faith shall elect not to make such payment, Escrowee shall continue to hold such amount until otherwise directed by Notice from the parties to this contract or a final, non-appealable judgment, order or decree of a court. However, Escrowee shall have the right at any time to deposit the Downpayment and the interest thereon with the clerk of a court in the county in which the Premises are located and shall give Notice of such deposit to Seller and Purchaser. Upon such deposit or other disbursement in accordance with the terms of this paragraph, Escrowee shall be relieved and discharged of all further obligations and responsibilities hereunder.

- (b) The parties acknowledge that Escrowee is acting solely as a stakeholder at their request and for their convenience and that Escrowee shall not be liable to either party for any act or omission on its part unless taken or suffered in bad faith or in willful disregard of this contract or involving gross negligence on the part of Escrowee. Seller and Purchaser jointly and severally (with right of contribution) agree to defend (by attorneys selected by Escrowee), indemnify and hold Escrowee harmless from and against all costs, claims and expenses (including reasonable attorneys' fees) incurred in connection with the performance of Escrowee's duties hereunder, except with respect to actions or omissions taken or suffered by Escrowee in bad faith or in willful disregard of this contract or involving gross negligence on the part of Escrowee.
- (c) Escrowee may act or refrain from acting in respect of any matter referred to herein in full reliance upon and with the advice of counsel which may be selected by it (including any member of its firm) and shall be fully protected in so acting or refraining from action upon the advice of such counsel.
- (d) Escrowee acknowledges receipt of the Downpayment by check subject to collection and Escrowee's agreement to the provisions of this paragraph by signing in the place indicated on the signature page of this contract.
- (e) Escrowee or any member of its firm shall be permitted to act as counsel for Seller in any dispute as to the disbursement of the Downpayment or any other dispute between the parties whether or not Escrowee is in possession of the Downpayment and continues to act as Escrowee.
- (f) The party whose attorney is Escrowee shall be liable for loss of the Downpayment.

**7. Acceptable Funds.** All money payable under this contract unless otherwise specified, shall be paid by:

- (a) Cash, but not over \$1,000.00

- (b) Good certified check of Purchaser drawn on or official check issued by any bank, savings bank, trust company or savings and loan association having a banking office in the State of New York unendorsed and payable to the order of Seller, or as Seller may otherwise direct upon reasonable prior notice (by telephone or otherwise) to Purchaser.
- (c) As to money other than the purchase price payable to Seller at Closing, uncertified check of Purchaser up to the amount of \$ 500.00 ; and
- (d) As otherwise agreed to in writing by Seller or Seller's attorney.

**8. Mortgage Commitment Contingency.** *(Delete paragraph if inapplicable. For explanation, see: NOTES ON MORTGAGE COMMITMENT CONTINGENCY CLAUSE.)*

- (a) The obligation of Purchaser to purchase under this contract is conditioned upon issuance, on or before 30 days after a fully executed copy of this contract is given to Purchaser or Purchaser's attorney in the manner set forth in paragraph 25 or subparagraph 8(j) (the "Commitment Date"), of a written commitment from an Institutional Lender pursuant to which such Institutional Lender agrees to make a first mortgage loan, other than a VA, FHA or other governmentally insured loan, to Purchaser, at Purchaser's sole cost and expense, of \$ for a term of at least 30 years (or such lesser sum or shorter term as Purchaser shall be willing to accept) at the prevailing fixed or adjustable rate of interest and on other customary commitment terms (the "Commitment"). To the extent a Commitment is conditioned on the sale of Purchaser's current home, payment of any outstanding debt, no material adverse change in Purchaser's financial condition or any other customary conditions, Purchaser accepts the risk that such conditions may not be met; however, a commitment conditioned on the Institutional Lender's approval of an appraisal shall not be deemed a "Commitment" hereunder until an appraisal is approved (and if that does not occur before the Commitment Date Purchaser may cancel under subparagraph 8(e) unless the Commitment Date is extended). Purchaser's obligations hereunder are conditioned only on issuance of a Commitment. Once a Commitment is issued, Purchaser is bound under this contract even if the lender fails or refuses to fund the loan for any reason.
- (b) Purchaser shall (i) make prompt application to one or, at Purchaser's election, more than one Institutional Lender for such mortgage loan, (ii) furnish accurate and complete information regarding Purchaser and members of Purchaser's family, as required, (iii) pay all fees, points and charges required in connection with such application and loan, (iv) pursue such application with diligence, and (v) cooperate in good faith with such Institutional Lender(s) to obtain a Commitment. Purchaser shall accept a Commitment meeting the terms set forth in subparagraph 8(a) and shall comply with all requirements of such Commitment (or any other commitment accepted by Purchaser). Purchaser shall furnish Seller with a copy of the Commitment promptly after receipt thereof.
- (c) *(Delete this subparagraph if inapplicable)* Prompt submission by Purchaser of an application to a mortgage broker registered pursuant to Article 12-D of the New York Banking Law ("Mortgage Broker") shall constitute full compliance with the terms and conditions set forth in subparagraph 8(b)(i), provided that such Mortgage Broker promptly submits such application to such Institutional Lender(s). Purchaser shall cooperate in good faith with such Mortgage Broker to obtain a Commitment from such Institutional Lender(s).

- (d) If all Institutional Lenders to whom applications were made deny such applications in writing prior to the Commitment Date, Purchaser may cancel this contract by giving Notice thereof to Seller, with a copy of such denials, provided that Purchaser has complied with all its obligations under this paragraph 8.
- (e) If no Commitment is issued by an Institutional Lender on or before the Commitment Date, then, unless Purchaser has accepted a written commitment from an Institutional Lender that does not conform to the terms set forth in subparagraph 8(a), Purchaser may cancel this contract by giving Notice to Seller within 5 business days after the Commitment Date, provided that such Notice includes the name and address of the Institutional Lender(s) to whom application was made and that Purchaser has complied with all its obligations under this paragraph 8.
- (f) If this contract is canceled by Purchaser pursuant to subparagraphs 8(d) or (e), neither party shall thereafter have any further rights against, or obligations or liabilities to, the other by reason of this contract, except that the Downpayment shall be promptly refunded to Purchaser and except as set forth in paragraph 27.
- (g) If Purchaser fails to give timely Notice of cancellation or if Purchaser accepts a written commitment from an Institutional Lender that does not conform to the terms set forth in subparagraph 8(a), then Purchaser shall be deemed to have waived Purchaser's right to cancel this contract and to receive a refund of the Downpayment by reason of the contingency contained in this paragraph 8.
- (h) If Seller has not received a copy of a commitment from an Institutional Lender accepted by Purchaser by the Commitment Date, Seller may cancel this contract by giving Notice to Purchaser within 5 business days after the Commitment Date, which cancellation shall become effective unless Purchaser delivers a copy of such commitment to Seller within 10 business days after the Commitment Date. After such cancellation neither party shall have any further rights against, or obligations or liabilities to, the other by reason of this contract, except that the Downpayment shall be promptly refunded to Purchaser (provided Purchaser has complied with all its obligations under this paragraph 8) and except as set forth in paragraph 27.
- (i) For purposes of this contract, the term "Institutional Lender" shall mean any bank, savings bank, private banker, trust company, savings and loan association, credit union or similar banking institution whether organized under the laws of this state, the United States or any other state, foreign banking corporation licensed by the Superintendent of Banks of New York or regulated by the Comptroller of the Currency to transact business in New York State; insurance company duly organized or licensed to do business in New York State; mortgage banker licensed pursuant to Article 12-D of the Banking Law; and any instrumentality created by the United States or any state with the power to make mortgage loans.
- (j) For purposes of subparagraph 8(a), Purchaser shall be deemed to have been given a fully executed copy of this contract on the third business day following the date of ordinary or regular mailing, postage prepaid.

**9. Permitted Exceptions.** The Premises are sold and shall be conveyed subject to:

- (a) Zoning and subdivision laws and regulations, and landmark, historic or wetlands designation, provided that they are not violated by the existing buildings and improvements erected on the property or their use;
- (b) Consents for the erection of any structures on, under or above any streets on which the Premises abut;
- (c) Encroachments of stoops, areas, cellar steps, trim and cornices, if any, upon any street or highway;
- (d) Real estate taxes that are a lien, but are not yet due and payable; and
- (e) The other matters, if any, including a survey exception, set forth in a Rider attached.

**10. Governmental Violations and Orders.**

- (a) Seller shall comply with all notes or notices of violations of law or municipal ordinances, orders or requirements noted or issued as of the date hereof by any governmental department having authority as to lands, housing, buildings, fire, health, environmental and labor conditions affecting the Premises. The Premises shall be conveyed free of them at Closing. Seller shall furnish Purchaser with any authorizations necessary to make the searches that could disclose these matters.
- ~~(b) (Delete if inapplicable) All obligations affecting the Premises pursuant to the Administrative Code of the City of New York incurred prior to Closing and payable in money shall be discharged by Seller at or prior to Closing.~~

**11. Seller's Representations.**

- (a) Seller represents and warrants to Purchaser that:
  - I. The Premises abut or have a right of access to a public road;
  - II. Seller is the sole owner of the Premises and has the full right, power and authority to sell, convey and transfer the same in accordance with the terms of this contract;
  - III. Seller is not a "foreign person", as that term is defined for purposes of the Foreign Investment in Real Property Tax Act. Internal Revenue Code ("IRC") Section 1445, as amended, and the regulations promulgated thereunder (collectively "FIRPTA");
  - IV. The Premises are not affected by any exemptions or abatements of taxes; and
  - V. Seller has been known by no other name for the past ten years, except:
- (b) Seller covenants and warrants that all of the representations and warranties set forth in this contract shall be true and correct at Closing.
- (c) Except as otherwise expressly set forth in this contract, none of Seller's covenants, representations, warranties or other obligations contained in this contract shall survive Closing.

**12. Condition of Property.** Purchaser acknowledges and represents that Purchaser is fully aware of the physical condition and state of repair of the Premises and of all other property included in this sale, based on Purchaser's own inspection and investigation thereof, and that Purchaser is entering into this contract based solely upon such inspection and investigation and not upon any information, data, statements or representations, written or oral, as to the physical conditions, state of repair, use, cost of operation or any other matter related to the Premises or the other property included in the sale, given or made by Seller or its representatives, and shall accept the same "as is" in their present condition and state of repair, subject to reasonable use, wear, tear and natural deterioration between the date hereof and the date of Closing (except as otherwise set forth in paragraph 16(e), without any reduction in the purchase price or claim of any kind for any change in such condition by reason thereof subsequent to the date of this contract. Purchaser and its authorized representatives shall have the right, at reasonable times and upon reasonable notice (by telephone or otherwise) to Seller, to inspect the Premises before Closing.

**13. Insurable Title.** Seller shall give and Purchaser shall accept such title as title company licensed in NY states shall be willing to approve and insure in accordance with its standard form of title policy approved by the New York State Insurance Department, subject only to the matters provided for this contract.

**14. Closing, Deed and Title.**

- (a) "Closing" means the settlement of the obligations of Seller and Purchaser to each other under this contract, including the payment of the purchase price to Seller, and the delivery to Purchaser of a Bargain and Sale with covenants deed in proper statutory short form for record, duly executed and acknowledged, so as to convey to Purchaser fee simple title to the Premises, free of all encumbrances, except as otherwise herein stated. The deed shall contain a covenant by Seller as required by subd. 5 of Section 13 of the Lien Law.
- (b) If Seller is a corporation, it shall deliver to Purchaser at the time of Closing (i) a resolution of its Board of Directors authorizing the sale and delivery of the deed, and (ii) a certificate by the Secretary or Assistant Secretary of the corporation certifying such resolution and setting forth facts showing that the transfer is in conformity with the requirements of Section 909 of the Business Corporation Law. The deed in such case shall contain a recital sufficient to establish compliance with that Section.

**15. Closing Date and Place.** Closing shall take place at the office of Seller's attorney at 10:00 o'clock on or about **June 19, 2012** or upon reasonable notice (by telephone or otherwise) by Purchaser, at the office of **Purchaser's lender in Westchester County.**

**16. Conditions to Closing.** This contract and Purchaser's obligation to purchase the Premises are also subject to and conditioned upon the fulfillment of the following conditions precedent:

- (a) The accuracy, as of the date of Closing, of the representations and warranties of Seller made in this contract.
- (b) The delivery by Seller to Purchaser of a valid and subsisting Certificate of Occupancy or other required certificate of compliance, or evidence that none was required, covering the building(s) and all of the other improvements located on the property authorizing their use as a SINGLE family dwelling at the date of Closing.
- (c) The delivery by Seller to Purchaser of a certificate stating that Seller is not a foreign person, which certificate shall be in the form then required by FIRPTA or a withholding certificate from I.R.S. If Seller fails to deliver the aforesaid certificate or if Purchaser is not entitled under FIRPTA to rely on such certificate, Purchaser shall deduct and withhold from the purchase price a sum equal to 10% thereof (or any lesser amount permitted by law) and shall at Closing remit the withheld amount with the required forms to the Internal Revenue Service.
- (d) The delivery of the Premises and all building(s) and improvements comprising a part thereof in broom clean condition, vacant and free of leases or tenancies, together with keys to the Premises.
- (e) All plumbing (including water supply and septic systems, if any), heating and air conditioning, if any, electrical and mechanical systems, equipment, and machinery in the building(s) located on the property and all appliances which are included in this sale being in working order as of the date of Closing.
- (f) If the Premises are a one or two family house, delivery by the parties at Closing of affidavits in compliance with state and local law requirements to the effect that there is installed in the Premises a smoke detecting alarm device or devices.
- (g) The delivery by the parties of any other affidavits required as a condition of recording the deed.

**17. Deed Transfer and Recording Taxes.** At Closing, certified or official bank checks payable to the order of the appropriate State, City or County officer in the amount of any applicable transfer and/or recording tax payable by reason of the delivery or recording of the deed or mortgage, if any, shall be delivered by the party required by this contract to pay such transfer and/or recording tax, together with any required tax returns duly executed and sworn to, and such party shall cause any such checks and returns to be delivered to the appropriate officer promptly after Closing. The obligation to pay any additional tax or deficiency and any interest or penalties thereon shall survive Closing.

**18. Apportionments and Other Adjustments; Water Meter and Installment Assessments.**

- (a) To the extent applicable, the following shall be apportioned as of midnight of the day before the day of Closing:
  - (i) taxes, water charges and sewer rents, on the basis of the fiscal period for which assessed;
  - (ii) fuel;
  - ~~(iii) interest on the existing mortgage;~~
  - ~~(iv) premiums on existing transferable insurance policies and renewals of those expiring prior to Closing;~~
  - ~~(v) vault charges;~~
  - ~~(vi) rents as and when collected.~~
- (b) If Closing shall occur before a new tax rate is fixed, the apportionment of taxes shall be upon the basis of the tax rate for the immediately preceding fiscal period applied to the latest assessed valuation.
- (c) If there is a water meter on the Premises, Seller shall furnish a reading to a date not more than 30 days before Closing and the unfixed meter charge and sewer rent, if any, shall be apportioned on the basis of such last reading.
- (d) If at the date of Closing the Premises are affected by an assessment which is or may become payable in annual installments, and the first installment is then a lien, or has been paid, then for the purposes of this contract all the unpaid installments shall be ~~considered due and shall be paid by Seller at or prior to Closing.~~ Apportioned as taxes.
- (e) Any errors or omissions in computing apportionments or other adjustments at Closing shall be corrected within a reasonable time following Closing. This subparagraph shall survive Closing.

**19. Allowance for Unpaid Taxes, etc.** Seller has the option to credit Purchaser as an adjustment to the purchase price with the amount of any unpaid taxes, assessments, water charges and sewer rents, together with any interest and penalties thereon to a date not less than five business days after Closing, provided the official bills therefor computed to said date are produced at Closing.

**20. Use of Purchase Price to Remove Encumbrances.** If at Closing there are other liens or encumbrances that Seller is obligated to pay or discharge, Seller may use any portion of the cash balance of the purchase price to pay or discharge them, provided Seller shall simultaneously deliver to Purchaser at Closing instruments in recordable form and sufficient to satisfy such liens or encumbrances of record, together with the cost of recording or filing said instruments. As an alternative Seller may deposit sufficient monies with the title insurance company employed by Purchaser acceptable to and required by it to assure their discharge, but only if the title insurance company will insure Purchaser's title clear of the matters or insure against their enforcement out of the Premises and will insure Purchaser's Institutional Lender clear of such matters. Upon reasonable prior notice (by telephone or otherwise), Purchaser shall provide separate certified or official bank checks as requested to assist in clearing up these matters.

**21. Title Examination; Seller's Inability to Convey; Limitations of Liability.**

- (a) Purchaser shall order an examination of title in respect of the Premises from a title company licensed or authorized to issue title insurance by the New York State Insurance Department or any agent for such title company promptly after the execution of this contract or, if this contract is subject to the mortgage contingency set forth in paragraph 8, after a mortgage commitment has been accepted by Purchaser. Purchaser shall cause a copy of the title report and of any additions thereto to be delivered to the attorney(s) for Seller promptly after receipt thereof.
- (b) (i) If at the date of Closing, Seller is unable to transfer title to Purchaser in accordance with this contract, or Purchaser has other valid grounds for refusing to close, whether by reason of liens, encumbrances or other objections to title or otherwise (herein collectively called "Defects"), other than those subject to which Purchaser is obligated to accept title hereunder or which Purchaser may have waived and other than those which Seller has herein expressly agreed to remove, remedy or discharge and if Purchaser shall be unwilling to waive the same and to close title without abatement of the purchase price, then, except as hereinafter set forth, Seller shall have the right, at Seller's sole election, either to take such action as Seller may deem advisable to remove, remedy, discharge or comply with such Defects or to cancel this contract; (ii) if Seller elects to take action to remove, remedy or comply with such Defects, Seller shall be entitled from time to time, upon Notice to Purchaser, to adjourn the date for Closing hereunder for a period or periods not exceeding 60 days in the aggregate (but not extending beyond the date upon which Purchaser's mortgage commitment, if any, shall expire), and the date for Closing shall be adjourned to a date specified by Seller not beyond such period. If for any reason whatsoever, Seller shall not have succeeded in removing, remedying or complying with such Defects at the expiration of such adjournment(s), and if Purchaser shall still be unwilling to waive the same and to close title without abatement of the purchase price, then either party may cancel this contract by Notice to the other given within 10 days after such adjourned date; (iii) notwithstanding the foregoing, the existing mortgage (unless this sale is subject to the same) and any matter created by Seller after the date hereof shall be released, discharged or otherwise cured by Seller at or prior to Closing.
- (c) If this contract is cancelled pursuant to its terms, other than as a result of Purchaser's default, this contract shall terminate and come to an end, and neither party shall have any further rights, obligations or liabilities against or to the other hereunder or otherwise, except that: (i) Seller shall promptly refund or cause the Escrowee to refund the Downpayment to Purchaser and, unless cancelled as a result of Purchaser's default or pursuant to paragraph 8, to reimburse Purchaser for the net cost of examination of title, including any appropriate additional charges related thereto, and the net cost, if actually paid or incurred by Purchaser for updating the existing survey of the Premises or of a new survey, and (ii) the obligations under paragraph 27 shall survive the termination of this contract.

**22. Affidavit as to Judgments, Bankruptcies, etc.** If a title examination discloses judgments, bankruptcies or other returns against persons having names the same as or similar to that of Seller, Seller shall deliver an affidavit at Closing showing that they are not against Seller.

**23. Defaults and Remedies.**

- (a) If Purchaser defaults hereunder, Seller's sole remedy shall be to receive and retain the Downpayment as liquidated damages, it being agreed that Seller's damages in case of Purchaser's default might be

impossible to ascertain and the Downpayment constitutes a fair and reasonable amount of damages under the circumstances and is not a penalty.

- (b) If Seller defaults hereunder, Purchaser shall have such remedies as Purchaser shall be entitled to at law or in equity, including but not limited to, specific performance.

**24. Purchaser's Lien.** All money paid on account of this contract, and the reasonable expenses of examination of title to the Premises and of any survey and survey inspection charges are hereby made liens on the Premises, but such liens shall not continue after default by Purchaser under this contract.

**25. Notices.** Any notice or other communication ("Notice") shall be in writing and either:

- (a) sent by either of the parties hereto or by their respective attorneys who are hereby authorized to do so on their behalf or by the Escrowee, by registered or certified mail, postage prepaid, or
- (b) delivered in person or by overnight courier, with receipt acknowledged, to the respective addresses given in this contract for the party and the Escrowee, to whom the Notice is to be given, or to such other address as such party or Escrowee shall hereafter designate by Notice given to the other party or parties and the Escrowee pursuant in this paragraph. Each Notice mailed shall be deemed given on the third business day following the date of mailing the same, except that any Notice to Escrowee shall be deemed given only upon receipt by Escrowee and each Notice delivered in person or by overnight courier shall be deemed given when delivered, or
- (c) with respect to paragraph 7(b) or paragraph 20, sent by fax to the party's attorney. Each Notice by fax shall be deemed given when transmission is confirmed by the sender's fax machine. A copy of each Notice sent to a party shall also be sent to the party's attorney. The attorneys for the parties are hereby authorized to give and receive on behalf of their clients all Notices and deliveries. This contract may be delivered as provided above or by ordinary mail.

**26. No Assignment.** This contract may not be assigned by Purchaser without the prior written consent of Seller in each instance and any purported assignment(s) made without such consent shall be void.

**27. Broker.** Seller and Purchaser each represents and warrants to the other that it has not dealt with any broker in connection with this sale other than ("Broker") and Seller shall pay Broker any commission earned pursuant to a separate agreement between Seller and Broker. Seller and Purchaser shall indemnify and defend each other against any costs, claims and expenses, including reasonable attorney's fees arising out of the breach on their respective parts of any representation or agreement contained in this paragraph. The provisions of this paragraph shall survive Closing or, if Closing does not occur the termination of this contract.

**28. Miscellaneous.**

- (a) All prior understanding, agreements, representations and warranties, oral or written, between Seller and Purchaser are merged in this contract; it completely expresses their full agreement and has been entered into after full investigation, neither party relying upon any statement made by anyone else that is not set forth in this contract.
- (b) Neither this contract nor any provision thereof may be waived, changed or cancelled except in writing. This contract shall also apply to and bind the heirs, distributees, legal representatives, successors and permitted assigns of the respective parties. The parties hereby authorize their respective attorneys to agree in writing to any changes in dates and time periods provided for in this contract.
- (c) Any singular word or term herein shall also be read as in the plural and the neuter shall include the masculine and feminine gender, whenever the sense of this contract may require it.
- (d) The captions in this contract are for convenience of reference only and in no way define, limit or describe the scope of this contract and shall not be considered in the interpretation of this or any provisions hereof.
- (e) This contract shall not be binding or effective until duly executed and delivered by Seller and Purchaser.
- (f) Seller and Purchaser shall comply with IRC reporting requirements, if applicable. This subparagraph shall survive Closing.
- (g) Each party shall, at any time and from time to time, execute, acknowledge where appropriate and deliver such further instruments and documents and take such other action as may be reasonably requested by the other in order to carry out the intent and purpose of this contract. This subparagraph shall survive Closing.
- (h) This contract is intended for the exclusive benefit of the parties hereto and except as otherwise expressly provided herein, shall not be for the benefit of, and shall not create any rights in, or be enforceable by any other person or entity.
- (i) If applicable, the complete and fully executed disclosure of information on lead-based paint and/or lead-based paint hazards is attached hereto and made a part hereof.

Continued on Rider attached hereto. (*Delete if inapplicable*)



*In Witness Whereof*, this contract has been duly executed by the parties hereto.

Seller

Purchaser

Seller

Purchaser

Attorney for Seller:  
Address:

Attorney for Purchaser:  
Address:

Tel.: Fax:

Tel.: Fax:

Receipt of the Downpayment is acknowledged and the undersigned agrees to act in accordance with the provisions of paragraph 6 above.

Escrowee

## Contract of Sale

## PREMISES

TITLE NO.

TO

Sheet  
Section  
Block  
Lot  
Plate  
County or Town  
Street Number

### NOTES ON MORTGAGE COMMITMENT CONTINGENCY CLAUSE

for

### RESIDENTIAL CONTRACT OF SALE

- WARNING:** The mortgage Commitment contingency clause for the Residential Contract of Sale is a bar association form that attempts to provide a mechanism that makes the rights and obligations of the parties clear in sale of residences in ordinary circumstances. It should be reviewed carefully by Seller and Purchaser and their attorneys in each and every transaction to make sure that all the provisions are appropriate for that transaction. Negotiated modifications should be made whenever necessary.
- Under the clause, the obligation of Purchaser to purchase under the contract of sale is contingent on Purchaser's obtaining a mortgage Commitment letter from an Institutional Lender within the number of days specified for the amount specified. This refers to calendar days. Seller's attorney should state his/her calculation of the Commitment Date in the letter delivering the executed contract to Purchaser's attorney, to prevent confusion later. Purchaser should promptly confirm or correct that date. In applying for a loan, Purchaser should inform its lender of the scheduled date of Closing in the contract and request that the expiration date of the Commitment occur after the scheduled date of Closing. Purchaser must comply with deadlines and pursue the application in good faith. The Commitment contingency is satisfied by issuance of a Commitment in the amount specified on or before the Commitment Date, unless the Commitment is conditioned on approval of an appraisal. If the Commitment is conditioned on approval of an appraisal and such approval does not occur prior to the Commitment Date, Purchaser should either cancel the contract or obtain an extension of the Commitment Date. If the Commitment is later withdrawn or not honored, Purchaser runs the risk of being in default under the contract of sale with Seller.
- If there are loan terms and conditions that are required or would not be acceptable to Purchaser, such as the interest rate, term of the loan, points, fees or a condition requiring sale of the current home, those terms and conditions should be specified in a rider.
- This clause assumes that initial review and approval of Purchaser's credit will occur before the Commitment letter is issued. Purchaser should confirm with the lender that this is the case before applying for the Commitment.
- If, as has been common, the Commitment letter itself is conditioned on sale of Purchaser's home or payment of any outstanding debt or no material adverse change in Purchaser's financial condition, such a Commitment will satisfy the contract contingency nonetheless, and Purchaser will take the risk of fulfilling those Commitment conditions, including forfeiture of the Downpayment if Purchaser defaults on its obligation to close. Under New York case law, a defaulting Purchaser may not recover any part of the Downpayment, and Seller does not have to prove any damages. If Purchaser is not willing to take that risk, the clause must be modified accordingly.
- Purchaser may submit an application to registered Mortgage Broker instead of applying directly to an Institutional Lender.
- This clause allows Seller to cancel if a Commitment is not accepted by Purchaser by the Commitment Date, unless Purchaser timely supplies a copy of the Commitment, to allow Seller the option to avoid having to wait until the scheduled date of Closing to see if Purchaser will be able to close. Seller may prefer to cancel rather than to wait and settle for forfeiture of the Downpayment if Purchaser defaults. Because of Seller's right to cancel, Purchaser may not waive this contingency clause. This clause means that Purchaser is subject to cancellation by Seller even if Purchaser is willing to risk that he/she will obtain the Commitment after the Commitment Date. Some Purchasers may not want to be subject to such cancellation by Seller.
- Purchaser may want to add to paragraph 21(c) that Purchaser's reimbursement should include non-refundable financing and inspection expenses of Purchaser, which should be refunded by Seller if Seller willfully defaults under the contract of sale (alternative: If Seller is unable to transfer title under the contract of sale).

9-25-00

Joint Committee on the Mortgage Contingency Clause:  
Real Property Section of the New York State Bar Association  
Real Property Law Committee of the Association of the Bar of the City of New York  
Real Property Committee of the New York County Lawyers Association

Note: This form is intended to deal with matters common to most transactions involving the sale of a condominium unit. Provisions should be added, altered or deleted to suit the circumstances of a particular transaction. No representation is made that this form of contract complies with Section 5-702 of the General Obligations Law ("Plain Language Law").

**CONSULT YOUR LAWYER BEFORE SIGNING THIS AGREEMENT**  
**Condominium Unit – Contract of Sale**

**This Contract** made as of \_\_\_\_\_, between \_\_\_\_\_

\_\_\_\_\_, hereinafter called "Seller", having a residence or principal place of business at \_\_\_\_\_

AND

hereinafter called "Purchaser", having a residence or principal place of business at \_\_\_\_\_

**1. Unit:** The Seller agrees to sell and convey, and the Purchaser agrees to purchase the unit known as Unit No. \_\_\_\_\_ ("Unit") in the building ("Building") known as \_\_\_\_\_ Condominium ("Condominium") and located at \_\_\_\_\_, New York, together with an undivided \_\_\_\_\_ percent interest in the Common elements (as defined in para. 6) appurtenant thereto, subject to the terms and conditions set forth. The Unit shall be as designated in the Declaration of Condominium Ownership and By-Laws (as the same may be amended from time to time, the "By-Laws") of the Condominium.

**2. Personal Property:** Included in this sale: (a) The sale includes all of Seller's right, title and interest, if any, in and to:

(i) the refrigerators including ice makers, freezers, ranges, ovens and built in microwave ovens, dishwashers, clothes washing machines, clothes dryers, cabinets and counters, lighting and plumbing fixtures, air conditioning equipment, venetian blinds, shades, screens, storm windows and other window treatments, wall-to-wall carpeting, bookshelves, switch plates, door hardware, built-ins, fireplace equipment, built in wine racks, mantels, stained glass, built in mirrors and articles of property and fixtures attached to or appurtenant to the Unit, except those listed in subpara. 2(b), all of which included property and fixtures are represented to be owned by Seller, free and clear of all liens and encumbrances other than those encumbrances ("Permitted Exceptions") set forth on Schedule A (~~strike inapplicable items~~); and

(ii) to the extent the same are in or on the premises.

(b) Excluded from this sale are:

(i) furniture and furnishings (other than as specifically provided in this Contract); and

(ii)

(c) The property referred to in subpara. 2(a)(i) and (ii) may not be purchased if title to the Unit is not conveyed pursuant to this contract.

**3. Purchase Price:** (a) The purchase price ("Purchase Price") is \$ \_\_\_\_\_, payable as follows:

(i) \$ \_\_\_\_\_ ("Downpayment") on the signing of this Contract by check subject to collection, the receipt of which is hereby recognized, to be held in escrow pursuant to para. 16; and

(ii) \$ \_\_\_\_\_ representing the balance of the Purchase Price, by certified check of Purchaser or official bank check (except as otherwise provided in this Contract) on the delivery of the deed.

(b) All instruments in payment of the Purchase Price shall represent United States currency and be drawn on or issued by a bank or trust company authorized to accept deposits in New York State. All checks in payment of the Downpayment shall be payable to the order of Escrowee (as hereinafter defined). All checks in payment of the balance of the Purchase Price shall be payable to the order of the Seller (or as Seller otherwise directs pursuant to subparas. 6(a)(ix) or 19(b)).

(c) Aside from the Downpayment and checks aggregating not more than one-half of one percent of the Purchase Price, including closing adjustments, all checks delivered by Purchaser shall be certified or official bank checks as herein provided.

**4. Closing of Title:** The closing documents referred to in para. 6 shall be delivered, and payment of the balance of the Purchase Price shall be made, at The Closing, to be held on \_\_\_\_\_, at the offices of \_\_\_\_\_ or at the office of Purchaser's lending institution or its counsel; provided, however, that such office is located in either the City or County in which either (a) Seller's attorney maintains an office or (b) the Unit is located.

**5. Representations, Warranties and Covenants:** The Seller unconditionally represents, warrants and covenants that:

(a) The Seller is the sole rightful owner of the Unit and the personal property described in subpara. 2(a), and Seller has the full right, power

bookshelves, switch plates, door hardware, built-ins, fireplace equipment, built in wine racks, mantels, stained glass, built in mirrors and articles or property included in this sale will be in working order at the time of Closing;

(g) If a copy is attached to this Contract, the copy of the Certificate of Occupancy covering the Unit is a true and correct copy; and

(h) Seller is not a "foreign person" as defined in IRC #1445 as amended, and the regulations thereunder (Code Withholding Section). (*If applicable, delete and provide for compliance with Code Withholding Section, as defined in para. 18*).

**6. Closing Documents:** (a) At the Closing, Seller shall deliver to Purchaser the following:

(i) Bargain and sale deed with \_\_\_\_\_ covenant against grantor's acts ("Deed"), complying with RPL § 339-0 and containing the covenant required by LL § 13 (5), conveying to Purchaser title to the Unit, and any garage or storage units appurtenant to the Unit, together with its undivided interest in the Common Elements (as such term is defined in the Declaration and which term shall be deemed to include Seller's right, title and interest in any limited common elements attributable to or used in connection with the Unit) appurtenant thereto, free and clear of all liens and encumbrances other than Permitted Exceptions. The Deed shall be executed and acknowledged by Seller and, if requested by the Condominium, executed and acknowledged by Purchaser, in proper statutory form for recording;

(ii) If a corporation and if required pursuant to BCL § 909, Seller shall deliver to Purchaser (1) a resolution of its board of directors authorizing the delivery of the Deed or a statement included in the Deed as follows: "This conveyance is made in the ordinary course of business actually conducted by the Grantor", and (2) a certificate executed by an officer of such corporation certifying as to the adoption of such resolution and setting forth facts demonstrating that the delivery of the Deed is in conformity with the requirements of BCL § 909. The Deed shall also contain a recital sufficient to establish compliance with such law;

(iii) A waiver of right of first refusal of the board of managers of the Condominium ("Board") if required in accordance with para. 8;

(iv) A statement by the Condominium or its managing agent on behalf of and authorized by the Condominium that the common charges and any assessments then due and payable to the Condominium have been paid to the date of the Closing;

(v) All keys to the doors of, and mailbox and for, the Unit; and storage units.

(vi) Such affidavits and/or other evidence as the title company ("Title Company") from which Purchaser has ordered a title insurance report and which is authorized to do business in New York State shall reasonably require in order to omit from its title insurance policy all exceptions for judgments, bankruptcies or other returns against Seller and persons or entities whose names are the same as or are similar to Seller's name;

(vii) New York City Real Property Transfer Tax Return, if applicable, prepared, executed and acknowledged by Seller in proper

(ii) If required by the Declaration or By-Laws, power of attorney to the Board, prepared by Seller, in the form required by the Condominium. The Power of attorney shall be executed and acknowledged by Purchaser and, after being recorded, shall be sent to the Condominium;

(iii) New York City Real Property Transfer Tax Return executed and acknowledged by Purchaser and an Affidavit in Lieu of Registration pursuant to New York Multiple Dwelling Law, each in proper form for submission, if applicable; and

(iv) If required, New York State Equalization Return executed and acknowledged by Purchaser in proper form for submission.

(c) It is a condition of Purchaser's obligation to close title hereunder that:

(i) All notes or notices of violations of law or governmental orders, ordinances or requirements affecting the Unit and noted or issued by any governmental department, agency or bureau having jurisdiction which were noted or issued on or prior to the date hereof shall have been cured by Seller;

(ii) Any written notice to Seller from the Condominium (or its duly authorized representative) that the Unit is in violation of the Declaration, By-Laws or rules and regulations of the Condominium shall have been cured; and

(iii) The Condominium is a valid condominium created pursuant to RPL Art. 9-B and the Title Company will insure the same.

**7. Closing Adjustments:** (a) The following adjustments shall be made as of 11:59 P.M. of the day before the Closing:

(i) Real estate taxes and water charges and sewer rents, unless same are part of common charges, on the basis of the fiscal period for which assessed, except that if there is a water meter with respect to the Unit, apportionment shall be based on the last available actual reading, subject to adjustment after the Closing, promptly after the next reading is available; provided, however, that in the event real estate taxes have not, as of the date of Closing, been separately assessed to the Unit, real estate taxes shall be apportioned on the same basis as provided in the Declaration or By-Laws or, in the absence of such provision, based upon the Unit's percentage interest in the Common Elements;

(ii) Common charges of the Condominium; and

(iii) If fuel is separately stored with respect to the Unit only, the value of fuel stored with respect to the Unit at the price then charged by Seller's supplier (as determined by a letter or certificate to be obtained by Seller from such supplier), including any sales taxes.

(b) If at the time of Closing the Unit is affected by an assessment which is or may become payable in installments, then, for the purposes of this Contract, only the unpaid installments which are then due shall be considered due and are to be paid by Seller at the Closing. All subsequent installments at the time of Closing shall be the obligation of Purchaser.

(c) Any errors or omissions in computing closing adjustments shall be corrected. This subpara. 7c shall survive the Closing.

(d) If the Unit is located in the City of New York, the "customs in respect to title closings" recommended by The Real Estate Board of New York, Inc., as amended and in effect on the date of Closing, shall apply to the adjustments and other matters therein mentioned, except as otherwise provided herein.

**8. Right of First Refusal:** If so provided in the Declaration or By-Laws, this sale is subject to and conditioned upon the waiver of a right of first refusal to purchase the Unit held by the Condominium and exercisable by the Board. Seller agrees to give notice promptly to the Board of the contemplated sale of the Unit to Purchaser, which notice shall be given in accordance with the terms of the Declaration and By-Laws, and Purchaser agrees to provide promptly all applications, information and references reasonably requested by the Board. If the Board shall exercise such right of first refusal, Seller shall promptly refund to Purchaser the Downpayment (which term, for all purposes of this contract, shall be deemed to include interest, if any, earned thereon, and title charges including but not limited to examination of title and departmental charges) and upon the making of such refund this Contract shall be deemed cancelled and of no further force or effect and neither party shall have any further rights against, or obligation or liabilities to, the other by reason of this contract. If the Board shall fail to exercise such right of first refusal within the time and in the manner provided for in the Declaration or By-Laws or shall declare in writing its intention not to exercise such right of first refusal (a copy of which writing shall be delivered to Purchaser promptly following receipt thereof), the parties hereto shall proceed with this sale in accordance with the provisions of this contract.

**9. Processing Fee:** Seller shall, at the Closing, pay all fees and charges payable by the Condominium for its operating costs in

consideration of all other matters pertaining to this Contract and to the purchase to be made hereunder, and does not rely on any representations made by any broker or by seller or anyone acting or purporting to act on behalf of Seller as to any matters which might influence or affect the decision to execute this Contract or to buy the Unit, or said personal property, except those representations and warranties which are specifically set forth in this Contract.

**11. Possession:** Seller shall, at or prior to the Closing, remove from the Unit all furniture, furnishings and other personal property not included in this sale, shall repair any damage caused by such removal, and shall deliver exclusive possession of the Unit at the Closing, vacant, broom-clean and free of tenancies or other rights of use or possession.

**12. Access:** Seller shall permit Purchaser and its architect, decorator or other authorized persons to have the right of access to the Unit between the date hereof and the Closing for the purpose of inspecting the same and taking measurements, at reasonable times and upon reasonable prior notice to Seller (by telephone or otherwise). Further, Purchaser shall have the right to inspect the Unit at a reasonable time during the 24-hour period immediately preceding the Closing.

**13. Defaults and Remedies:** (a) If purchaser defaults hereunder, Seller's sole remedy shall be to retain the Downpayment as liquidated damages, it being agreed that Seller's damages in case of Purchaser's default might be impossible to ascertain and that the Downpayment constitutes a fair and reasonable amount of damages under the circumstances and is not a penalty.

(b) If Seller defaults hereunder, Purchaser shall have such remedies as Purchaser shall be entitled to at law or in equity, including, but not limited to, specific performance.

**14. Notices:** Any notice, request or other communication ("Notice") given or made hereunder (except for the notice required by para. 12), shall be in writing and either (a) sent by any of the parties hereto or their respective attorneys, by registered or certified mail, return receipt requested, postage prepaid, or (b) delivered in person or by overnight courier, with receipt acknowledged, to the address given at the beginning of this Contract for the party to whom the Notice is to be given, or to such other address for such party as said party shall hereafter designate by Notice given to the other party pursuant to this para. 14. Each Notice mailed shall be deemed given on the fourth business day following the date of mailing and each Notice delivered in person or by overnight courier shall be deemed given when delivered.

**15. Purchaser's Lien:** The Downpayment and all other sums paid on account of this Contract and the reasonable expenses of the examination of title, and departmental violation searches in respect of, the Unit are hereby made a lien upon the Unit, but such lien shall not continue after default by Purchaser.

**16. Downpayment in Escrow:** (a) Seller's attorney ("Escrowee") shall hold the Downpayment for Seller's account in escrow in a segregated bank account at the depository identified at the end of this Contract until Closing or sooner termination of this Contract and shall pay over or apply the Downpayment in accordance with the terms of this para. 16. Escrowee shall (*not Delete if inapplicable*) hold the Downpayment in an interest-bearing account for the benefit of the parties. If interest is held for the benefit of the parties, it shall be paid to the party entitled to the Downpayment and the party receiving the interest shall pay any in-come taxes thereon. If interest is not held for the benefit of the parties, the Downpayment shall be placed in an IOLA account or as otherwise permitted or required by law. The Social Security or Federal Identification numbers of the parties shall be furnished to Escrowee at the end of this contract. At closing, the Downpayment shall be paid by Escrowee to Seller. If for any reason Closing does not occur and either party gives Notice (as defined in para. 14) to Escrowee demanding payment of the Downpayment, Escrowee shall give prompt Notice to the other party of such demand. If Escrowee does not receive such Notice of objection within such 10 day period or if for any other reason Escrowee in good faith shall elect not to make such payment, Escrowee shall continue to hold such amount until otherwise directed by Notice from the parties to this Contract or a final, nonappealable judgment, order or decree of a court of competent jurisdiction. However, Escrowee shall have the right at any time to deposit the Downpayment with the clerk of a court in the county in which the Unit is located and shall give Notice of such deposit to Seller and Purchaser. Upon such deposit or other disbursement in accordance with the terms of this para. 16, Escrowee shall be relieved and discharged of all further obligations and responsibilities hereunder.

(b) The parties acknowledge that, although Escrowee is holding the Downpayment for Seller's account, for all other purposes Escrowee is acting solely as a stakeholder at the request of the parties and for their convenience and that Escrowee shall not be liable to either party for any

(e) Escrowee or any member of its firm shall be permitted to act as counsel for Seller in any dispute as to the disbursement of the Downpayment or any other dispute between the parties whether or not Escrowee is in possession of the Downpayment and continues to act as Escrowee.

**17. FIRPTA:** Seller represents and warrants to Purchaser that Seller is not a "foreign person" as defined in IRC § 1445, as amended, and the regulations issued thereunder ("Code Withholding Section"). At the Closing Seller shall deliver to Purchaser a certification stating that Seller is not a foreign person in the form then required by the Code Withholding Section. In the event Seller fails to deliver the aforesaid certification or in the event that Purchaser is not entitled under the Code Withholding Section to rely on such certification, Purchaser shall deduct and withhold from the Purchase Price a sum equal to 10% thereof and shall at Closing remit the withheld amount with the required forms to the Internal Revenue Service.

**18. Title Report; Acceptable Title:** (a) Purchaser shall promptly after the date hereof, or after receipt of the mortgage commitment letter, if applicable, order a title insurance report from the Title Company. Promptly after receipt of the title report and thereafter of any continuation thereof and supplements thereto, Purchaser shall forward a copy of each such report, continuation or supplement to the attorney for Seller. Purchaser shall further notify Seller's attorney of any other objections to title not reflected in such title report of which Purchaser becomes aware following the delivery of such report, reasonably promptly after becoming aware of such objections.

(b) Any unpaid taxes, assessments, water charges and sewer rents, together with the interest and penalties thereon to a date not less than two business days following the date of Closing, and any other liens and encumbrances which Seller is obligated to pay and discharge or which are against corporations, estates or other persons in the chain of title, together with the cost of recording or filing any instruments necessary to discharge such liens and encumbrances of record, may be paid out of the proceeds of the monies payable at the Closing if Seller delivers to Purchaser at the Closing official bills for such taxes, assessments, water charges, sewer rents, interest and penalties and instruments in recordable form sufficient to discharge any other liens and encumbrances of record. Upon request made not less than 3 business days before the Closing, Purchaser shall provide at the Closing separate checks for the foregoing payable to the order of the holder of any such lien, charge or encumbrance and other-wise complying with subpara. 3(b). If the Title Company is willing to insure Purchaser that such charges, liens and encumbrances will not be collected out of or enforced against the Unit and is willing to insure the lien of Purchaser's Institutional Lender (as hereinafter defined) free and clear of any such charges, liens and encumbrances, the Seller shall have the right in lieu of payment and discharge to deposit with the Title Company such funds or give such assurances or to pay such special or additional premiums as the Title Company may require in order to so insure. In such cases the charges, liens and encumbrances with respect to which the Title Company has agreed to insure shall not be considered objections to title.

(c) Seller shall convey and Purchaser shall accept fee simple title to the Unit in accordance with the terms of this Contract, subject only to: (a) the Permitted Exceptions and (b) such other matters as (i) the Title Company or any other title insurer licensed to do business by the State of New York shall be willing, without special or additional premium, to omit as exceptions to coverage or to except with insurance against collection out of or enforcement against the Unit (ii) shall be accepted by any lender which has committed in writing to provide mortgage financing to Purchaser for the purchase of the Unit ("Purchaser's Institutional Lender"), except that if such acceptance by Purchaser's Institutional Lender is unreasonably withheld or delayed, such acceptance shall be deemed to have been given.

(d) Notwithstanding any contrary provisions in the Contract, express or implied, or any contrary rule of law or custom, if Seller shall be unable to convey the Unit in accordance with this Contract (provided that Seller shall release, discharge or otherwise cure at or prior to Closing any matter created by Seller after the date hereof and any existing mortgage, unless this sale is subject to it) and if Purchaser elects not to complete this transaction without abatement of the Purchase Price, the sole obligation and liability of Seller shall be to refund the Downpayment to Purchaser, together with the reasonable cost of the examination of title and departmental violation searches in respect of, the Unit, and upon the making of such refund and payment, this Contract shall be deemed cancelled and of no further force or effect and neither party shall have any further rights against, or obligation or liabilities to, the other by reason of this contract. However, nothing contained in the subpara. 19(d) shall be construed to relieve Seller from

(i) To declare this Contract cancelled and of no further force or effect and receive a refund of the Downpayment in which event neither party shall thereafter have any further rights against, or obligations or liabilities to, the other by reason of this Contract; or

(ii) To complete the purchase in accordance with this Contract with- out reduction in the Purchase Price, except as provided in the next sentence. If Seller carries hazard insurance covering such loss or damage, Seller shall turn over to Purchaser at the Closing the net proceeds actually collected by Seller under the provisions of such hazard insurance policies to the extent that they are attributable to loss of or damage to any property included in this sale, less any sums theretofore expended by Seller in repairing or replacing such loss or damage or in collecting such proceeds; and Seller shall assign (without recourse to Seller) Seller's right to receive any additional insurance proceeds which are at-attributable to the loss of or damage to any property included in this sale.

(b) If seller does not elect to make such repairs and restorations, Purchaser may exercise the resulting option under (i) or (ii) of (a) above only by notice given to Seller within 10 days after receipt of Seller's notice. If Seller elects to make such repairs and restorations and fails to complete the same on or before the adjourned closing date, Purchaser may exercise either of the resulting options within 10 days after the adjourned closing date.

(c) In the event of any loss of or damage to the Common Elements which materially and adversely affects access to or use of the Unit, arising after the date of this Contract but prior to the Closing, Seller shall notify Purchaser of the occurrence thereof within 10 days after such occurrence or by the date of Closing, whichever occurs first, in which event Purchaser shall have the following options:

(i) To complete the purchase in accordance with this Contract without reduction in the Purchase Price; or

(ii) To adjourn the Closing until the first to occur of (1) completion of the repair and restoration of the loss or damage to the point that there is no longer a materially adverse effect on the access to or use of the Unit or (2) the 60<sup>th</sup> day after the date of the giving of Seller's aforesaid notice. In the event Purchaser elects to adjourn the Closing as aforesaid and such loss or damage is not so repaired and restored within 60 days after the date of the giving of Seller's aforesaid notice, then Purchaser shall have the right either to (x) complete the purchase in accordance with this Contract without reduction in the Purchase Price or (y) declare this Contract cancelled and of no further force or effect and receive a refund of the Downpayment, in which latter event neither party shall thereafter have any further rights against, or obligations or liabilities to, the other by reason of this Contract.

(d) In the event of any loss of or damage to the Common Elements which does not materially and adversely affect access to or use of the Unit, Purchaser shall accept title to the Unit in accordance with this Contract without abatement of the Purchase Price.

**20. Internal Revenue Service Reporting Requirement:** Each party shall execute, acknowledge and deliver to the other party such instruments, and take such other actions, as such other party may reasonably request in order to comply with IRC § 6045(e), as amended, or any successor provision or any regulations promulgated pursuant thereto, insofar as the same requires reporting of information in respect of real estate transactions. The provisions of this para. 21 shall survive the Closing. The parties designate \_\_\_\_\_ as the attorney responsible for reporting this information as required by the Internal Revenue Code.

**21. Broker:** Seller and Purchaser represent and warrant to each other that the only real estate broker with whom they have dealt in connection with this Contract and the transaction set forth herein is \_\_\_\_\_ and that they know of no other real estate broker who has claimed or may have the right to claim a commission in connection with this transaction. The commission of such real estate shall be paid by Seller pursuant to separate agreement. If no real estate broker is specified above, the parties acknowledge that this Contract was brought about by direct negotiation between Seller and Purchaser and each represents to the other that it knows of no real estate broker entitled to a commission in connection with this transaction. Seller and Purchaser shall indemnify and defend each other against any costs, claims or expenses (including reasonable attorneys' fees) arising out of the breach of any representation, warranty or agreement contained in this para. 22. The provisions of this para. 22 shall survive the Closing or, if the Closing does not occur, the termination of this Contract.

**22. Mortgage Contingency:** (*Delete if inapplicable*) (a) The

Notice to Seller of the name and address of each Institutional Lender to which Purchaser has made such application. Purchaser shall comply with all requirements of such commitment (or of any commitment accepted by Purchaser) and shall furnish Seller with a copy thereof promptly after receipt thereof. If such commitment is not issued on or before the Commitment Date, then, unless Purchaser has accepted a commitment that does not comply with the requirements set forth above, Purchaser may cancel this Contract by giving Notice to Seller within 5 business days after the Commitment Date, in which case this Contract shall be deemed cancelled and thereafter neither party shall have any further rights against, or obligation or liabilities to, the other by reason of this Contract except that the Downpayment shall be promptly refunded to Purchaser and except as set forth in para. 22. If Purchaser fails to give Notice of cancellation or if Purchaser shall accept a commitment that does not comply with the terms set forth above, the Purchaser shall be deemed to have waived Purchaser's right to cancel this Contract and to receive a refund of the Downpayment by reason of the contingency contained in this para. 23.

(b) For purposes of this Contract, an "Institutional Lender" is any bank, savings bank, private banker, trust company, savings and loan association and credit union or similar banking institution whether organized under the laws of this state, the United States or any other state; foreign banking corporation licensed by the Superintendent of Banks of New York or the Comptroller of the Currency to transact business in New York State; insurance company duly organized or licensed to do business in New York State; insurance company duly organized or licensed to do business in New York State; mortgage banker licensed pursuant to Article 12-D of the Banking Law; and any instrumentality created by the United States or any state with the power to make mortgage loans.

*(Delete if inapplicable)*(c) Purchaser and Seller agree that the submission of an application to a mortgage broker registered pursuant to Article 12-D of the New York Banking Law ("Mortgage Broker") shall constitute full compliance with the terms and conditions set forth in para. 23(a)(i) of this Contract, and that Purchaser's cooperation in good

faith with such Mortgage Broker to obtain a commitment from an Institutional Lender (together with Purchaser's cooperation in good faith with any Institutional Lender to which Purchaser's application has been submitted by such Mortgage Broker), and the prompt giving of Notice of Purchaser to Seller of the name and address of each Mortgage Broker to which Purchaser has submitted such an application shall constitute full compliance with the terms and conditions set forth in para. 23(a)(v) and (vi) of this Contract.

**23. Gender:** As used in this Contract, the neuter includes the masculine and feminine, the singular includes the plural and the plural includes the singular, as the context may require.

**24. Entire Contract:** All prior understandings and agreements, written or oral, between Seller and Purchaser are merged in the Contract and this

Contract supersedes any and all understandings and agreements between the parties and constitutes the entire agreement between them with respect to the subject matter hereof.

**25. Captions:** The captions in this Contract are for convenience and reference only and in no way define, limit or describe the scope of this Contract and shall not be considered in the interpretation of this Contract or any provision hereof.

**26. No Assignment by Purchaser:** Purchaser may not assign this Contract or any of Purchaser's rights hereunder.

**27. Successors and Assigns:** Subject to the provisions of para. 27, the provisions of this Contract shall bind and inure to the benefit of the Purchaser and Seller and their respective distributees, executors, administrators, heirs, legal representatives, successors and permitted assigns.

**28. No Oral Changes:** This Contract cannot be changed or terminated orally. Any changes or additional provisions must be set forth in a rider attached hereto or in a separate written agreement signed by both parties to this Contract.

**29. Contract Not Binding Until Signed:** This Contract shall not be binding or effective until properly executed and delivered by Seller and Purchaser.

*In Witness Whereof*, the parties hereto have duly executed this Contract on the day and year first above written.

\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

Agreed to as to para. 16: \_\_\_\_\_

Escrow Depository: \_\_\_\_\_

**SCHEDULE A – Permitted Exceptions**

1. Zoning laws and regulations and landmark, historic or wetlands designation which are not violated by the Unit and which are not violated by the Common Elements to the extent that access to or use of the Unit would be materially and adversely affected.

2. Consents for the erection of any structure or structures on, under or above any street or streets on which the Building may abut.

3. The terms, burdens, covenants, restriction, conditions, easements and rules and regulations set forth in the Declaration, By-Laws and rules and regulations of the Condominium, the Power of Attorney from Purchaser to the board of managers of the Condominium and the floor plans of the Condominium, all as may be amended from time to time.

4. Rights of utility companies to lay, maintain, install and repair pipes, lines, poles, conduits, cable boxes and related equipment on, over and under the Building and Common elements, provided that none of such rights imposes any monetary obligation on the owner of the Unit or materially interferes with the use of or access to the Unit.

5. Encroachments of stops, areas, cellar steps, trim, cornices, lintels, window sills, awnings, canopies, ledges, fences, hedges, coping and retaining walls projecting from the Building over any street or highway or over any adjoining property and encroachments of similar elements projecting from adjoining property over the Common Elements.

6. any state of facts which an accurate survey or personal inspection of the Building, Common Elements or Unit would disclose, provided that

Such facts do not prevent the use of the Unit for dwelling purposes, or if a storage unit, for storage purposes. For the purposes of this Contract, none of the facts shown on the survey, if any, identified below, shall be deemed to prevent the use of the Unit for dwelling purposes, and Purchaser shall accept title subject thereto.

7. The lien of any unpaid common charge, real estate tax, water charge, sewer rent or vault charge, provided the same are paid or apportioned at the Closing as herein provided.

8. The lien of any unpaid assessments to the extent of installments there-of payable after the Closing.

9. Liens, encumbrances, and title conditions affecting the Common elements which do not materially and adversely affect the right of the Unit owner to use and enjoy the Common Elements,

10. Notes or notices of violations of law or governmental orders, ordinances or requirements (a) affecting the Unit and noted or issued subsequent to the date of this Contract by any governmental department, agency or bureau having jurisdiction and (b) any such notes or notices affecting only the Common Elements which were noted or issued prior to or on the date of this Contract or at any time hereafter.

11. Any other matters or encumbrances subject to which Purchaser is required to accept title to the Unit pursuant to this Contract.

CONSULT YOUR LAWYER BEFORE SIGNING THIS AGREEMENT

**Contract of Sale - Cooperative Apartment**

This Contract is made as of \_\_\_\_\_, 200\_\_\_\_ between the "Seller" and the "Purchaser" identified below.

**I Certain Definitions and Information**

1.1 The "Parties" are:

**1.1.1 "Seller":**

Prior names used by Seller:

Address:

S.S. No.:

**1.1.2 "Purchaser":**

Address:

S.S. No.:

1.2 The "Attorneys" are (name, firm name, address and telephone, fax):

1.2.1 "Seller's Attorney"

1.2.2 "Purchaser's Attorney"

1.3 The "Escrowee" is the [Seller's] [Purchaser's] Attorney.

1.4 The Managing Agent is (name, address and telephone, fax):

1.5 The real estate "Broker(s)" (see ¶ 12) is/are: 1.6 The name of the cooperative housing corporation ("Corporation") is:

1.7 The "Unit" number is:

1.8 The Unit is located in "Premises" known as:

1.9 The "Shares" are the \_\_\_\_\_ shares of the Corporation allocated to the Unit.

1.10 The "Lease" is the Corporation's proprietary lease or occupancy agreement for the Unit, given by the Corporation which expires on \_\_\_\_\_

1.11 "Personalty" is the following personal property, to the extent existing in the Unit on the date hereof: the refrigerators, freezers, ranges, ovens, built-in microwave ovens, dishwashers, garbage disposal units, cabinets and counters, lighting fixtures, chandeliers, wall-to-wall carpeting, plumbing and heating fixtures, central air-conditioning and/or window or sleeve units, washing machines, dryers, screens and storm windows, window treatments, switch plates, door hardware, mirrors, built-ins not excluded in ¶ 1.12 and

1.12 Specifically excluded from this sale is all personal property not included in ¶ 1.11 and

1.13 The sale [does] [does not] include Seller's interest in [Storage]/ [Servant's Room]/ [Parking Space] ("Included Interests")

1.14 The "Closing" is the transfer of ownership of the Shares and Lease.

1.15 The date scheduled for Closing is \_\_\_\_\_ ("Scheduled Closing Date") at \_\_\_\_\_ (See ¶¶ 9 and 10)

1.16 The "Purchase Price" is: \$ \_\_\_\_\_

1.16.1 The "Contract Deposit" is: \$ \_\_\_\_\_

1.16.2 The "Balance" of the Purchase Price due at Closing is: (See ¶ 2.2.2)

1.17 The monthly "Maintenance" charge is \$ \_\_\_\_\_ (See ¶ 4)

1.18 The "Assessment", if any, payable to the Corporation, at the date of this Contract is \$ \_\_\_\_\_, payable as follows:

1.19 [Seller] [Purchaser] shall pay the Corporation's flip tax, transfer fee (apart from the transfer agent fee) and/or waiver of option fee ("Flip Tax"), if any.

1.20 Financing Options (Delete two of the following ¶¶ 1.20.1, 1.20.2 or 1.20.3)

1.20.1 Purchaser may apply for financing in connection with this sale and Purchaser's obligation to purchase under this Contract is contingent upon issuance of a Loan Commitment Letter by the Loan Commitment Date (¶18.1.2).

1.20.2 Purchaser may apply for financing in connection with this sale but Purchaser's obligation to purchase under this Contract is not contingent upon issuance of a Loan Commitment letter.

1.20.3 Purchaser shall not apply for financing in connection with this sale.

1.21 If ¶ 1.20.1 or 1.20.2 applies, the "Financing Terms" for ¶ 18 are: a loan of \$ \_\_\_\_\_ for a term of \_\_\_\_\_ years or such lesser amount or shorter term as applied for or acceptable to Purchaser; and the "Loan Commitment Date" for ¶ 18 is \_\_\_\_\_ calendar days after the Delivery Date.

1.22 The "Delivery Date" of this Contract is the date on which a fully executed counterpart of this Contract is deemed given to and received by Purchaser or Purchaser's Attorney as provided in ¶ 17.3.

1.23 All "Proposed Occupants" of the Unit are:

1.23.1 persons and relationship to Purchaser:

1.23.2 pets:

1.24 The Contract Deposit shall be held in [a non-] [an] IOLA escrow account. If the account is a non- IOLA account then interest shall be paid to the Party entitled to the Contract Deposit. The Party receiving the interest shall pay any income taxes thereon. The escrow account shall be a segregated bank account at Depository:

Address: \_\_\_\_\_ (See ¶ 27)

1.25 This Contract is [not] continued on attached rider(s).

**2 Agreement to Sell and Purchase; Purchase Price; Escrow**

2.1 Seller agrees to sell to Purchaser, and Purchaser agrees to purchase from Seller, the Seller's Shares, Lease, Personalty and any Included Interests and all other items included in this sale, for the Purchase Price and upon the terms and conditions set forth in this Contract.

2.2 The Purchase Price is payable to Seller by Purchaser as follows:

2.2.1 the Contract Deposit at the time of signing this Contract by Purchaser's good check to the order of Escrowee; and

2.2.2 the Balance at Closing, only by cashier's or official bank check or certified check of Purchaser payable to the direct order of Seller. The check(s) shall be drawn on and payable by a branch of a commercial or savings bank, savings and loan

association or trust company located in the same City or County as the Unit. Seller may direct, on reasonable Notice (defined in ¶ 17) prior to Closing, that all or a portion of the Balance shall be made payable to persons other than Seller (see ¶ 17.7).

### **3 Personalty**

3.1 Subject to any rights of the Corporation or any holder of a mortgage to which the Lease is subordinate, this sale includes all of the Seller's interest, if any, in the Personalty and the Included Interests.

3.2 No consideration is being paid for the Personalty or for the Included Interests; nothing shall be sold to Purchaser if the Closing does not occur.

3.3 Prior to Closing, Seller shall remove from the Unit all the furniture, furnishings and other property not included in this sale, and repair any damage caused by such removal.

### **4 Representations and Covenants**

4.1 Subject to any matter affecting title to the Premises (as to which Seller makes no representations or covenants), Seller represents and covenants that:

4.1.1 Seller is, and shall at Closing be, the sole owner of the Shares, Lease, Personalty and Included Interests, with the full right, power and authority to sell and assign them. Seller shall make timely provision to satisfy existing security interest(s) in the Shares and Lease and have the same delivered at Closing (See ¶10.1);

4.1.2 the Shares were duly issued, fully paid for and are non-assessable;

4.1.3 the Lease is, and will at Closing be, in full force and effect and no notice of default under the Lease is now or will at Closing be in effect;

4.1.4 the Maintenance and Assessments payable as of the date hereof are as specified in ¶ 1.17 and 1.18;

4.1.5 as of this date, Seller neither has actual knowledge nor has received any written notice of any increase in Maintenance or any Assessment which has been adopted by the Board of Directors of the Corporation and is not reflected in the amounts set forth in ¶¶ 1.17 and 1.18;

4.1.6 Seller has not made any material alterations or additions to the Unit without any required consent of the Corporation or, to Seller's actual knowledge, without compliance with all applicable law. This provision shall not survive Closing.

4.1.7 Seller has not entered into, shall not enter into, and has no actual knowledge of any agreement (other than the Lease) affecting title to the Unit or its use and/or occupancy after Closing, or which would be binding on or adversely affect Purchaser after Closing (e.g. a sublease or alteration agreement);

4.1.8 Seller has been known by no other name for the past 10 years except as set forth in ¶ 1.1.1.

4.1.9 at Closing in accordance with ¶ 15.2:

4.1.9.1 there shall be no judgments outstanding against Seller which have not been bonded against collection out of the Unit ("Judgments");

4.1.9.2 the Shares, Lease, Personalty and any Included Interests shall be free and clear of liens (other than the Corporation's general lien on the Shares for which no monies shall be owed), encumbrances and adverse interests ("Liens");

4.1.9.3 all sums due to the Corporation shall be fully paid by Seller to the end of the payment period immediately preceding the date of Closing;

4.1.9.4 Seller shall not be indebted for labor or material which might give rise to the filing of a notice of mechanic's lien against the Unit or the Premises; and

4.1.9.5 no violations shall be of record which the owner of the Shares and Lease would be obligated to remedy under the Lease.

4.2 Purchaser represents and covenants that:

4.2.1 Purchaser is acquiring the Shares and Lease for residential occupancy of the Unit solely by the Proposed Occupants identified in ¶ 1.23

4.2.2 Purchaser is not, and within the past 7 years has not been, the subject of a bankruptcy proceeding;

4.2.3 if ¶ 1.20.3 applies, Purchaser shall not apply for financing in connection with this purchase.

4.2.4 Each individual comprising Purchaser is over the age of 18 and is purchasing for Purchaser's own account (beneficial and of record);

4.2.5 Purchaser shall not make any representations to the Corporation contrary to the foregoing and shall provide all documents in support thereof required by the Corporation in connection with Purchaser's application for approval of this transaction; and

4.2.6 there are not now and shall not be at Closing any unpaid tax liens or monetary judgments against Purchaser.

4.3 Each Party covenants that its representations and covenants contained in ¶ 4 shall be true and complete at Closing and, except for ¶ 4.1.6, shall survive Closing but any action based thereon must be instituted within one year after Closing.

### **5 Corporate Documents**

Purchaser has examined and is satisfied with, or (except as to any matter represented in this Contract by Seller) accepts and assumes the risk of not having examined, the Lease, the Corporation's Certificate of Incorporation, By-laws, House Rules, minutes of shareholders' and directors' meetings, most recent audited financial statement and most recent statement of tax deductions available to the Corporation's shareholders under Internal Revenue Code ("IRC") §216 (or any successor statute).

### **6 Required Approval and References**

6.1 This sale is subject to the unconditional consent of the Corporation.

6.2 Purchaser shall in good faith:

6.2.1 submit to the Corporation or the Managing Agent an application with respect to this sale on the form required by the Corporation, containing such data and together with such documents as the Corporation requires, and pay the applicable fees and charges that the Corporation imposes upon Purchaser. All of the foregoing shall be submitted within 10 business days after the Delivery Date, or, if ¶ 1.20.1 or 1.20.2 applies and the Loan Commitment Letter is required by the Corporation, within 3 business days after the earlier of (i) the Loan Commitment Date (defined in ¶ 1.21) or (ii) the date of receipt of the Loan Commitment Letter (defined in ¶ 18.1.2);

6.2.2 attend (and cause any Proposed Occupant to attend) one or more personal interviews, as requested by the Corporation; and

6.2.3 promptly submit to the Corporation such further references, data and documents reasonably requested by the Corporation.

6.3 Either Party, after learning of the Corporation's decision, shall promptly advise the other Party thereof. If the Corporation has not made a decision on or before the Scheduled Closing Date, the Closing shall be adjourned for 30 business days for the purpose of obtaining such consent. If such consent is not given by such adjourned date, either Party may cancel this Contract by Notice, provided that the Corporation's consent is not issued before such Notice of cancellation is given. If such consent is refused at any time, either Party may cancel this Contract by Notice. In the event of cancellation pursuant to this ¶ 6.3, the Escrowee shall refund the Contract Deposit to Purchaser.

6.4 If such consent is refused, or not given, due to Purchaser's bad faith conduct, Purchaser shall be in default and ¶ 13.1 shall govern.

### **7 Condition of Unit and Personalty; Possession**

7.1 Seller makes no representation as to the physical condition or state of repair of the Unit, the Personalty, the Included Interests or the Premises. Purchaser has inspected or waived inspection of the Unit, the Personalty and the Included Interests and shall take the same "as is", as of the date of this Contract,



except for reasonable wear and tear. However, at the time of Closing, the appliances shall be in working order and required smoke detector(s) shall be installed and operable.

7.2 At Closing, Seller shall deliver possession of the Unit, Personalty and Included Interests in the condition required by ¶ 7.1, broom-clean, vacant and free of all occupants and rights of possession.

#### **8 Risk of Loss**

8.1 The provisions of General Obligations Law § 5-1311, as modified herein, shall apply to this transaction as if it were a sale of realty. For purposes of this paragraph, the term "Unit" includes built-in Personalty.

8.2 Destruction shall be deemed "material" under GOL § 5-1311, if the reasonably estimated cost to restore the Unit shall exceed 5% of the Purchase Price.

8.3 In the event of any destruction of the Unit or the Premises, when neither legal title nor the possession of the Unit has been transferred to Purchaser, Seller shall give Notice of the loss to Purchaser ("Loss Notice") by the earlier of the date of Closing or 7 business days after the date of the loss.

8.4 If there is material destruction of the Unit without fault of Purchaser, this Contract shall be deemed canceled in accordance with ¶ 16.3, unless Purchaser elects by Notice to Seller to complete the purchase with an abatement of the Purchase Price; or

8.5 Whether or not there is any destruction of the Unit, if without fault of Purchaser, more than 10% of the units in the Premises are rendered uninhabitable, or reasonable access to the Unit is not available, then Purchaser shall have the right to cancel this Contract in accordance with ¶ 16.3 by Notice to Seller.

8.6 Purchaser's Notice pursuant to ¶ 8.4 or ¶ 8.5 shall be given within 7 business days following the giving of the Loss Notice except that if Seller does not give a Loss Notice, Purchaser's Notice may be given at any time at or prior to Closing.

8.7 In the event of any destruction of the Unit, Purchaser shall not be entitled to an abatement of the Purchase Price (i) that exceeds the reasonably estimated cost of repair and restoration or (ii) for any loss that the Corporation is obliged to repair or restore; but Seller shall assign to Purchaser, without recourse, Seller's claim, if any, against the Corporation with respect to such loss.

#### **9 Closing Location**

The Closing shall be held at the location designated by the Corporation or, if no such designation is made, at the office of Seller's Attorney.

#### **10 Closing**

10.1 At Closing, Seller shall deliver or cause to be delivered:

10.1.1 Seller's certificate for the Shares duly endorsed for transfer to Purchaser or accompanied by a separate duly executed stock power to Purchaser, and in either case, with any guarantee of Seller's signature required by the Corporation;

10.1.2 Seller's counterpart original of the Lease, all assignments and assumptions in the chain of title and a duly executed assignment thereof to Purchaser in the form required by the Corporation;

10.1.3 FIRPTA documents required by ¶ 25;

10.1.4 keys to the Unit, building entrance(s), and, if applicable, garage, mailbox, storage unit and any locks in the Unit;

10.1.5 if requested, an assignment to Purchaser of Seller's interest in the Personalty and Included Interests;

10.1.6 any documents and payments to comply with ¶ 15.2

10.1.7 If Seller is unable to deliver the documents required in ¶ 10.1.1 or 10.1.2 then Seller shall deliver or cause to be delivered all documents and payments required by the Corporation for the issuance of a new certificate for the Shares or a new Lease.

10.2 At Closing, Purchaser shall:

10.2.1 pay the Balance in accordance with ¶2.2.2;

10.2.2 execute and deliver to Seller and the Corporation an agreement assuming the Lease, in the form required by the Corporation; and

10.2.3 if requested by the Corporation, execute and deliver counterparts of a new lease substantially the same as the Lease, for the balance of the Lease term, in which case the Lease shall be canceled and surrendered to the Corporation together with Seller's assignment thereof to Purchaser.

10.3 At Closing, the Parties shall complete and execute all documents necessary:

10.3.1 for Internal Revenue Service ("IRS") form 1099-S or other similar requirements;

10.3.2 to comply with smoke detector requirements and any applicable transfer tax filings; and

10.3.3 to transfer Seller's interest, if any, in and to the Personalty and Included Interests.

10.4 Purchaser shall not be obligated to close unless, at Closing, the Corporation delivers:

10.4.1 to Purchaser a new certificate for the Shares in the name of Purchaser; and

10.4.2 a written statement by an officer or authorized agent of the Corporation consenting to the transfer of the Shares and Lease to Purchaser and setting forth the amounts of and payment status of all sums owed by Seller to the Corporation, including Maintenance and any Assessments, and the dates to which each has been paid.

#### **11 Closing Fees, Taxes and Apportionments**

11.1 At or prior to Closing,

11.1.1 Seller shall pay, if applicable:

11.1.1.1 the cost of stock transfer stamps; and

11.1.1.2 transfer taxes, except as set forth in ¶ 11.1.2.2

11.1.2 Purchaser shall pay, if applicable:

11.1.2.1 any fee imposed by the Corporation relating to Purchaser's financing; and

11.1.2.2 transfer taxes imposed by statute primarily on Purchaser (e.g., the "mansion tax"),

11.2 The Flip Tax, if any, shall be paid by the Party specified in ¶ 1.19.

11.3 Any fee imposed by the Corporation and not specified in this Contract shall be paid by the Party upon whom such fee is expressly imposed by the Corporation, and if no Party is specified by the Corporation, then such fee shall be paid by Seller.

11.4 The Parties shall apportion as of 11:59 P.M. of the day preceding the Closing, the Maintenance, and any other periodic charges due the Corporation (other than Assessments) and STAR Tax Exemption (if the Unit is the beneficiary of same), based on the number of the days in the month of Closing.

11.5 Assessments, whether payable in a lump sum or installments, shall not be apportioned, but shall be paid by the Party who is the owner of the Shares on the date specified by the Corporation for payment. Purchaser shall pay any installments payable after Closing provided Seller had the right and elected to pay the Assessment in installments.

11.6 Each Party shall timely pay any transfer taxes for which it is primarily liable pursuant to law by cashier's, official bank, certified or attorney's escrow check. This ¶11.6 shall survive Closing.

11.7 Any computational errors or omissions shall be corrected within 6 months after Closing. This ¶11.7 shall survive Closing.

#### **12 Broker**

12.1 Each Party represents that such Party has not dealt with any person acting as a broker, whether licensed or unlicensed, in connection with this transaction other than the Broker(s) named in ¶ 1.5.

12.2 Seller shall pay the Broker's commission pursuant to a separate agreement The Broker(s) shall not be deemed to be a third-party beneficiary of this Contract.

12.3 This ¶12 shall survive Closing, cancellation or termination of this Contract.

### **13 Defaults, Remedies and Indemnities**

13.1 In the event of a default or misrepresentation by Purchaser, Seller's sole and exclusive remedies shall be to cancel this Contract, retain the Contract Deposit as liquidated damages and, if applicable, Seller may enforce the indemnity in ¶ 13.3 as to brokerage commission or sue under ¶ 13.4. Purchaser prefers to limit Purchaser's exposure for actual damages to the amount of the Contract Deposit, which Purchaser agrees constitutes a fair and reasonable amount of compensation for Seller's damages under the circumstances and is not a penalty. The principles of real property law shall apply to this liquidated damages provision.

13.2 In the event of a default or misrepresentation by Seller, Purchaser shall have such remedies as Purchaser is entitled to at law or in equity, including specific performance, because the Unit and possession thereof cannot be duplicated.

13.3 Subject to the provisions of ¶ 4.3, each Party indemnifies and holds harmless the other against and from any claim, judgment, loss, liability, cost or expense resulting from the indemnitor's breach of any of its representations or covenants stated to survive Closing, cancellation or termination of this Contract. Purchaser indemnifies and holds harmless Seller against and from any claim, judgment, loss, liability, cost or expense resulting from the Lease obligations accruing from and after the Closing. Each indemnity includes, without limitation, reasonable attorneys' fees and disbursements, court costs and litigation expenses arising from the defense of any claim and enforcement or collection of a judgment under this indemnity, provided the indemnitee is given Notice and opportunity to defend the claim. This ¶ 13.3 shall survive Closing, cancellation or termination of this Contract.

13.4 In the event any instrument for the payment of the Contract Deposit fails of collection, Seller shall have the right to sue on the uncollected instrument. In addition, such failure of collection shall be a default under this Contract, provided Seller gives Purchaser Notice of such failure of collection and, within 3 business days after Notice is given, Escrowee does not receive from Purchaser an unendorsed good certified check, bank check or immediately available funds in the amount of the uncollected funds. Failure to cure such default shall entitle Seller to the remedies set forth in ¶ 13.1 and to retain all sums as may be collected and/or recovered.

### **14 Entire Agreement; Modification**

14.1 All prior oral or written representations, understandings and agreements had between the Parties with respect to the subject matter of this Contract, and with the Escrowee as to ¶ 27, are merged in this Contract, which alone fully and completely expresses the Parties' and Escrowee's agreement. 14.2 The Attorneys may extend in writing any of the time limitations stated in this Contract. Any other provision of this Contract may be changed or waived only in writing signed by the Party or Escrowee to be charged.

### **15 Removal of Liens and Judgments**

15.1 Purchaser shall deliver or cause to be delivered to Seller or Seller's Attorney, not less than 10 calendar days prior to the Scheduled Closing Date a Lien and Judgment search, except that Liens or Judgments first disclosed in a continuation search shall be reported to Seller within 2 business days after receipt thereof, but not later than the Closing. Seller shall have the right to adjourn the Closing pursuant to ¶ 16 to remove any such Liens and Judgments. Failure by Purchaser to timely deliver such search or continuation search shall not constitute a waiver of Seller's covenants in ¶4 as to Liens and Judgments. However, if the Closing is adjourned solely by reason of untimely delivery of the Lien and Judgment search, the apportionments under ¶ 11.3

shall be made as of 11:59 P.M. of the day preceding the Scheduled Closing Date in ¶ 1.15.

15.2 Seller, at Seller's expense, shall obtain and deliver to the Purchaser the documents and payments necessary to secure the release, satisfaction, termination and discharge or removal of record of any Liens and Judgments. Seller may use any portion of the Purchase Price for such purposes.

15.3 This ¶ 15 shall survive Closing.

### **16 Seller's Inability**

16.1 If Seller shall be unable to transfer the items set forth in ¶ 2.1 in accordance with this Contract for any reason other than Seller's failure to make a required payment or other willful act or omission, then Seller shall have the right to adjourn the Closing for periods not exceeding 60 calendar days in the aggregate, but not extending beyond the expiration of Purchaser's Loan Commitment Letter, if ¶ 1.20.1 or 1.20.2 applies.

16.2 If Seller does not elect to adjourn the Closing or (if adjourned) on the adjourned date of Closing Seller is still unable to perform, then unless Purchaser elects to proceed with the Closing without abatement of the Purchase Price, either Party may cancel this Contract on Notice to the other Party given at any time thereafter.

16.3 In the event of such cancellation, the sole liability of Seller shall be to cause the Contract Deposit to be refunded to Purchaser and to reimburse Purchaser for the actual costs incurred for Purchase's lien and title search, if any.

### **17 Notices and Contract Delivery**

17.1 Any notice or demand ("Notice") shall be in writing and delivered either by hand. Overnight delivery or certified or registered mail, return receipt requested, to the Party and simultaneously, in like manner, to such Party's Attorney, if any, and to Escrowee at their respective addresses or to such other address as shall hereafter be designated by Notice given pursuant to this ¶ 17.

17.2 The Contract may be delivered as provided in ¶ 17.1 or by ordinary mail.

17.3 The Contract or each Notice shall be deemed given and received:

17.3.1 on the day delivered by hand;

17.3.2 on the business day following the date sent by overnight delivery;

17.3.3 on the 5th business day following the date sent by certified or registered mail; or

17.3.4 as to the Contract only, 3 business days following the date of ordinary mailing.

17.4 A Notice to Escrowee shall be deemed given only upon actual receipt by Escrowee.

17.5 The Attorneys are authorized to give and receive any Notice on behalf of their respective clients.

17.6 Failure or refusal to accept a Notice shall not invalidate the Notice.

17.7 Notice pursuant to ¶¶ 2.2.2 and 13.4 may be delivered by confirmed facsimile to the Party's Attorney and shall be deemed given when transmission is confirmed by sender's facsimile machine.

### **18 Financing Provisions**

18.1 The provisions of ¶¶ 18.1 and 18.2 are applicable only if ¶ 1.20.1 or 1.20.2 applies.

18.1.1 An "Institutional Lender" is any of the following that is authorized under Federal or New York State law to issue a loan secured by the Shares and Lease and is currently extending similarly secured loan commitments in the county in which the Unit is located: a bank, savings bank, savings and loan association, trust company, credit union of which Purchaser is a member, mortgage banker, insurance company or governmental entity.

18.1.2 A "Loan Commitment Letter" is a written offer from an Institutional Lender to make a loan on the Financing Terms (see

¶ 1.21) at prevailing fixed or adjustable interest rates and on other customary terms generally being offered by Institutional Lenders making cooperative share loans. An offer to make a loan conditional upon obtaining an appraisal satisfactory to the Institutional Lender shall not become a Loan Commitment Letter unless and until such condition is met. An offer conditional upon any factor concerning Purchaser (e.g. sale of current home, payment of outstanding debt, no material adverse change in Purchaser's financial condition, etc.) is a Loan Commitment Letter whether or not such condition is met. Purchaser accepts the risk that, and cannot cancel this Contract if, any condition concerning Purchaser is not met.

18.2 Purchaser, directly or through a mortgage broker registered pursuant to Article 12-D of the Banking Law, shall diligently and in good faith:

18.2.1 apply only to an Institutional Lender for a loan on the Financing Terms (see ¶ 1.21) on the form required by the Institutional Lender containing truthful and complete information, and submit such application together with such documents as the Institutional Lender requires, and pay the applicable fees and charges of the Institutional Lender, all of which shall be performed within 5 business days after the Delivery Date;

18.2.2 promptly submit to the Institutional Lender such further references, data and documents requested by the Institutional Lender; and

18.2.3 accept a Loan Commitment Letter meeting the Financing Terms and comply with all requirements of such Loan Commitment Letter (or any other loan commitment letter accepted by Purchaser) and of the Institutional Lender in order to close the loan; and

18.2.4 furnish Seller with a copy of the Loan Commitment Letter promptly after Purchaser's receipt thereof.

18.2.5 Purchaser is not required to apply to more than one Institutional Lender.

18.3 If ¶ 1.20.1 applies, then

18.3.1 provided Purchaser has complied with all applicable provisions of ¶ 18.2 and this ¶ 18.3, Purchaser may cancel this Contract as set forth below, if:

18.3.1.1 any Institutional Lender denies Purchaser's application in writing prior to the Loan Commitment Date (see ¶ 1.21); or

18.3.1.2 a Loan Commitment Letter is not issued by the Institutional Lender on or before the Loan Commitment Date; or

18.3.1.3 any requirement of the Loan Commitment Letter other than one concerning Purchaser is not met (e.g. failure of the Corporation to execute and deliver the Institutional Lender's recognition agreement or other document, financial condition of the Corporation, owner occupancy quota, etc.); or

18.3.1.4 (i) the Closing is adjourned by Seller or the Corporation for more than 30 business days from the Scheduled Closing Date and (ii) the Loan Commitment Letter expires on a date more than 30 business days after the Scheduled Closing Date and before the new date set for Closing pursuant to this paragraph and (iii) Purchaser is unable in good faith to obtain from the Institutional Lender an extension of the Loan Commitment Letter or a new Loan Commitment Letter on the Financing Terms without paying additional fees to the Institutional Lender, unless Seller agrees, by Notice to Purchaser within 5 business days after receipt of Purchaser's Notice of cancellation on such ground, that Seller will pay such additional fees and Seller pays such fees when due. Purchaser may not object to an adjournment by Seller for up to 30 business days solely because the Loan Commitment Letter would expire before such adjourned Closing date.

18.3.2 Purchaser shall deliver Notice of cancellation to Seller within 5 business days after the Loan Commitment Date if cancellation is pursuant to ¶ 18.3.1.1 or 18.3.1.2 and on or prior

to the Scheduled Closing Date if cancellation is pursuant to ¶ 18.3.1.3 or 18.3.1.4.

18.3.3 If cancellation is pursuant to ¶ 18.3.1.1, then Purchaser shall deliver to Seller, together with Purchaser's Notice, a copy of the Institutional Lender's written denial of Purchaser's loan application. If cancellation is pursuant to ¶ 18.3.1.3, then Purchaser shall deliver to Seller together with Purchaser's Notice evidence that a requirement of the Institutional Lender was not met.

18.3.4 Seller may cancel this Contract by Notice to Purchaser, sent within 5 days after the Loan Commitment Date, if Purchaser shall not have sent by then either (i) Purchaser's Notice of cancellation or (ii) a copy of the Loan Commitment Letter to Seller, which cancellation shall become effective if Purchaser does not deliver a copy of such Loan Commitment Letter to Seller within 10 business days after the Loan Commitment Date.

18.3.5 Failure by either Purchaser or Seller to deliver Notice of cancellation as required by this ¶ 18.3 shall constitute a waiver of the right to cancel under this ¶ 18.3.

18.3.6 If this Contract is canceled by Purchaser pursuant to this ¶ 18.3, then thereafter neither Party shall have any further rights against, or obligations or liabilities to, the other by reason of this Contract, except that the Contract Deposit shall be promptly refunded to Purchaser and except as set forth in ¶ 12. If this Contract is canceled by Purchaser pursuant to ¶ 18.3.1.4, then Seller shall reimburse Purchaser for any non-refundable financing and inspection expenses and other sums reimbursable pursuant to ¶ 16.

18.3.7 Purchaser cannot cancel this Contract pursuant to ¶ 18.3.1.4 and cannot obtain a refund of the Contract Deposit if the Institutional Lender fails to fund the loan:

18.3.7.1 because a requirement of the Loan Commitment Letter concerning Purchaser is not met (e.g., Purchaser's financial condition or employment status suffers an adverse change; Purchaser fails to satisfy a condition relating to the sale of an existing residence, etc.) or

18.3.7.2 due to the expiration of a Loan Commitment Letter issued with an expiration date that is not more than 30 business days after the Scheduled Closing Date.

#### **19 Singular/Plural and Joint/Several**

The use of the singular shall be deemed to include the plural and vice versa, whenever the context so requires. If more than one person constitutes Seller or Purchaser, their obligations as such Party shall be joint and several.

#### **20 No Survival**

No representation and/or covenant contained herein shall survive Closing except as expressly provided. Payment of the Balance shall constitute a discharge and release by Purchaser of all of Seller's obligations hereunder except those expressly stated to survive Closing.

#### **21 Inspections**

Purchaser and Purchaser's representatives shall have the right to inspect the Unit within 48 hours prior to Closing, and at other reasonable times upon reasonable request to Seller.

#### **22 Governing Law and Venue**

This Contract shall be governed by the laws of the State of New York without regard to principles of conflict of laws. Any action or proceeding arising out of this Contract shall be brought in the county or Federal district where the Unit is located and the Parties hereby consent to said venue.

#### **23 No Assignment by Purchaser; Death of Purchaser**

23.1 Purchaser may not assign this Contract or any of Purchaser's rights hereunder. Any such purported assignment shall be null and void.

23.2 This Contract shall terminate upon the death of all persons comprising Purchaser and the Contract Deposit shall be

refunded to the Purchaser. Upon making such refund and reimbursement, neither Party shall have any further liability or claim against the other hereunder, except as set forth in ¶ 12.

#### **24 Cooperation of Parties**

24.1 The Parties shall each cooperate with the other, the Corporation and Purchaser's Institutional Lender and title company, if any, and obtain, execute and deliver such documents as are reasonably necessary to consummate this sale.

24.2 The Parties shall timely file all required documents in connection with all governmental filings that are required by law. Each Party represents to the other that its statements in such filings shall be true and complete. This ¶ 24.2 shall survive Closing.

#### **25 FIRPTA**

The parties shall comply with IRC §§ 897, 1445 and the regulations thereunder as same may be amended ("FIRPTA"). If applicable, Seller shall execute and deliver to purchaser at Closing a Certification of Non- Foreign Status ("CNS") or deliver a Withholding Certificate from the IRS. If Seller fails to deliver a CNS or a Withholding Certificate, Purchaser shall withhold from the Balance, and remit to the IRS, such sum as may be required by law. Seller hereby waives any right of action against Purchaser on account of such withholding and remittance. This ¶ 25 shall survive Closing.

#### **26 Additional Requirements**

26.1 Purchaser shall not be obligated to close unless all of the following requirements are satisfied at the time of the Closing:

26.1.1 the Corporation is in good standing;

26.1.2 the Corporation has fee or leasehold title to the Premises, whether or not marketable or insurable; and

26.1.3 there is no pending *in rem* action, tax certificate/lien sale or foreclosure action of any underlying mortgage affecting the Premises.

26.2 If any requirement in ¶ 26.1 is not satisfied at the time of the Closing, Purchaser shall give Seller Notice and if the same is not satisfied within a reasonable period of time thereafter, then either Party may cancel this Contract (pursuant to ¶ 16.3) by Notice.

#### **27 Escrow Terms**

27.1 The Contract Deposit shall be deposited by Escrowee in an escrow account as set forth in ¶ 1.24 and the proceeds held and disbursed in accordance with the terms of this Contract. At Closing, the Contract Deposit shall be paid by Escrowee to Seller. If the Closing does not occur and either Party gives Notice to Escrowee demanding payment of the Contract Deposit, Escrowee shall give prompt Notice to the other Party of such demand. If Escrowee does not receive a Notice of objection to the proposed payment from such other Party within 10 business days after the giving of Escrowee's Notice, Escrowee is hereby authorized and directed to make such payment to the demanding party. If Escrowee does receive such a Notice of objection within said period, or if for any reason Escrowee in good faith elects not to make such payment, Escrowee may continue to hold the Contract Deposit until otherwise directed by

a joint Notice by the Parties or a final, non-appealable judgment, order or decree of a court of competent jurisdiction. However, Escrowee shall have the right at any time to deposit the Contract Deposit and the interest thereon, if any, with the clerk of a court in the county as set forth in ¶ 22 and shall give Notice of such deposit to each Party. Upon disposition of the Contract Deposit and interest thereon, if any, in accordance with this ¶ 27, Escrowee shall be released and discharged of all escrow obligations and liabilities.

27.2 The Party whose Attorney is Escrowee shall be liable for loss of the Contract Deposit. If the Escrowee is Seller's attorney, then Purchaser shall be credited with the amount of the contract Deposit at Closing.

27.3 Escrowee will serve without compensation. Escrowee is acting solely as a stakeholder at the Parties' request and for their convenience. Escrowee shall not be liable to either Party for any act or omission unless it involves bad faith, willful disregard of this Contract or gross negligence. In the event of any dispute, Seller and Purchaser shall jointly and severally (with right of contribution) defend (by attorneys elected by Escrowee), indemnify and hold harmless Escrowee from and against any claim, judgment, loss, liability, cost and expenses incurred in connection with the performance of Escrowee's acts or omissions not involving bad faith, willful disregard of this Contract or gross negligence. This indemnity includes, without limitation, reasonable attorneys' fees either paid to retain attorneys or representing the fair value of legal services rendered by Escrowee to itself and disbursements, court costs and litigation expenses.

27.4 Escrowee acknowledges receipt of the Contract Deposit, by check subject to collection.

27.5 Escrowee agrees to the provisions of this ¶ 27.

27.6 If Escrowee is the Attorney for a Party, Escrowee shall be permitted to represent such Party in any dispute or lawsuit.

27.7 This ¶ 27 shall survive Closing, cancellation or termination of this Contract

#### **28 Margin Headings**

The margin heading do not constitute part of the text of this Contract.

#### **29 Miscellaneous**

This Contract shall not be binding unless and until Seller delivers a fully executed counterpart of this Contract to Purchaser (or Purchaser's Attorney) pursuant to ¶ 17.2 and 17.3.

This Contract shall bind

and inure to the benefit of the Parties hereto and their respective heirs, personal and legal representatives and successors in interest.

#### **30 Lead Paint**

If applicable, the complete and fully executed Disclosure of Information on Lead Based Paint and or Lead-Based Paint Hazards is attached hereto and made a part hereof.

In Witness Whereof, the Parties hereto have duly executed this Contract as of the date first above written.

ESCROW TERMS AGREED TO:

SELLER:

PURCHASER:

\_\_\_\_\_  
ESCROWEE

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\_\_\_\_\_  
\_\_\_\_\_  
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\_\_\_\_\_  
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\_\_\_\_\_

## PURCHASERS' RIDER TO CONTRACT OF SALE BETWEEN

SELLER

AND

PURCHASERS

1. In the event of any inconsistency between the provisions of this Rider and the Contract of Sale or Sellers Rider, the provisions of this Rider shall govern.
2. Notwithstanding anything in the Contract to the contrary, Seller is obligated to cure the following under the terms of the contract (a) if the premises shall be subject to any lien or charge in a fixed or ascertainable amount, the Seller will pay the same provided said payments do not exceed the purchase price hereunder; and (b) if there is a title or Certificate of Occupancy defect which is, according to reasonable anticipation, curable within a period of 30 days and at a cost of no more than \$2,500.00, the Seller shall proceed with diligence and good faith to remedy the defect in question.
3. Seller warrants and represents that the roof shall be free from leaks and basement free of seepage at time of closing; and appliances included in this sale, all plumbing, heating and central air conditioning systems, electrical systems, home theatre and sound systems, if any, burglar and fire alarm systems, outdoor sprinkler system, smoke alarms and pumps, shall be in working order as of date of closing. To the best of Seller's knowledge, throughout the period of the Seller's ownership of the premises, there has never been water from an outside source that has accumulated to a measurable extent in the basement of the premises.
4. To the best of Seller's knowledge, the premises are not a designated wetland and the premises are not located in a flood zone as designated by the Federal Government.
5. Seller shall not remove any trees, shrubs or plants from the premises. Seller shall maintain the buildings and grounds in their usual, normal condition until the time of closing.
6. Seller has no knowledge of any governmental or municipal violations including environmental.
7. To the best of Seller's knowledge, no underground oil tanks have been removed and/or abandoned. If there were any such tanks not properly abandoned or if there is evidence of contaminated soil, Seller shall prior to Closing, fill said tank(s) or remove same and remedy any soil contamination in accordance with governing regulations. Seller represents that they shall provide all documentation prior to closing, demonstrating that such tanks have been abandoned according to all applicable rules and regulations. This paragraph shall survive closing.
8. Paragraph 8 of the Contract form shall be amended as follows:
  - (a) The mortgage obligations of Purchaser hereunder are contingent upon an appraisal by the lending institution in an amount not less than the purchase price. In the event the appraisal comes in lower, Purchasers shall have option to cancel the contract or to continue with the

transaction.

(b) In the event that Purchaser does not obtain a mortgage commitment, and unless the Sellers consent to an extension of time to obtain the commitment, the contingency provision is not waived and either party may by notice complying with the provisions of the Contract, cancel this contract.

(c) In the event any adjournments exceeding the closing date by days beyond the closing date in the contract, or 30 days if due to a title defect, required by the Seller causes the loss of the mortgage commitment obtained hereunder, and, in the further event that the Purchaser is unable to replace the mortgage commitment, then Purchaser shall have the right to cancel this contract and receive the return of their downpayment, or Purchaser has the option to go through with the transaction if Seller pays for the fees in extending the rate or obtaining a new loan.

9. The following shall be added to paragraph 9 of the printed Contract and 9 of Seller's Rider: "All to the extent that same do not render title uninsurable and unmarketable at standard rates and same are not violated by existing structures, nor shall the same prohibit the continued use of any of the existing structures for the purpose for which the same are presently being used, nor shall the same prohibit the reasonable use of the property permitted under applicable zoning or other law relating to the use thereof. Nor shall the use of the existing structures become impaired or disturbed, nor shall there be a right of reverter. In addition, that the premises have not been violated by any improvements and any future violation thereof shall not result in a forfeiture or reversion of title or give rise to a right of reentry."

10. Paragraph 10 of the printed contract is amended to provide that "Notwithstanding the foregoing, all violations of record, notices of violation and those that become of record up to the date of closing shall be cured by the Seller" as required under the terms of the contract.

11. To the best of their knowledge, Seller represents that the premises have not been used for disposal of hazardous and/or toxic materials, and that the premises does not constitute an active hazardous waste disposal site, as that term is defined in Article 27 of the New York State Environmental Conservation Law. This provision shall survive transfer of title.

12. At the time of closing pursuant to Chapter 57 of the Laws of 2002, subdivision 5(a), section 378 Executive Laws, there shall be installed in the premises a single station carbon monoxide detector.

13. Seller has no knowledge of any impending litigation or threatened zoning investigation with the subject premises and property, and that to the best of their knowledge Seller has never had a claim of right to any portion of the premises by virtue of the laws of adverse possess, easements or right of way.

14. The closing hereunder is subject to the Seller delivering to Purchasers a valid and subsisting Certificate of Occupancy or Certificate of Compliance for the premises with the improvements and structures thereto, including fences, patios, decks sheds and all other addition and alterations, or in the alternative, proof that no such certificate is required and deliver to purchasers no less than ten days prior to closing. In the event Seller is unable to fulfill the provisions of this term, Purchaser shall have the right to terminate this contract receive the return of their downpayment.

15. Seller represents that during her ownership, she has never had the premises treated for the removal of toxic mold.

16. Seller represents that she has not filed for bankruptcy nor made an assignment of the premises for the benefit of creditors. Also, that there is currently no foreclosure action pending involving the premises to be conveyed and that Seller is not in default in any mortgages covering the premises as the term "default" is defined in the Home Equity Theft Prevention Act. In the event any foreclosure action is commenced on the premises, or if Seller shall commence bankruptcy proceedings, file a petition in bankruptcy, or commence or any other insolvency proceedings including a short sale, Purchasers will be entitled to the cancel this Contract of Sale and to the immediate return of the downpayment herein plus the costs of title search and survey costs, if any.

17. Seller shall arrange for final reading of all utilities and shall provide evidence of payment of the final water bill at closing.

18. Purchasers and/or its authorized agent shall have the right at mutually agreed upon times and upon reasonable notice to have access to the premises for the purpose of obtaining work estimates and measurements.

19. Purchasers shall conduct a radon test at their own cost and expense. This contract is contingent upon an acceptable radon reading less than 4.0 pCi/L. In the event the radon results are higher, Purchasers shall have the option to cancel the contract and receive the return of their downpayment. Should Purchasers opt to continue with the transaction, Sellers shall on October 1, 2012, have remediation work completed by a licensed radon remediation firm at Sellers expense, and provide documentation that the test results are less than 4.0 pCi/L. In the event the reading is above 4.0, Purchasers shall have the option to cancel the contract. Sellers shall have any warranty which should extend for at least 1 year, transferred to Purchaser.

20. Purchasers shall conduct an Air Mold test at their own cost and expense. This contract is contingent upon an acceptable Air Mold reading. In the event the air mold reading results unsatisfactory, Purchasers shall have the option to cancel the contract and receive the return of their downpayment. Should Purchasers opt to continue with the transaction, Sellers shall have any remediation work completed by a licensed Air Mold remediation firm prior to closing at Sellers expense, and provide documentation that the test results are acceptable. Purchasers shall conduct their own test, at their expense, to confirm the reading. In the event the reading is not acceptable, Purchasers shall have the option to cancel the contract. Sellers shall have any warranty which should extend for at least 1 year, transferred to Purchaser.

Dated: March 11, 2013

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Seller

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Purchaser



## **RIDER TO CONTRACT**

Notwithstanding anything to the contrary contained in the Contract between the above parties, of which this addendum is hereby made part. The provisions of this rider are in addition to the main body of this contract. In each instance in which a provision of this rider shall contradict or be inconsistent with a provision of the main body of the contract or any subsequent rider, the provisions contained in this rider shall govern and prevail.

### **1. EXECUTION OF CONTRACT**

No offer to sell the aforesaid premises shall be construed by the submission of this agreement to the Purchaser or Purchaser's attorney, but that the same shall be deemed an invitation of an offer to purchase on the terms herein contained, without unauthorized changes. It is further agreed that unless this contract is executed by the Purchaser and returned to Seller's attorney, so that seller's attorney is in receipt of said contract within ten (10) days of the mailing of the contract to Purchaser's attorney, Seller shall have the right to continue listing and entertaining other offers of purchase of the premises.

### **2. PURCHASER AS AGENT**

If two or more persons are named as Purchaser herein, any one of them is hereby made agent and attorney-in-fact, coupled with an interest, for the other in all matters of any and every kind with respect to this Contract.

### **3. RIGHTS OF THE PARTIES**

No failure or delay of either party in the exercise of any right given to such party hereunder or the waiver by any party of any condition hereunder for its benefit (unless the time specified herein for exercise of such right, or satisfaction of such condition, has expired) shall constitute a waiver of any other or further right nor shall any single or partial exercise of any right preclude other or further exercise thereof or any other right. The waiver of any breach hereunder shall not be deemed to be a waiver of any other or any subsequent breach hereof.

### **4. PURCHASERS' RISKS**

Purchasers represent that the Purchasers have inspected the premises hereinabove described and is purchasing said premises in "as is" condition as of this date, reasonable wear and tear excepted. This contract, as written, contains all the terms of the agreement entered into between the parties, and Purchasers acknowledge that Seller has made no representations, is unwilling to make any representations, and held out no inducements to the Purchasers, other than those herein expressed, and the Seller is not liable or bound in any manner by expressed or implied warranties, guarantees, promises, statements, representations, or information pertaining to the said premises as to the physical condition, income, expense, operation, or to what use the premises can be applied,

including, but not limited to any matter or thing affecting or relating to the said premises, except as herein specifically set forth. The Seller is not liable or bound in any manner by any verbal or written statements, representations, or information pertaining to the above premises furnished by any real estate broker, agent, employee, servant or other person, unless the same are specifically set forth herein.

#### 5. SELLER'S LIABILITY LIMITED

In the event Seller shall be unable to convey a marketable or uninsurable title to the premises hereinabove described or convey title to the premises in accordance with the terms of this contract, Purchaser shall at Purchaser's election have the right to accept such title as the Seller is able to convey without claim on the part of the Purchaser for abatement for defects or objections, or Purchaser shall have the right to rescind this contract, and upon such rescission pursuant to this paragraph, the rights of the Purchaser shall be limited to the return of the monies paid upon the signing of this contract plus net title company and survey charges for examination of title and upon such repayment, this contract shall be null and void and of no force and effect and Seller shall be under no obligation or liability whatsoever to the Purchaser for any damages that Purchaser may have sustained by reason of Seller's failure to convey title hereunder. In no event shall Seller be required to incur any expenditures of any sums of money to cure or remove defects, liens or encumbrances or institute any action or proceedings to render title marketable.

#### 6. SELLER NOT REQUIRED TO INCUR EXPENSES

Nothing contained in this Agreement shall be construed to require Seller to bring any action or otherwise to incur any expense to render title to the Premises marketable. Purchasers may, nevertheless, accept such title as Seller may be able to convey, without reduction of the purchase price or any credit or allowance against the same and without any other liability on the part of Seller.

#### 7. TITLE:

In the event any covenants, easements, restrictions or agreement of record are violated, Purchasers shall nonetheless be obligated to accept title as provided for in this Contract provided Purchasers' title insurance company will insure against enforcement of such covenants, easements, restrictions or agreements of record and or, in the alternative, will insure that the improvements or any part thereof will not be required to be demolished as a result of any such covenant, easement, restriction or agreement of record. Should Seller be unable to remove any defect, lien and/or encumbrance, or if any covenant, easement, restriction or agreement is not insurable by Purchasers' title insurance company, and the Purchasers are not willing to accept title subject thereto, then the Purchasers shall be entitled only to the return of the down payment made hereunder, together with the "cost of title examination" and survey as set forth in para. 21 and the Purchasers shall not sue for nor be entitled to any damages or other expenses. Notwithstanding anything to the contrary, Seller must cure or satisfy all of Seller's existing financing and known

judgments and liens. Notwithstanding the forgoing, the Sellers shall have the right to place money in escrow to satisfy the requirements of the preceding sentence.

#### 8. TITLE TO BE CONVEYED SUBJECT TO

In addition to any other "subject to" clauses contained in the form contract, said premises are sold subject to the following:

a. Any state of facts an accurate survey would show provided same do not render title unmarketable; Minor encroachments such as fences, driveways, walkways, shrubbery, etc., extending beyond or within the record lines of title and not being of record shall not be deemed objections to title; Mining and mineral rights of third parties, if any; Minor variations between record lines of the Premises and those on the tax map; Possible minor encroachments of retaining walls, stoops, railings, trim, hedges and fences and variations between record lines and hedges, fences, stoops, railings, trim, hedges and retaining walls provided Purchasers' title insurance company shall be willing to insure that such may remain as long as same shall stand.

b. Any utility agreements, covenants, easements, restrictions of record, right of way, reservations conditions and agreements of record contained in former deeds or other instrument of record, if any, in addition to the aforementioned provided the same will not prohibit occupancy of the dwelling house on the Premises as a residence, and provided, further, that in the event there exist any additions or improvements to the premises which violate covenants and restrictions, the existence of any such violation shall not be deemed to be an objection to title provided a title company will insure that said addition or improvements may remain in their present condition as long as the same shall stand;

c. Any variance in connection with fence, hedge, and like, surrounding the premises, provided the same does not render title unmarketable;

d. In the event there exists any additional improvement to the premises, which violate covenants and restrictions, the existence of such violation of the covenants and restrictions shall not be deemed objection to title provided a title company can insure that said additions or improvements may remain in their present location as long as the same shall stand;

e. Any state of facts a personal inspection of the premises would disclose.

f. Public utility easements of record, if any, and/or grants of rights heretofore granted to municipalities and public and private utilities provided same do not interfere with the normal use of the Premises and are not violated by existing structures or current use of Premises. Rights, if any of utility and telephone and Cable TV companies to maintain and operate wires, cable, poles in and over and upon said premises. Standard printed exceptions contained in the form of fee title insurance policy then issues by the title insurance company insuring Purchasers' title to the Premises.

## 9. CONDITION OF THE PREMISES

Except as otherwise provided herein, the Purchasers have examined the premises agreed to be sold and is familiar with the physical condition hereof. The Seller has not made and does not make any representations as to the physical condition nor any other matter or thing affecting or relating to the aforesaid premises or its contents or personality, except as herein specifically set forth, and the Purchasers hereby acknowledge that no such representations have been made, and the Purchasers further acknowledge that they have inspected the premises and agree to take the premises "as is" with no warranties as to the contents or condition thereof. No representation made herein shall survive the closing of title.

## 10. LEAD PAINT DISCLOSURE

Purchasers, at their own cost and expense, shall have the right, within ten (10) days after Purchasers' attorney receives a fully executed copy of this Contract, of having the premises inspected for the purpose of determining the existence of lead-based paint. Purchaser acknowledges that Purchaser has received a copy of the pamphlet "Protect Your Family From Lead in Your Home," a copy of which is annexed hereto and made part hereof as Exhibit \_\_\_\_\_. A copy of the inspection report must be sent to Seller's attorney within five (5) days after the inspection. If the inspection reveals unacceptable amounts of lead-based paint in the premises, Seller shall have the option, at Seller's own cost and expense, to (a) remove said lead-based paint, in which event Purchaser must consummate this Contract, or (b) canceling this Contract by returning the down payment. In the event Seller elects to cancel the Contract, Purchaser may waive this provision and proceed with the Contract notwithstanding such condition. If Purchaser does not have the premises inspected or does not send Seller's attorney a copy of the inspection report within the time periods provided herein, Purchaser shall lose Purchaser's rights under this paragraph and must consummate the Contract even if lead-based paint exists in the Premises and Seller shall be under no obligation to correct the condition.

## 11. PROPERTY CONDITION DISCLOSURE

The undersigned parties hereby acknowledge that that Property Condition Disclosure Act (hereinafter referred to as "PCDA") as same is set forth in Article 14 of the New York Real Property Law, applies to this transaction. Seller has concluded that based upon an economic risk assessment and the practical consideration of the need for finality to a real estate transaction at the time of closing of title, the Seller has elected not to provide the Property Condition Disclosure Statement (hereinafter referred to as "Statement") as referenced in the statute, but in lieu thereof, to give the Five Hundred Dollar (\$500.00) credit to Purchaser at the closing of title, as provided for in the PCDA.

## 12. NOTICE OF OBJECTIONS

Purchasers agree to notify THE LAW OFFICES OF RITA J. TINO, attorney for the Seller, in writing, of any objections to title at least ten (10) days before the date set for

closing. In the event that there be any objections to title, the Seller may adjourn the closing of title to afford him reasonable opportunity to dispose of such objections. Seller, however, shall not be required to bring any action or proceeding or incur any expense to render its title marketable except as hereinafter provided with respect to disposition or payment of judgment, mechanic liens, mortgages federal and state tax liens and warrants.

### 13. PAYMENT AT CLOSING

The payment due at closing must be made by certified or official tellers check payable directly to Seller or Seller's designee. If payment shall be made to Seller's designee, Seller shall give Purchasers two (2) days prior written notice. Uncertified checks of funding companies, attorney's escrow checks and checks payable to Purchasers or another party and endorsed to Seller will not be accepted and tender of same will not constitute compliance by Purchasers of their obligations hereunder. Purchasers shall personally guarantee, as part of Purchasers' consideration hereunder, any uncertified funds and further, it being the intention of the parties that the failure of said uncertified funds to be honored upon presentation to an appropriate bank shall constitute a failure of consideration under this contract and shall require the Purchasers to tender the deed back to the Seller on ten (10) days written notice of that event. This provision shall survive closing of title.

Purchasers agree that Purchasers are responsible for the replacement of any checks paid at closing of title for the balance of the purchase price and any tax adjustments in the event that any such checks are returned to Sellers due to insufficient funds or for any other reason, including checks from bank attorneys or third parties. The amount of any unpaid or returned checks shall constitute a lien on the premises for which Seller may file a Notice of Pendency and foreclose upon. Purchasers further agree to hold Seller harmless with regard to any checks returned by the bank including any legal fees and court costs incurred by the Seller in the course of replacing the said funds represented by the returned checks. The terms of this paragraph shall survive closing.

### 14. MORTGAGE CONTINGENCY

Performance of this agreement by the Purchasers is subject to and conditioned upon their obtaining what is commonly referred to as a conventional mortgage at prevailing interest rates and terms in the principal sum of \$850,800.00 through a local lending institution, for which financing, good faith, diligent application will be made at Purchasers' sole cost and expense. Purchasers represent that to the best of their knowledge that they are qualified and eligible to obtain said loan. Seller is in no way binding themselves to pay any costs in connection with said mortgage and Purchasers agrees to pay any such costs.

Purchasers represent that, to the best of their knowledge, their combined annual income is sufficient to obtain the mortgage referred to hereinabove and that they now have sufficient cash on hand to pay all of the Purchasers closing costs as well as the remainder of the purchase price other than the portion of the purchase price to be paid out of the proceeds of the mortgage herein contemplated. Purchasers further represent that

there are no judgments against either of them unsatisfied of record in the courts of New York or the United States; that no proceedings in bankruptcy or insolvency have been instituted by or against them, that no notices of federal liens and no federal liens have been filed against them and that there is nothing in their credit history that would make them unqualified to obtain the mortgage loan.

Purchasers represent that they are applying for the mortgage loan solely in its own names and based solely upon their individual income, and that the mortgage application will not be processed by the lending institution on the basis of any additional income requirement or another co-borrower, who is not a signatory to this Contract. The Purchasers shall notify Seller within three (3) days of receipt of any objections the proposed lender has to the quality of title or any other aspect of the transaction.

It is understood and agreed that the written mortgage commitment received by the Purchasers, which otherwise meets all of the above requirements in order to remove the contingency of this Rider, shall not give rise to a valid right of cancellation of the Contract by the Purchasers if the mortgage commitment shall require any of the following:

- a. Evidence to the lending institution, that Purchasers have sold any other property presently held by them;
- b. A requirement that Purchasers, at or prior to closing of title, to liquidate or reduce any existing installment debt;

In the event that the Purchasers receive a mortgage commitment that contains as a condition to such mortgage loan, the sale or lease of any property owned by the Purchaser, whether real or personal, such commitment shall be deemed a firm and unconditional commitment nonetheless for purposes of this Contract and the Purchasers shall be required to close title pursuant to the terms of this Contract.

#### 15. DEPOSIT FOR LIENS

If the premises shall be subject to any liens, including transfer, inheritance, estate, franchise, license or other similar tax, the amount of which has not been finally fixed, the same shall not be deemed an objection to title, provided that any title company in good standing to which Purchaser has applied for title insurance will, at the time of the closing of title, issue or bind itself to issue its policy which will insure Purchaser against collection of said liens and taxes from said premises, or if Seller leaves a reasonable deposit with Seller's attorney or with Purchaser's title company to secure the payment thereof.

#### 16. ACCEPTANCE OF DEED – FULL COMPLIANCE BY SELLER

The acceptance of a deed by the Purchasers shall be deemed to be full performance and discharge of every agreement and obligation on the part of the Seller to be performed pursuant to the provisions of this contract. All representations of the Seller

made herein shall merge in the deed of conveyance, and shall not survive the delivery of same at closing.

17. PROHIBITION AGAINST RECORDATION OF CONTRACT

This Contract shall not be recorded by the Purchasers and any recordation or attempted recordation by Purchasers hereof shall be void and shall constitute a default by Purchasers hereunder.

18. APPLICABLE LAW/SEVERABILITY

This Contract shall be interpreted and enforced in accordance with the laws of the State of New York. If any provisions of this Contract shall be unenforceable or invalid, the same shall not affect the remaining provisions of this Contract.

19. ENFORCEMENT

Purchasers and Seller hereby waive trial by jury in any action, proceeding or counterclaim arising out of this Contract, provided such waiver is not prohibited by any laws of the State of New York. Any action or proceeding brought by either party hereto against the other, directly or indirectly, arising out of this Contract, shall be instituted in a court in Westchester County This Paragraph shall survive the delivery of the Deed.

20. TRAVEL FEE

In the event closing takes place outside of Westchester County, Purchasers shall pay Seller's attorney \$300.00 to offset additional attorney's fees for travel and time.

21. ERRORS AND OMISSIONS

The parties herein agree that any errors in making final adjustments shall be corrected within thirty (30) days of the closing of title and this representation shall survive closing of title notwithstanding delivery and acceptance of the deed.

22. MANSION TAX

Purchasers acknowledge that Seller is under no obligation to pay any New York State Mansion Tax and that in the event any is due or becomes due such tax is the sole obligation of Purchasers.

23. HOME EQUITY THEFT PROTECTION ACT

Seller and Purchasers acknowledge that they have been informed of the provisions of Real Property Law Section 265A known as the Home Equity Theft Protection Act (hereinafter "Act"). Purchasers represent that they are exempt

from the provisions of the Act because they are bona fide purchasers for full value and are purchasing the Premises for use as their principle residence. Seller represents that there is no pending foreclosure action involving any mortgage(s) encumbering the premises by reason of payments being due and unpaid for two (2) or more months and the Premises are not listed as an active property on any tax lien list.

Dated:

\_\_\_\_\_  
Seller

\_\_\_\_\_  
Purchaser

\_\_\_\_\_



## **Residential Real Estate Forms From Start to Finish**

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### **PRE-CONTRACT**

- Broker Term Sheet
- Lead Disclosure
- Form Contract
- Contract Rider
  - o Purchaser
  - o Seller
- Power of Attorney
- W-9 (escrow)

### **POST-CONTRACT/PRE-CLOSING**

- Amendment to Contract
- Title Search/Exceptions (including Tax Search, Municipals, Judgment Search, UCC Search, Survey reading/update)
- Purchaser's Mortgage Commitment letter
- Forms to Clear Title Objections
- Closing statement/adjustments
  - o Mortgage tax
  - o Mansion tax
  - o Property Condition Disclosure Credit
- Closing Checklist
- Time of Essence Letter

### **CLOSING**

- Deed (Stock certificate (Coop))
  - o Different types of Deeds
  - o Different ways to take possession
- Foreign Investment in Real Property Tax Act (FIRPTA)
- New York State Combined Real Estate Transfer Tax Return (TP-584)
- Real Property Transfer Report/Equalization Form (RP-5217)
- HUD-1
- Purchaser's Loan Documents (Purchase Money Note & Mortgage, if applicable, or Institutional Lender's Form of Note & Mortgage)
- Payoff letter from Seller's lender
- Title Forms (affidavits and escrow form for payment of taxes)
- Smoke Alarm/Carbon Monoxide Detector Affidavits
- Tenant Estoppel Certificates (if 2-3 Family with tenants)
- STAR (School Tax Relief) Form
- Escrow Agreement
- Post-closing Possession Agreement

# HOULIHAN LAWRENCE

## HOULIHAN LAWRENCE MEMORANDUM OF AGREEMENT

Date: April 6, 2013

MLS #:

Closing Date: July 5, 2013

RE: Marybeth Swanson

TO: Sam Smith and Judy Jones

Property Address: 1 Main Street, New Rochelle, NY

Tax Map Description: Sec II Blk 25 Lot 5

Sale Price: \$1,200,000.00 Payable at Contract: 10% = \$120,000.00

Mortgage Contingency:  Yes  No Terms: 20 Cash 80 Mortgage Conventional

Inspections: Engineering  Termite  Oil Tank  Water   
Radon  Lead Paint  Septic  Other

### Inclusions:

Alarm System, B/I Shelves, Ceiling Fan, Dishwasher, Dryer, Garage Remotes, Microwave, Range, refrigerator, screens, shades, blinds, wall to wall carpet, washer

### Exclusions:

Drapes, Dining room chandelier

### Notes:

#### Seller:

Marybeth Swanson  
1 Main Street

New Rochelle NY 10804

#### Seller's Attorney:

Laura Alcott, Esq  
Dorf and Nelson, LLP  
555 Theodore Fremd Avenue

Rye NY 10580  
914 381 7600

lalcott@dorflaw.com

#### Listing Office:

Houlihan Lawrence

15 Quaker Ridge Road  
New Rochelle NY 10804

914.636.6700 Ext. 454  
914.636.1038

#### Buyer:

Sam Smith  
Judy Jones

#### Buyer's Attorney:

Anne Long  
Binda and Long  
S West 5<sup>th</sup> Ave  
New York, NY 10000

#### Selling Office:

Coldwell Banker Res Brokerage

Six Cedar St  
Dobbs Ferry NY 10522

914.693.5476  
914-693-5476

Purchaser has been advised that if the owner verbally accepts purchaser's offer, that such acceptance is not binding to the owner until a written contract between purchaser and the owner has been fully executed and delivered. Owner has the legal right to accept any other offer or to make counter offers to other prospective purchasers until a contract has been fully executed.

**Houlihan Lawrence**

**RESIDENTIAL CONTRACT OF SALE**

**CONTRACT OF SALE** made as of the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_

**BETWEEN:**

\_\_\_\_\_ residing at \_\_\_\_\_  
Social Security Number/Fed. I.D. No(s): \_\_\_\_\_, hereinafter called "Seller" and

\_\_\_\_\_ residing at \_\_\_\_\_  
Social Security Number/Fed. I. D. No(s): \_\_\_\_\_, hereinafter called "Purchaser."

**THE PARTIES HEREBY AGREE AS FOLLOWS:**

**1. Premises.** Seller shall sell and convey and Purchaser shall purchase the property, together with all buildings and improvements thereon (collectively the "Premises"), more fully described on a separate page marked "Schedule A," annexed hereto and made a part hereof and also known as:

Street Address: \_\_\_\_\_

Tax Map Designation: Section \_\_\_\_\_, Block \_\_\_\_\_, Lot \_\_\_\_\_

Together with Seller's ownership and rights, if any, to land lying in the bed of any street or highway, opened or proposed, adjoining the Premises to the center line thereof, including any right of Seller to any unpaid award by reason of any taking by condemnation and/or for any damage to the Premises by reason of change of grade of any street or highway. Seller shall deliver at no additional cost to Purchaser, at Closing (as hereinafter defined), or thereafter, on demand, any documents that Purchaser may reasonably require for the conveyance of such title and the assignment and collection of such award or damages.

**2. Personal Property.** This sale also includes all fixtures and articles of personal property now attached or appurtenant to the Premises, unless specifically excluded below. Seller represents and warrants that at Closing they will be paid for and owned by Seller, free and clear of all liens and encumbrances, except any existing mortgage to which this sale may be subject. They include, but are not limited to, plumbing, heating, lighting and cooking fixtures, bathroom and kitchen cabinets, mantels, door mirrors, switch plates and door hardware, Venetian blinds, window treatments, shades, screens, awnings, storm windows, storm doors, window boxes, mail box, TV aerials, weather vane, flagpole, pumps, shrubbery, fencing, outdoor statuary, tool shed, dishwasher, washing machine, clothes dryer, garbage disposal unit, range, oven, refrigerator, freezer, air conditioning equipment and installations, wall to wall carpeting and built-ins not excluded below (*strike out inapplicable items*).

Excluded from this sale are furniture and household furnishings and \_\_\_\_\_ [SET FORTH].

**3. Purchase Price.** The purchase price is \_\_\_\_\_ (\$ \_\_\_\_\_) payable as follows:

(a) on the signing of this contract, by Purchaser's check payable to the Escrowee (as hereinafter defined), subject to collection, the receipt of which is hereby acknowledged, to be held in escrow pursuant to paragraph 6 of this contract (the "Downpayment"): \$ \_\_\_\_\_

(b) by allowance for the principal amount unpaid on the existing mortgage on the date hereof, payment of which Purchaser shall assume by joinder in the deed: \$ \_\_\_\_\_

(c) by a purchase money note and mortgage from Purchaser to Seller: \$ \_\_\_\_\_

(d) balance at Closing in accordance with paragraph 7: \$ \_\_\_\_\_

**4. Existing Mortgage.** (*Delete if inapplicable*) If this sale is subject to an existing mortgage as indicated in paragraph 3(b) above:

(a) The Premises shall be conveyed subject to the continuing lien of the existing mortgage, which is presently payable, with interest at the rate of \_\_\_\_\_ percent per annum, in monthly installments of \$ \_\_\_\_\_ which include principal, interest and escrow amounts, if any, and with any balance of principal being due and payable on: (*set forth*).

(b) To the extent that any required payments are made on the existing mortgage between the date hereof and Closing which reduce the unpaid principal amount thereof below the amount shown in paragraph 3(b), then the balance of the price payable at Closing under paragraph 3(d) shall be increased by the amount of the payments of principal. Seller represents and warrants that the amount shown in paragraph 3(b) is substantially correct and agrees that only payments required by the existing mortgage will be made between the date hereof and Closing.

(c) If there is a mortgagee escrow account, Seller shall assign it to Purchaser, if it can be assigned, and in that case Purchaser shall pay the amount in the escrow account to Seller at Closing.

(d) Seller shall deliver to Purchaser at Closing a certificate dated not more than 30 days before Closing signed by the holder of the existing mortgage, in form for recording, certifying the amount of the unpaid principal, the date to which interest has been paid and the amounts, if any, claimed to be unpaid for principal and interest, itemizing the same. Seller shall pay the fees for recording such certificate. If the holder of the existing mortgage is a bank or other institution as defined in Section 274-a of the Real Property Law ("Institutional Lender"), it may, instead of the certificate, furnish a letter signed by a duly authorized officer, employee or agent, dated not more than 30 days before Closing, containing the same information.

(e) Seller represents and warrants that (i) Seller has delivered to Purchaser true and complete copies of the existing mortgage, the note secured thereby and any extensions and modifications thereof, (ii) the existing mortgage is not now, and at the time of Closing will not be, in default, and (iii) the existing mortgage does not contain any provision that permits the holder of the mortgage to require its immediate payment in full or to change any other term thereof by reason of the sale or conveyance of the Premises.

**5. Purchase Money Mortgage.** (*Delete if inapplicable*) If there is to be a purchase money mortgage as indicated in paragraph 3(c) above:

(a) The purchase money note and mortgage shall be drawn by the attorney for Seller in the form attached or, if not, in the standard form adopted by the New York State Land Title Association. Purchaser shall pay at Closing the mortgage recording tax, recording fees and the attorney's fees in the amount of \$\_\_\_\_\_ for its preparation.

(b) The purchase money note and mortgage shall also provide that it is subject and subordinate to the lien of the existing mortgage and any extensions, modifications, replacements or consolidations of the existing mortgage, provided that (i) the interest rate thereof shall not be greater than \_\_\_\_\_ percent per annum and the total debt service thereunder shall not be greater than \$\_\_\_\_\_ per annum, and (ii) if the principal amount thereof shall exceed the amount of principal owing and unpaid on the existing mortgage at the time of placing such new mortgage or consolidated mortgage, the excess be paid to the holder of such purchase money mortgage in reduction of the principal thereof.

The purchase money mortgage shall also provide that such payment to the holder thereof shall not alter or affect the regular installments, if any, of principal payable thereunder and that the holder thereof will, on demand and without charge therefor, execute, acknowledge and deliver any agreement or agreements further to effectuate such subordination.

**6. Downpayment in Escrow.** (a) Seller's attorney ("Escrowee") shall hold the Downpayment for Seller's account in escrow in a segregated bank account at \_\_\_\_\_ until Closing or sooner termination of this contract and shall pay over or apply the Downpayment in accordance with the terms of this paragraph. Escrowee shall (not) (*Delete if inapplicable*) hold the Downpayment in an interest-bearing account for the benefit of the parties. If interest is held for the benefit of the parties, it shall be paid to the party entitled to the Downpayment and the party receiving the interest shall pay any income taxes thereon. If interest is not held for the benefit of the parties, the Downpayment shall be placed in an IOLA account or as otherwise permitted or required by law. The Social Security or Federal Identification numbers of the parties shall be furnished to Escrowee upon request. At Closing, the Downpayment shall be paid by Escrowee to Seller. If for any reason Closing does not occur and either party gives Notice (as defined in paragraph 25) to Escrowee demanding payment of the Downpayment, Escrowee shall give prompt Notice to the other party of such demand. If Escrowee does not receive Notice of objection from such other party to the proposed payment within 10 business days after the giving of such Notice, Escrowee is hereby authorized and directed to make such payment. If Escrowee does receive such Notice of objection within such 10 day period or if for any other reason Escrowee in good faith shall elect not to make such payment, Escrowee shall continue to hold such amount until otherwise directed by Notice from the parties to this contract or a final, nonappealable judgment, order or decree of a court. However, Escrowee shall have the right at any time to deposit the Downpayment and the interest thereon with the clerk of a court in the county in which the Premises are located and shall give Notice of such deposit to Seller and Purchaser. Upon such deposit or other disbursement in accordance with the terms of this paragraph, Escrowee shall be relieved and discharged of all further obligations and responsibilities hereunder.

(b) The parties acknowledge that, although Escrowee is holding the Downpayment for Seller's account, for all other purposes Escrowee is acting solely as a stakeholder at their request and for their convenience and that Escrowee shall not be liable to either party for any act or omission on its part unless taken or suffered in bad faith or in willful disregard of this contract or involving gross negligence on the part of Escrowee. Seller and Purchaser jointly and severally agree to defend, indemnify and hold Escrowee harmless from and against all costs, claims and expenses (including reasonable attorneys' fees) incurred in connection with the performance of Escrowee's duties hereunder, except with respect to actions or omissions taken or suffered by Escrowee in bad faith or in willful disregard of this contract or involving gross negligence on the part of Escrowee.

(c) Escrowee may act or refrain from acting in respect of any matter referred to herein in full reliance upon and with the advice of counsel which may be selected by it (including any member of its firm) and shall be fully protected in so acting or refraining from action upon the advice of such counsel.

(d) Escrowee acknowledges receipt of the Downpayment by check subject to collection and Escrowee's agreement to the provisions of this paragraph by signing in the place indicated on the signature page of this contract.

(e) Escrowee or any member of its firm shall be permitted to act as counsel for Seller in any dispute as to the disbursement of the Downpayment or any other dispute between the parties whether or not Escrowee is in possession of the Downpayment and continues to act as Escrowee.

**7. Acceptable Funds.** All money payable under this contract, unless otherwise specified, shall be paid by:

(a) Cash, but not over \$1,000.00;

(b) Good certified check of Purchaser drawn on or official check issued by any bank, savings bank, trust company or savings and loan association having a banking office in the State of New York, unendorsed and payable to the order of Seller, or as Seller may otherwise direct upon not less than 3 business days notice to Purchaser;

(c) As to money other than the purchase price payable to Seller at Closing, uncertified check of Purchaser up to the amount of \$ \_\_\_\_\_; and

(d) As otherwise agreed to in writing by Seller or Seller's attorney.

**8. Mortgage Contingency.** (*Delete if inapplicable*) The obligations of Purchaser hereunder are conditioned upon issuance on or before [month, date, year], (the "Commitment Date") of a written commitment from any Institutional Lender pursuant to which such Institutional Lender agrees to make a first mortgage loan, other than a VA, FHA or other governmentally insured loan, to Purchaser, at Purchaser's sole cost and expense, of \$ \_\_\_\_\_ or such lesser sum as Purchaser shall be willing to accept, at the prevailing fixed rate of interest not to exceed \_\_\_\_\_ or initial adjustable rate of interest not to exceed \_\_\_\_\_ for a term of at least years and on other customary commitment terms, whether or not conditional upon any factors other than an appraisal satisfactory to the Institutional Lender. Purchaser shall (a) make prompt application to an Institutional Lender for such mortgage loan, (b) furnish accurate and complete information regarding Purchaser and members of Purchaser's family, as required, (c) pay all fees, points and charges required in connection with such application and loan, (d) pursue such application with diligence, (e) cooperate in good faith with such Institutional Lender to obtain such commitment and (f) promptly give Notice to Seller of the name and address of each Institutional Lender to which Purchaser has made such application. Purchaser shall comply with all requirements of such commitment (or of any other commitment accepted by Purchaser) and shall furnish Seller with a copy thereof promptly after receipt thereof. If such commitment is not issued on or before the Commitment Date, then, unless Purchaser has accepted a commitment that does not comply with the requirements set forth above, Purchaser may cancel this contract by giving Notice to Seller within 5 business days after the Commitment Date, in which case this contract shall be deemed cancelled and thereafter neither party shall have any further rights against, or obligations or liabilities to, the other by reason of this contract, except that the Downpayment shall be promptly refunded to Purchaser and except as set forth in paragraph 27. If Purchaser fails to give notice of cancellation or if Purchaser shall accept a commitment that does not comply with the terms set forth above, then Purchaser shall be deemed to have waived Purchaser's right to cancel this contract and to receive a refund of the Downpayment by reason of the contingency contained in this paragraph.

**9. Permitted Exceptions.** The Premises are sold and shall be conveyed subject to:

- (a) Zoning and subdivision laws and regulations, and landmark, historic or wetlands designation, provided that they are not violated by the existing buildings and improvements erected on the property or their use;
- (b) Consents for the erection of any structures on, under or above any streets on which the Premises abut;
- (c) Encroachments of stoops, areas, cellar steps, trim and cornices, if any, upon any street or highway;
- (d) Real estate taxes that are a lien, but are not yet due and payable; and
- (e) The other matters, if any, including a survey exception, set forth in a Rider attached.

**10. Governmental Violations and Orders.** (a) Seller shall comply with all notes or notices of violations of law or municipal ordinances, orders or requirements noted or issued as of the date hereof by any governmental department having authority as to lands, housing, buildings, fire, health, environmental and labor conditions affecting the Premises. The Premises shall be conveyed free of them at Closing. Seller shall furnish Purchaser with any authorizations necessary to make the searches that could disclose these matters.

(b) *(Delete if inapplicable)* All obligations affecting the Premises pursuant to the Administrative Code of the City of New York incurred prior to Closing and payable in money shall be discharged by Seller at or prior to Closing.

**11. Seller's Representations.** (a) Seller represents and warrants to Purchaser that:

- (i) The Premises abut or have a right of access to a public road;
- (ii) Seller is the sole owner of the Premises and has the full right, power and authority to sell, convey and transfer the same in accordance with the terms of this contract;
- (iii) Seller is not a "foreign person", as that term is defined for purposes of the Foreign Investment in Real Property Tax Act, Internal Revenue Code ("IRC") Section 1445, as amended, and the regulations promulgated thereunder (collectively "FIRPTA");
- (iv) The Premises are not affected by any exemptions or abatements of taxes; and
- (v) Seller has been known by no other name for the past ten years, except \_\_\_\_\_

(b) Seller covenants and warrants that all of the representations and warranties set forth in this contract shall be true and correct at Closing.

(c) Except as otherwise expressly set forth in this contract, none of Seller's covenants, representations, warranties or other obligations contained in this contract shall survive Closing.

**12. Condition of Property.** Purchaser acknowledges and represents that Purchaser is fully aware of the physical condition and state of repair of the Premises and of all other property included in this sale, based on Purchaser's own inspection and investigation thereof, and that Purchaser is entering into this contract based solely upon such inspection and investigation and not upon any information, data, statements or representations, written or oral, as to the physical condition, state of repair, use, cost of operation or any other matter related to the Premises or the other property included in the sale, given or

made by Seller or its representatives, and shall accept the same as is in their present condition and state of repair, subject to reasonable use, wear, tear and natural deterioration between the date hereof and the date of Closing (except as otherwise set forth in paragraph 16(f)), without any reduction in the purchase price or claim of any kind for any change in such condition by reason thereof subsequent to the date of this contract. Purchaser and its authorized representatives shall have the right, at reasonable times and upon reasonable notice (by telephone or otherwise) to Seller, to inspect the Premises before Closing.

**13. Insurable Title.** Seller shall give and Purchaser shall accept such title as \_\_\_\_\_ shall be willing to approve and insure in accordance with its standard form of title policy approved by the New York State Insurance Department, subject only to the matters provided for in this contract.

**14. Closing, Deed and Title.** (a) "Closing" means the settlement of the obligations of Seller and Purchaser to each other under this contract, including the payment of the purchase price to Seller, and the delivery to Purchaser of a \_\_\_\_\_ deed in proper statutory short form for record, duly executed and acknowledged, so as to convey to Purchaser fee simple title to the Premises, free of all encumbrances, except as otherwise herein stated. The deed shall contain a covenant by Seller as required by subd. 5 of Section 13 of the Lien Law.

(b) If Seller is a corporation, it shall deliver to Purchaser at the time of Closing (i) a resolution of its Board of Directors authorizing the sale and delivery of the deed, and (ii) a certificate by the Secretary or Assistant Secretary of the corporation certifying such resolution and setting forth facts showing that the transfer is in conformity with the requirements of Section 909 of the Business Corporation Law. The deed in such case shall contain a recital sufficient to establish compliance with that Section.

**15. Closing Date and Place.** Closing shall take place at the office of \_\_\_\_\_ at \_\_\_\_\_ o'clock on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_ or, upon reasonable notice (by telephone or otherwise) by Purchaser, at the office of \_\_\_\_\_

**16. Conditions to Closing.** This contract and Purchaser's obligation to purchase the Premises are also subject to and conditioned upon the fulfillment of the following conditions precedent:

(a) The accuracy, as of the date of Closing, of the representations and warranties of Seller made in this contract.

(b) The delivery by Seller to Purchaser of a valid and subsisting Certificate of Occupancy or other required certificate of compliance, or evidence that none was required, covering the building(s) and all of the other improvements located on the property authorizing their use as a \_\_\_\_\_ family dwelling at the date of Closing.

(c) The delivery by Seller to Purchaser of a duly executed and sworn affidavit (in form prescribed by law) claiming exemption of the sale contemplated hereby, if such be the case, under Article 31-B of the Tax Law of the State of New York and the Regulations promulgated thereunder, as the same may be amended from time to time (collectively the "Gains Tax Law"); or if such sale shall not be exempt under the Gains Tax Law, Seller and Purchaser agree to comply in a timely manner with the requirements of the Gains Tax Law and, at Closing, Seller shall deliver to Purchaser (i) an official return showing no tax due, or (ii) an official return accompanied by a certified or official bank check drawn on a New York State banking institution payable to the order of the New York State Department of Taxation and Finance in the amount of the tax shown to be due thereon. Seller shall (x) pay promptly any additional tax that may become due under the Gains Tax Law, together with interest and penalties thereon, if any, which may be assessed or become due after Closing, and/or execute any other documents that may be



required in respect thereof, and (y) indemnify, defend and save Purchaser harmless from and against any of the foregoing and any damage, liability, cost or expense (including reasonable attorneys' fees) which may be suffered or incurred by Purchaser by reason of the nonpayment thereof. The provisions of this subparagraph (c) shall survive Closing.

(d) The delivery by Seller to Purchaser of a certification stating that Seller is not a foreign person, which certification shall be in the form then required by FIRPTA. If Seller fails to deliver the aforesaid certification or if Purchaser is not entitled under FIRPTA to rely on such certification, Purchaser shall deduct and withhold from the purchase price a sum equal to 10% thereof (or any lesser amount permitted by law) and shall at Closing remit the withheld amount with the required forms to the Internal Revenue Service.

(e) The delivery of the Premises and all building(s) and improvements comprising a part thereof in broom clean condition, vacant and free of leases or tenancies, together with keys to the Premises.

(f) All plumbing (including water supply and septic systems, if any), heating and air conditioning, if any, electrical and mechanical systems, equipment and machinery in the building(s) located on the property and all appliances which are included in this sale being in working order as of the date of Closing.

(g) If the Premises are a one or two family house, delivery by the parties at Closing of affidavits in compliance with state and local law requirements to the effect that there is installed in the Premises a smoke detecting alarm device or devices.

(h) The delivery by the parties of any other affidavits required as a condition of recording the deed.

**17. Deed Transfer and Recording Taxes.** At Closing, certified or official bank checks payable to the order of the appropriate State, City or County officer in the amount of any applicable transfer and/or recording tax payable by reason of the delivery or recording of the deed or mortgage, if any, shall be delivered by the party required by law or by this contract to pay such transfer and/or recording tax, together with any required tax returns duly executed and sworn to, and such party shall cause any such checks and returns to be delivered to the appropriate officer promptly after Closing. The obligation to pay any additional tax or deficiency and any interest or penalties thereon shall survive Closing.

**18. Apportionments and Other Adjustments; Water Meter and Installment Assessments.** (a) To the extent applicable, the following shall be apportioned as of midnight of the day before the day of Closing:

(i) taxes, water charges and sewer rents, on the basis of the fiscal period for which assessed; (ii) fuel; (iii) interest on the existing mortgage; (iv) premiums on existing transferable insurance policies and renewals of those expiring prior to Closing; (v) vault charges; (vi) rents as and when collected.

(b) If Closing shall occur before a new tax rate is fixed, the apportionment of taxes shall be upon the basis of the tax rate for the immediately preceding fiscal period applied to the latest assessed valuation.

(c) If there is a water meter on the Premises, Seller shall furnish a reading to a date not more than 30 days before Closing and the unfixed meter charge and sewer rent, if any, shall be apportioned on the basis of such last reading.

(d) If at the date of Closing the Premises are affected by an assessment which is or may become payable in annual installments, and the first installment is then a lien, or has been paid, then for the purposes of this contract all the unpaid installments shall be considered due and shall be paid by Seller at or prior to Closing.

(e) Any errors or omissions in computing apportionments or other adjustments at Closing shall be corrected within a reasonable time following Closing. This subparagraph shall survive Closing.

**19. Allowance for Unpaid Taxes, etc.** Seller has the option to credit Purchaser as an adjustment to the purchase price with the amount of any unpaid taxes, assessments, water charges and sewer rents, together with any interest and penalties thereon to a date not less than five business days after Closing, provided that official bills therefor computed to said date are produced at Closing.

**20. Use of Purchase Price to Remove Encumbrances.** If at Closing there are other liens or encumbrances that Seller is obligated to pay or discharge, Seller may use any portion of the cash balance of the purchase price to pay or discharge them, provided Seller shall simultaneously deliver to Purchaser at Closing instruments in recordable form and sufficient to satisfy such liens or encumbrances of record, together with the cost of recording or filing said instruments. As an alternative Seller may deposit sufficient monies with the title insurance company employed by Purchaser acceptable to and required by it to assure their discharge, but only if the title insurance company will insure Purchaser's title clear of the matters or insure against their enforcement out of the Premises and will insure Purchaser's Institutional Lender clear of such matters. Upon notice (by telephone or otherwise), given not less than 3 business days before Closing, Purchaser shall provide separate certified or official bank checks as requested to assist in clearing up these matters.

**21. Title Examination; Seller's Inability to Convey; Limitations of Liability.** (a) Purchaser shall order an examination of title in respect of the Premises from a title company licensed or authorized to issue title insurance by the New York State Insurance Department or any agent for such title company promptly after the execution of this contract or, if this contract is subject to the mortgage contingency set forth in paragraph 8, after a mortgage commitment has been accepted by Purchaser. Purchaser shall cause a copy of the title report and of any additions thereto to be delivered to the attorney(s) for Seller promptly after receipt thereof.

(b)(i) If at the date of Closing Seller is unable to transfer title to Purchaser in accordance with this contract, or Purchaser has other valid grounds for refusing to close, whether by reason of liens, encumbrances or other objections to title or otherwise (herein collectively called "Defects"), other than those subject to which Purchaser is obligated to accept title hereunder or which Purchaser may have waived and other than those which Seller has herein expressly agreed to remove, remedy or discharge and if Purchaser shall be unwilling to waive the same and to close title without abatement of the purchase price, then, except as hereinafter set forth, Seller shall have the right, at Seller's sole election, either to take such action as Seller may deem advisable to remove, remedy, discharge or comply with such Defects or to cancel this contract; (ii) if Seller elects to take action to remove, remedy or comply with such Defects, Seller shall be entitled from time to time, upon Notice to Purchaser, to adjourn the date for Closing hereunder for a period or periods not exceeding 60 days in the aggregate (but not extending beyond the date upon which Purchaser's mortgage commitment, if any, shall expire), and the date for Closing shall be adjourned to a date specified by Seller not beyond such period. If for any reason whatsoever, Seller shall not have succeeded in removing, remedying or complying with such Defects at the expiration of such adjournment(s), and if Purchaser shall still be unwilling to waive the same and to close title without abatement of the purchase price, then either party may cancel this contract by Notice to the other given within 10 days after such adjourned date; (iii) notwithstanding the foregoing, the existing mortgage (unless this sale is subject to the same) and any matter created by Seller after the date hereof shall be released, discharged or otherwise cured by Seller at or prior to Closing.

(c) If this contract is canceled pursuant to its terms, other than as a result of Purchaser's default, this contract shall terminate and come to an end, and neither party shall have any further rights, obligations or liabilities against or to the other hereunder or otherwise, except that: (i) Seller shall promptly refund or cause the Escrowee to refund the Downpayment to Purchaser and, unless cancelled as a result of Purchaser's default or pursuant to paragraph 8, to reimburse Purchaser for the net cost of examination of title, including any appropriate additional charges related thereto, and the net cost, if actually paid or incurred by Purchaser, for updating the existing survey of the Premises or of a new survey, and (ii) the obligations under paragraph 27 shall survive the termination of this contract.

**22. Affidavit as to Judgments, Bankruptcies, etc.** If a title examination discloses judgments, bankruptcies or other returns against persons having names the same as or similar to that of Seller, Seller shall deliver an affidavit at Closing showing that they are not against Seller.

**23. Defaults and Remedies.** (a) If Purchaser defaults hereunder, Seller's sole remedy shall be to receive and retain the Downpayment as liquidated damages, it being agreed that Seller's damages in case of Purchaser's default might be impossible to ascertain and that the Downpayment constitutes a fair and reasonable amount of damages under the circumstances and is not a penalty.

(b) If Seller defaults hereunder, Purchaser shall have such remedies as Purchaser shall be entitled to at law or in equity, including, but not limited to, specific performance.

**24. Purchaser's Lien.** All money paid on account of this contract and the reasonable expenses of examination of title to the Premises and of any survey and survey inspection charges, are hereby made liens on the Premises, but such liens shall not continue after default by Purchaser under this contract.

**25. Notices.** Any notice or other communication ("Notice") shall be in writing and either (a) sent by either of the parties hereto or by their respective attorneys who are hereby authorized to do so on their behalf or by the Escrowee, by registered or certified mail, postage prepaid, or

(b) delivered in person or by overnight courier, with receipt acknowledged, to the respective addresses given in this contract for the party and the Escrowee, to whom the Notice is to be given, or to such other address as such party or Escrowee shall hereafter designate by Notice given to the other party or parties and the Escrowee pursuant to this paragraph. Each Notice mailed shall be deemed given on the third business day following the date of mailing the same, except that any notice to Escrowee shall be deemed given only upon receipt by Escrowee and each Notice delivered in person or by overnight courier shall be deemed given when delivered.

(c) with respect to paragraph 7(b) or paragraph 20, sent by fax to the party's attorney. Each Notice by fax shall be deemed given when transmission is confirmed by the sender's fax machine. A copy of each Notice sent to a party shall also be sent to the party's attorney. The attorneys for the parties are hereby authorized to give and receive on behalf of their clients all Notices and deliveries. This contract may be delivered as provided above or by ordinary mail.

**26. No Assignment.** This contract may not be assigned by Purchaser without the prior written consent of Seller in each instance and any purported assignment(s) made without such consent shall be void.

**27. Broker.** Seller and Purchaser each represents and warrants to the other that it has not dealt with any broker in connection with this sale other than \_\_\_\_\_ (*specify*). ("Broker") and Seller shall pay Broker any commission earned pursuant to a separate agreement between Seller and Broker. Seller and Purchaser shall indemnify and defend each other against any costs, claims and expenses, including reasonable attorneys' fees, arising out of the breach on their respective parts of any representation or agreement contained in this paragraph. The provisions of this paragraph shall survive Closing or, if Closing does not occur, the termination of this contract.

**28. Miscellaneous.** (a) All prior understandings, agreements, representations and warranties, oral or written, between Seller and Purchaser are merged in this contract it completely expresses their full agreement and has been entered into after full investigation, neither party relying upon any statement made by anyone else that is not set forth in this contract.

(b) Neither this contract nor any provision thereof may be waived, changed or cancelled except in writing. This contract shall also apply to and bind the heirs, distributees, legal representatives, successors and permitted assigns of the respective parties. The parties hereby authorize their respective attorneys to agree in writing to any changes in dates and time periods provided for in this contract.

(c) Any singular word or term herein shall also be read as in the plural and the neuter shall include the masculine and feminine gender, whenever the sense of this contract may require it.

(d) The captions in this contract are for convenience of reference only and in no way define, limit or describe the scope of this contract and shall not be considered in the interpretation of this contract or any provision hereof.

(e) This contract shall not be binding or effective until duly executed and delivered by Seller and Purchaser.

(f) Seller and Purchaser shall comply with IRC reporting requirements, if applicable. This subparagraph shall survive Closing.

(g) Each party shall, at any time and from time to time, execute, acknowledge where appropriate and deliver such further instruments and documents and take such other action as may be reasonably requested by the other in order to carry out the intent and purpose of this contract. This subparagraph shall survive Closing.

(h) This contract is intended for the exclusive benefit of the parties hereto and, except as otherwise expressly provided herein, shall not be for the benefit of, and shall not create any rights in, or be enforceable by, any other person or entity.

(i) If applicable, the complete and fully executed disclosure of information on lead-based paint and/or lead-based paint hazards is attached hereto and made a part hereof.

IN WITNESS WHEREOF, this contract has been duly executed by the parties hereto.

\_\_\_\_\_  
*Seller*

\_\_\_\_\_  
*Purchaser*

\_\_\_\_\_  
*Seller*

\_\_\_\_\_  
*Purchaser*

**Attorney for Seller:**

Name:  
Address:  
Tel.:  
Fax:

**Attorney for Purchaser:**

Name:  
Address:  
Tel.:  
Fax:

**Disclosure of Information on Lead-Based Paint and/or Lead-Based Paint Hazards**

**Lead Warning Statement**

Every purchaser of any interest in residential real property on which a residential dwelling was built prior to 1978 is notified that such property may present exposure to lead from lead-based paint that may place young children at risk of developing lead poisoning. Lead poisoning in young children may produce permanent neurological damage, including learning disabilities, reduced intelligence quotient, behavioral problems, and impaired memory. Lead poisoning also poses a particular risk to pregnant women. The seller of any interest in residential real property is required to provide the buyer with any information on lead-based paint hazards from risk assessments or inspections in the seller's possession and notify the buyer of any known lead-based paint hazards. A risk assessment or inspection for possible lead-based paint hazards is recommended prior to purchase.

**Seller's Disclosure**

(a) Presence of lead-based paint and/or lead-based paint hazards (check (i) or (ii) below):

(i) \_\_\_\_\_ Known lead-based paint and/or lead-based paint hazards are present in the housing (explain).  
\_\_\_\_\_

(ii) \_\_\_\_\_ Seller has no knowledge of lead-based paint and/or lead-based paint hazards in the housing.

(b) Records and reports available to the seller (check (i) or (ii) below):

(i) \_\_\_\_\_ Seller has provided the purchaser with all available records and reports pertaining to lead-based paint and/or lead-based paint hazards in the housing (list documents below).  
\_\_\_\_\_

(ii) \_\_\_\_\_ Seller has no reports or records pertaining to lead-based paint and/or lead-based paint hazards in the housing.

**Purchaser's Acknowledgment (initial)**

(c) \_\_\_\_\_ Purchaser has received copies of all information listed above.

(d) \_\_\_\_\_ Purchaser has received the pamphlet Protect Your Family from Lead in Your Home.

(e) Purchaser has (check (i) or (ii) below):

(i) \_\_\_\_\_ received a 10-day opportunity (or mutually agreed upon period) to conduct a risk assessment or inspection for the presence of lead-based paint and/or lead-based paint hazards; or

(ii) \_\_\_\_\_ waived the opportunity to conduct a risk assessment or inspection for the presence of lead-based paint and/or lead-based paint hazards.

**Agent's Acknowledgment (initial)**

(f) \_\_\_\_\_ Agent has informed the seller of the seller's obligations under 42 U.S.C. 4852d and is aware of his/her responsibility to ensure compliance.

**Certification of Accuracy**

The following parties have reviewed the information above and certify, to the best of their knowledge, that the information they have provided is true and accurate.

_____	_____	_____	_____
Seller	Date	Seller	Date
_____	_____	_____	_____
Purchaser	Date	Purchaser	Date
_____	_____	_____	_____
Agent	Date	Agent	Date

**POWER OF ATTORNEY  
NEW YORK STATUTORY SHORT FORM**

**(a) CAUTION TO THE PRINCIPAL:**

Your Power of Attorney is an important document. As the "principal," you give the person whom you choose (your "agent") authority to spend your money and sell or dispose of your property during your lifetime without telling you. You do not lose your authority to act even though you have given your agent similar authority.

When your agent exercises this authority, he or she must act according to any instructions you have provided or, where there are no specific instructions, in your best interest. "Important Information for the Agent" at the end of this document describes your agent's responsibilities.

Your agent can act on your behalf only after signing the Power of Attorney before a notary public.

You can request information from your agent at any time. If you are revoking a prior Power of Attorney, you should provide written notice of the revocation to your prior agent(s) and to any third parties who may have acted upon it, including the financial institutions where your accounts are located.

You can revoke or terminate your Power of Attorney at any time for any reason as long as you are of sound mind. If you are no longer of sound mind, a court can remove an agent for acting improperly.

Your agent cannot make health care decisions for you. You may execute a "Health Care Proxy" to do this.

The law governing Powers of Attorney is contained in the New York General Obligations Law, Article 5, Title 15. This law is available at a law library, or online through the New York State Senate or Assembly websites, [www.senate.state.ny.us](http://www.senate.state.ny.us) or [www.assembly.state.ny.us](http://www.assembly.state.ny.us).

If there is anything about this document that you do not understand, you should ask a lawyer of your own choosing to explain it to you.

**(b) DESIGNATION OF AGENT(S):**

I, \_\_\_\_\_, hereby appoint:  
[name and address of principal]  
\_\_\_\_\_ as my agent(s)  
[name(s) and address(es) of agent(s)]

If you designate more than one agent above, they must act together unless you initial the statement below.

My agents may act SEPARATELY.

**(c) DESIGNATION OF SUCCESSOR AGENT(S): (OPTIONAL)**

If every agent designated above is unable or unwilling to serve, I appoint as my successor agent(s):

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[name(s) and address(es) of successor agent(s)]

Successor agents designated above must act together unless you initial the statement below.

My successor agents may act SEPARATELY.

You may provide for specific succession rules in this section. Insert specific succession provisions here:

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**(d) This POWER OF ATTORNEY shall not be affected by my subsequent incapacity unless I have stated otherwise below, under "Modifications".**

**(e) This POWER OF ATTORNEY does not revoke any Powers of Attorney previously executed by me unless I have stated otherwise below, under "Modifications."**

If you do not intend to revoke your prior Powers of Attorney, and if you have granted the same authority in this Power of Attorney as you granted to another agent in a prior Power of Attorney, each agent can act separately unless you indicate under "Modifications" that the agents with the same authority are to act together.

**(f) GRANT OF AUTHORITY:**

To grant your agent some or all of the authority below, either

- (1) Initial the bracket at each authority you grant, or
- (2) Write or type the letters for each authority you grant on the blank line at (P), and initial the bracket at (P). If you initial (P), you do not need to initial the other lines.

I grant authority to my agent(s) with respect to the following subjects as defined in sections 5-1502A through 5-1502N of the New York General Obligations Law:

- (A) real estate transactions;
- (B) chattel and goods transactions;
- (C) bond, share, and commodity transactions;
- (D) banking transactions;
- (E) business operating transactions;
- (F) insurance transactions;
- (G) estate transactions;

- (H) claims and litigation;
- (I) personal and family maintenance. If you grant your agent this authority, it will allow the agent to make gifts that you customarily have made to individuals, including the agent, and charitable organizations. The total amount of all such gifts in any one calendar year cannot exceed five hundred dollars;
- (J) benefits from governmental programs or civil or military service;
- (K) health care billing and payment matters; records, reports, and statements;
- (L) retirement benefit transactions;
- (M) tax matters;
- (N) all other matters;
- (O) full and unqualified authority to my agent(s) to delegate any or all of the foregoing powers to any person or persons whom my agent(s) select;
- (P) EACH of the matters identified by the following letters \_\_\_\_\_. You need not initial the other lines if you initial line (P).

**(g) MODIFICATIONS: (OPTIONAL)** In this section, you may make additional provisions, including language to limit or supplement authority granted to your agent.

However, you cannot use this Modifications section to grant your agent authority to make gifts or changes to interests in your property. If you wish to grant your agent such authority, you MUST complete the Statutory Gifts Rider.

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**(h) CERTAIN GIFTS TRANSACTIONS: STATUTORY GIFTS RIDER (OPTIONAL)**

In order to authorize your agent to make gifts in excess of an annual total of \$500 for all gifts described in (I) of the grant of authority section of this document (under personal and family maintenance), you must initial the statement below and execute a Statutory Gifts Rider at the same time as this instrument. Initialing the statement below by itself does not authorize your agent to make gifts. The preparation of the Statutory Gifts Rider should be supervised by a lawyer.

(SGR) I grant my agent authority to make gifts in accordance with the terms and conditions of the Statutory Gifts Rider that supplements this statutory Power of Attorney.

**(i) DESIGNATION OF MONITOR(S): (OPTIONAL)**

IF YOU WISH TO APPOINT MONITOR(S), INITIAL AND FILL IN THE SECTION BELOW:

I wish to designate \_\_\_\_\_, whose address(es) is(are) \_\_\_\_\_.

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as monitor(s). Upon the request of the monitor(s), my agent(s) must provide the monitor(s) with a copy of the power of attorney and a record of all transactions done or made on my behalf. Third parties holding records of such transactions shall provide the records to the monitor(s) upon request.

**(j) COMPENSATION OF AGENT(S): (OPTIONAL)** Your agent is entitled to be reimbursed from your assets for reasonable expenses incurred on your behalf. If you ALSO wish your agent(s) to be compensated from your assets for services rendered on your behalf, initial the statement below. If you wish to define "reasonable compensation", you may do so above, under "Modifications."

My agent(s) shall be entitled to reasonable compensation for services rendered.

**(k) ACCEPTANCE BY THIRD PARTIES:** I agree to indemnify the third party for any claims that may arise against the third party because of reliance on this Power of Attorney. I understand that any termination of this Power of Attorney, whether the result of my revocation of the Power of Attorney or otherwise, is not effective as to a third party until the third party has actual notice or knowledge of the termination.

**(l) TERMINATION:** This Power of Attorney continues until I revoke it or it is terminated by my death or other event described in section 5-1511 of the General Obligations Law.

Section 5-1511 of the General Obligations Law describes the manner in which you may revoke your Power of Attorney, and the events which terminate the Power of Attorney.

**(m) SIGNATURE AND ACKNOWLEDGMENT:**

In Witness Whereof I have hereunto signed my name on \_\_\_\_\_, 20\_\_.

PRINCIPAL signs here: \_\_\_\_\_

State of New York  
County of \_\_\_\_\_

ss.:

On the \_\_\_\_\_ day of \_\_\_\_\_ in the year \_\_\_\_\_ before me, the undersigned, personally appeared \_\_\_\_\_, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.

\_\_\_\_\_  
Signature and Office of individual taking acknowledgment

**(n) IMPORTANT INFORMATION FOR THE AGENT:**

When you accept the authority granted under this Power of Attorney, a special legal relationship is created between you and the principal. This relationship imposes on you legal responsibilities that continue until you resign or the Power of Attorney is terminated or revoked. You must:

- (1) act according to any instructions from the principal, or, where there are no instructions, in the principal's best interest;
- (2) avoid conflicts that would impair your ability to act in the principal's best interest;
- (3) keep the principal's property separate and distinct from any assets you own or control, unless otherwise permitted by law;
- (4) keep a record of all receipts, payments, and transactions conducted for the principal; and
- (5) disclose your identity as an agent whenever you act for the principal by writing or printing the principal's name and signing your own name as "agent" in either of the following manners: (Principal's Name) by (Your Signature) as Agent, or (Your Signature) as Agent for (Principal's Name).

You may not use the principal's assets to benefit yourself or anyone else or make gifts to yourself or anyone else unless the principal has specifically granted you that authority in this document, which is either a Statutory Gifts Rider attached to a statutory Short Form Power of Attorney or a non-statutory Power of Attorney. If you have that authority, you must act according to any instructions of the principal or, where there are no such instructions, in the principal's best interest. You may resign by giving written notice to the principal and to any co-agent, successor agent, monitor if one has been named in this document, or the principal's guardian if one has been appointed. If there is anything about this document or your responsibilities that you do not understand, you should seek legal advice.

**Liability of agent:**

The meaning of the authority given to you is defined in New York's General Obligations Law, Article 5, Title 15. If it is found that you have violated the law or acted outside the authority granted to you in the Power of Attorney, you may be liable under the law for your violation.

**(o) AGENT'S SIGNATURE AND ACKNOWLEDGMENT OF APPOINTMENT:** It is not required that the principal and the agent(s) sign at the same time, nor that multiple agents sign at the same time.

I/we, \_\_\_\_\_, have read the foregoing Power of Attorney. I am/we are the person(s) identified therein as agent(s) for the principal named therein.

I/we acknowledge my/our legal responsibilities.

Agent(s) sign(s) here: \_\_\_\_\_  
\_\_\_\_\_

State of New York  
County of \_\_\_\_\_ ss.:

On the \_\_\_\_\_ day of \_\_\_\_\_ in the year \_\_\_\_\_ before me, the undersigned, personally appeared \_\_\_\_\_, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.

\_\_\_\_\_  
Signature and Office of individual taking acknowledgment

**(p) SUCCESSOR AGENT'S SIGNATURE AND ACKNOWLEDGEMENT OF APPOINTMENT:**

It is not required that the principal and the successor agent(s), if any, sign at the same time, nor that multiple successor agents sign at the same time. Furthermore, successor agents cannot use this Power of Attorney unless the agent(s) designated above is/are unable or unwilling to serve.

I/we, \_\_\_\_\_, have read the foregoing Power of Attorney, I am/we are the person(s) identified therein as successor agent(s) for the principal named therein.

I/we acknowledge my/our legal responsibilities.

Agent(s) sign(s) here: \_\_\_\_\_  
\_\_\_\_\_



**NEW YORK STATUTORY POWER OF ATTORNEY  
AFFIDAVIT AS TO POWER OF ATTORNEY**

STATE OF  
COUNTY OF

ss:

, being duly sworn, deposes and says as follows:

1. This affidavit is made in connection with the (transfer)(mortgage) of property known as \_\_\_\_\_, in \_\_\_\_\_, New York to \_\_\_\_\_
2. I am (the)(an) agent named in the Power of Attorney (hereafter "Power of Attorney") made by \_\_\_\_\_, as principal (the "Principal"), dated \_\_\_\_\_
3. I do not have actual notice that the Power of Attorney has been modified in any way that would affect my ability to authorize or engage in the present transaction for which the Power of Attorney is being used, or notice of any facts indicating that the Power of Attorney has been so modified.
4. I do not have actual notice of the termination or revocation of the Power of Attorney, or notice of any facts indicating that the Power of Attorney has been terminated or revoked, and the Power of Attorney remains in full force and effect.
5. If the Principal has been my spouse, we are not divorced and our marriage has not been annulled.
6. If I am a successor agent, the prior agent is no longer able or willing to serve.

Sworn to before me this \_\_\_\_\_ day  
of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
Notary Public

**NOTE:** If multiple agents are appointed, an affidavit is to be executed by each agent.

## Request for Taxpayer Identification Number and Certification

**Give Form to the  
requester. Do not  
send to the IRS.**

Print or type See Specific Instructions on page 2.	Name (as shown on your income tax return)	
	Business name/disregarded entity name, if different from above	
	Check appropriate box for federal tax classification: <input type="checkbox"/> Individual/sole proprietor <input type="checkbox"/> C Corporation <input type="checkbox"/> S Corporation <input type="checkbox"/> Partnership <input type="checkbox"/> Trust/estate  <input type="checkbox"/> Limited liability company. Enter the tax classification (C=C corporation, S=S corporation, P=partnership) ▶ _____ <input type="checkbox"/> Exempt payee  <input type="checkbox"/> Other (see instructions) ▶ _____	
	Address (number, street, and apt. or suite no.)	Requester's name and address (optional)
	City, state, and ZIP code	
List account number(s) here (optional)		

### Part I Taxpayer Identification Number (TIN)

Enter your TIN in the appropriate box. The TIN provided must match the name given on the "Name" line to avoid backup withholding. For individuals, this is your social security number (SSN). However, for a resident alien, sole proprietor, or disregarded entity, see the Part I instructions on page 3. For other entities, it is your employer identification number (EIN). If you do not have a number, see *How to get a TIN* on page 3.

Social security number									

Note. If the account is in more than one name, see the chart on page 4 for guidelines on whose number to enter.

Employer identification number									

### Part II Certification

Under penalties of perjury, I certify that:

1. The number shown on this form is my correct taxpayer identification number (or I am waiting for a number to be issued to me), and
2. I am not subject to backup withholding because: (a) I am exempt from backup withholding, or (b) I have not been notified by the Internal Revenue Service (IRS) that I am subject to backup withholding as a result of a failure to report all interest or dividends, or (c) the IRS has notified me that I am no longer subject to backup withholding, and
3. I am a U.S. citizen or other U.S. person (defined below).

**Certification instructions.** You must cross out item 2 above if you have been notified by the IRS that you are currently subject to backup withholding because you have failed to report all interest and dividends on your tax return. For real estate transactions, item 2 does not apply. For mortgage interest paid, acquisition or abandonment of secured property, cancellation of debt, contributions to an individual retirement arrangement (IRA), and generally, payments other than interest and dividends, you are not required to sign the certification, but you must provide your correct TIN. See the instructions on page 4.

<b>Sign Here</b>	Signature of U.S. person ▶	Date ▶
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### General Instructions

Section references are to the Internal Revenue Code unless otherwise noted.

#### Purpose of Form

A person who is required to file an information return with the IRS must obtain your correct taxpayer identification number (TIN) to report, for example, income paid to you, real estate transactions, mortgage interest you paid, acquisition or abandonment of secured property, cancellation of debt, or contributions you made to an IRA.

Use Form W-9 only if you are a U.S. person (including a resident alien), to provide your correct TIN to the person requesting it (the requester) and, when applicable, to:

1. Certify that the TIN you are giving is correct (or you are waiting for a number to be issued),
2. Certify that you are not subject to backup withholding, or
3. Claim exemption from backup withholding if you are a U.S. exempt payee. If applicable, you are also certifying that as a U.S. person, your allocable share of any partnership income from a U.S. trade or business is not subject to the withholding tax on foreign partners' share of effectively connected income.

**Note.** If a requester gives you a form other than Form W-9 to request your TIN, you must use the requester's form if it is substantially similar to this Form W-9.

**Definition of a U.S. person.** For federal tax purposes, you are considered a U.S. person if you are:

- An individual who is a U.S. citizen or U.S. resident alien,
- A partnership, corporation, company, or association created or organized in the United States or under the laws of the United States,
- An estate (other than a foreign estate), or
- A domestic trust (as defined in Regulations section 301.7701-7).

**Special rules for partnerships.** Partnerships that conduct a trade or business in the United States are generally required to pay a withholding tax on any foreign partners' share of income from such business. Further, in certain cases where a Form W-9 has not been received, a partnership is required to presume that a partner is a foreign person, and pay the withholding tax. Therefore, if you are a U.S. person that is a partner in a partnership conducting a trade or business in the United States, provide Form W-9 to the partnership to establish your U.S. status and avoid withholding on your share of partnership income.

The person who gives Form W-9 to the partnership for purposes of establishing its U.S. status and avoiding withholding on its allocable share of net income from the partnership conducting a trade or business in the United States is in the following cases:

- The U.S. owner of a disregarded entity and not the entity,
- The U.S. grantor or other owner of a grantor trust and not the trust, and
- The U.S. trust (other than a grantor trust) and not the beneficiaries of the trust.

**Foreign person.** If you are a foreign person, do not use Form W-9. Instead, use the appropriate Form W-8 (see Publication 515, Withholding of Tax on Nonresident Aliens and Foreign Entities).

**Nonresident alien who becomes a resident alien.** Generally, only a nonresident alien individual may use the terms of a tax treaty to reduce or eliminate U.S. tax on certain types of income. However, most tax treaties contain a provision known as a "saving clause." Exceptions specified in the saving clause may permit an exemption from tax to continue for certain types of income even after the payee has otherwise become a U.S. resident alien for tax purposes.

If you are a U.S. resident alien who is relying on an exception contained in the saving clause of a tax treaty to claim an exemption from U.S. tax on certain types of income, you must attach a statement to Form W-9 that specifies the following five items:

1. The treaty country. Generally, this must be the same treaty under which you claimed exemption from tax as a nonresident alien.
2. The treaty article addressing the income.
3. The article number (or location) in the tax treaty that contains the saving clause and its exceptions.
4. The type and amount of income that qualifies for the exemption from tax.
5. Sufficient facts to justify the exemption from tax under the terms of the treaty article.

**Example.** Article 20 of the U.S.-China income tax treaty allows an exemption from tax for scholarship income received by a Chinese student temporarily present in the United States. Under U.S. law, this student will become a resident alien for tax purposes if his or her stay in the United States exceeds 5 calendar years. However, paragraph 2 of the first Protocol to the U.S.-China treaty (dated April 30, 1984) allows the provisions of Article 20 to continue to apply even after the Chinese student becomes a resident alien of the United States. A Chinese student who qualifies for this exception (under paragraph 2 of the first protocol) and is relying on this exception to claim an exemption from tax on his or her scholarship or fellowship income would attach to Form W-9 a statement that includes the information described above to support that exemption.

If you are a nonresident alien or a foreign entity not subject to backup withholding, give the requester the appropriate completed Form W-8.

**What is backup withholding?** Persons making certain payments to you must under certain conditions withhold and pay to the IRS a percentage of such payments. This is called "backup withholding." Payments that may be subject to backup withholding include interest, tax-exempt interest, dividends, broker and barter exchange transactions, rents, royalties, nonemployee pay, and certain payments from fishing boat operators. Real estate transactions are not subject to backup withholding.

You will not be subject to backup withholding on payments you receive if you give the requester your correct TIN, make the proper certifications, and report all your taxable interest and dividends on your tax return.

#### Payments you receive will be subject to backup withholding if:

1. You do not furnish your TIN to the requester,
2. You do not certify your TIN when required (see the Part II instructions on page 3 for details),
3. The IRS tells the requester that you furnished an incorrect TIN,
4. The IRS tells you that you are subject to backup withholding because you did not report all your interest and dividends on your tax return (for reportable interest and dividends only), or
5. You do not certify to the requester that you are not subject to backup withholding under 4 above (for reportable interest and dividend accounts opened after 1983 only).

Certain payees and payments are exempt from backup withholding. See the instructions below and the separate instructions for the Requester of Form W-9.

Also see *Special rules for partnerships* on page 1.

#### Updating Your Information

You must provide updated information to any person to whom you claimed to be an exempt payee if you are no longer an exempt payee and anticipate receiving reportable payments in the future from this person. For example, you may need to provide updated information if you are a C corporation that elects to be an S corporation, or if you no longer are tax exempt. In addition, you must furnish a new Form W-9 if the name or TIN changes for the account, for example, if the grantor of a grantor trust dies.

#### Penalties

**Failure to furnish TIN.** If you fail to furnish your correct TIN to a requester, you are subject to a penalty of \$50 for each such failure unless your failure is due to reasonable cause and not to willful neglect.

**Civil penalty for false information with respect to withholding.** If you make a false statement with no reasonable basis that results in no backup withholding, you are subject to a \$500 penalty.

**Criminal penalty for falsifying information.** Willfully falsifying certifications or affirmations may subject you to criminal penalties including fines and/or imprisonment.

**Misuse of TINs.** If the requester discloses or uses TINs in violation of federal law, the requester may be subject to civil and criminal penalties.

#### Specific Instructions

##### Name

If you are an individual, you must generally enter the name shown on your income tax return. However, if you have changed your last name, for instance, due to marriage without informing the Social Security Administration of the name change, enter your first name, the last name shown on your social security card, and your new last name.

If the account is in joint names, list first, and then circle, the name of the person or entity whose number you entered in Part I of the form.

**Sole proprietor.** Enter your individual name as shown on your income tax return on the "Name" line. You may enter your business, trade, or "doing business as (DBA)" name on the "Business name/disregarded entity name" line.

**Partnership, C Corporation, or S Corporation.** Enter the entity's name on the "Name" line and any business, trade, or "doing business as (DBA) name" on the "Business name/disregarded entity name" line.

**Disregarded entity.** Enter the owner's name on the "Name" line. The name of the entity entered on the "Name" line should never be a disregarded entity. The name on the "Name" line must be the name shown on the income tax return on which the income will be reported. For example, if a foreign LLC that is treated as a disregarded entity for U.S. federal tax purposes has a domestic owner, the domestic owner's name is required to be provided on the "Name" line. If the direct owner of the entity is also a disregarded entity, enter the first owner that is not disregarded for federal tax purposes. Enter the disregarded entity's name on the "Business name/disregarded entity name" line. If the owner of the disregarded entity is a foreign person, you must complete an appropriate Form W-8.

**Note.** Check the appropriate box for the federal tax classification of the person whose name is entered on the "Name" line (Individual/sole proprietor, Partnership, C Corporation, S Corporation, Trust/estate).

**Limited Liability Company (LLC).** If the person identified on the "Name" line is an LLC, check the "Limited liability company" box only and enter the appropriate code for the tax classification in the space provided. If you are an LLC that is treated as a partnership for federal tax purposes, enter "P" for partnership. If you are an LLC that has filed a Form 8832 or a Form 2553 to be taxed as a corporation, enter "C" for C corporation or "S" for S corporation. If you are an LLC that is disregarded as an entity separate from its owner under Regulation section 301.7701-3 (except for employment and excise tax), do not check the LLC box unless the owner of the LLC (required to be identified on the "Name" line) is another LLC that is not disregarded for federal tax purposes. If the LLC is disregarded as an entity separate from its owner, enter the appropriate tax classification of the owner identified on the "Name" line.

**Other entities.** Enter your business name as shown on required federal tax documents on the "Name" line. This name should match the name shown on the charter or other legal document creating the entity. You may enter any business, trade, or DBA name on the "Business name/disregarded entity name" line.

## Exempt Payee

If you are exempt from backup withholding, enter your name as described above and check the appropriate box for your status, then check the "Exempt payee" box in the line following the "Business name/disregarded entity name," sign and date the form.

Generally, individuals (including sole proprietors) are not exempt from backup withholding. Corporations are exempt from backup withholding for certain payments, such as interest and dividends.

**Note.** If you are exempt from backup withholding, you should still complete this form to avoid possible erroneous backup withholding.

The following payees are exempt from backup withholding:

1. An organization exempt from tax under section 501(a), any IRA, or a custodial account under section 403(b)(7) if the account satisfies the requirements of section 401(f)(2),
  2. The United States or any of its agencies or instrumentalities,
  3. A state, the District of Columbia, a possession of the United States, or any of their political subdivisions or instrumentalities,
  4. A foreign government or any of its political subdivisions, agencies, or instrumentalities, or
  5. An international organization or any of its agencies or instrumentalities.
- Other payees that may be exempt from backup withholding include:
6. A corporation,
  7. A foreign central bank of issue,
  8. A dealer in securities or commodities required to register in the United States, the District of Columbia, or a possession of the United States,
  9. A futures commission merchant registered with the Commodity Futures Trading Commission,
  10. A real estate investment trust,
  11. An entity registered at all times during the tax year under the Investment Company Act of 1940,
  12. A common trust fund operated by a bank under section 584(a),
  13. A financial institution,
  14. A middleman known in the investment community as a nominee or custodian, or
  15. A trust exempt from tax under section 664 or described in section 4947.

The following chart shows types of payments that may be exempt from backup withholding. The chart applies to the exempt payees listed above, 1 through 15.

IF the payment is for . . .	THEN the payment is exempt for . . .
Interest and dividend payments	All exempt payees except for 9
Broker transactions	Exempt payees 1 through 5 and 7 through 13. Also, C corporations.
Barter exchange transactions and patronage dividends	Exempt payees 1 through 5
Payments over \$600 required to be reported and direct sales over \$5,000 <sup>1</sup>	Generally, exempt payees 1 through 7 <sup>2</sup>

<sup>1</sup> See Form 1099-MISC, Miscellaneous Income, and its instructions.

<sup>2</sup> However, the following payments made to a corporation and reportable on Form 1099-MISC are not exempt from backup withholding: medical and health care payments, attorneys' fees, gross proceeds paid to an attorney, and payments for services paid by a federal executive agency.

## Part I. Taxpayer Identification Number (TIN)

Enter your TIN in the appropriate box. If you are a resident alien and you do not have and are not eligible to get an SSN, your TIN is your IRS individual taxpayer identification number (ITIN). Enter it in the social security number box. If you do not have an ITIN, see *How to get a TIN* below.

If you are a sole proprietor and you have an EIN, you may enter either your SSN or EIN. However, the IRS prefers that you use your SSN.

If you are a single-member LLC that is disregarded as an entity separate from its owner (see *Limited Liability Company (LLC)* on page 2), enter the owner's SSN (or EIN, if the owner has one). Do not enter the disregarded entity's EIN. If the LLC is classified as a corporation or partnership, enter the entity's EIN.

**Note.** See the chart on page 4 for further clarification of name and TIN combinations.

**How to get a TIN.** If you do not have a TIN, apply for one immediately. To apply for an SSN, get Form SS-5, Application for a Social Security Card, from your local Social Security Administration office or get this form online at [www.ssa.gov](http://www.ssa.gov). You may also get this form by calling 1-800-772-1213. Use Form W-7, Application for IRS Individual Taxpayer Identification Number, to apply for an ITIN, or Form SS-4, Application for Employer Identification Number, to apply for an EIN. You can apply for an EIN online by accessing the IRS website at [www.irs.gov/businesses](http://www.irs.gov/businesses) and clicking on Employer Identification Number (EIN) under Starting a Business. You can get Forms W-7 and SS-4 from the IRS by visiting [IRS.gov](http://IRS.gov) or by calling 1-800-TAX-FORM (1-800-829-3676).

If you are asked to complete Form W-9 but do not have a TIN, write "Applied For" in the space for the TIN, sign and date the form, and give it to the requester. For interest and dividend payments, and certain payments made with respect to readily tradable instruments, generally you will have 60 days to get a TIN and give it to the requester before you are subject to backup withholding on payments. The 60-day rule does not apply to other types of payments. You will be subject to backup withholding on all such payments until you provide your TIN to the requester.

**Note.** Entering "Applied For" means that you have already applied for a TIN or that you intend to apply for one soon.

**Caution:** A disregarded domestic entity that has a foreign owner must use the appropriate Form W-8.

## Part II. Certification

To establish to the withholding agent that you are a U.S. person, or resident alien, sign Form W-9. You may be requested to sign by the withholding agent even if item 1, below, and items 4 and 5 on page 4 indicate otherwise.

For a joint account, only the person whose TIN is shown in Part I should sign (when required). In the case of a disregarded entity, the person identified on the "Name" line must sign. Exempt payees, see *Exempt Payee* on page 3.

**Signature requirements.** Complete the certification as indicated in items 1 through 3, below, and items 4 and 5 on page 4.

1. **Interest, dividend, and barter exchange accounts opened before 1984 and broker accounts considered active during 1983.** You must give your correct TIN, but you do not have to sign the certification.

2. **Interest, dividend, broker, and barter exchange accounts opened after 1983 and broker accounts considered inactive during 1983.** You must sign the certification or backup withholding will apply. If you are subject to backup withholding and you are merely providing your correct TIN to the requester, you must cross out item 2 in the certification before signing the form.

3. **Real estate transactions.** You must sign the certification. You may cross out item 2 of the certification.



**4. Other payments.** You must give your correct TIN, but you do not have to sign the certification unless you have been notified that you have previously given an incorrect TIN. "Other payments" include payments made in the course of the requester's trade or business for rents, royalties, goods (other than bills for merchandise), medical and health care services (including payments to corporations), payments to a nonemployee for services, payments to certain fishing boat crew members and fishermen, and gross proceeds paid to attorneys (including payments to corporations).

**5. Mortgage interest paid by you, acquisition or abandonment of secured property, cancellation of debt, qualified tuition program payments (under section 529), IRA, Coverdell ESA, Archer MSA or HSA contributions or distributions, and pension distributions.** You must give your correct TIN, but you do not have to sign the certification.

**Note.** If no name is circled when more than one name is listed, the number will be considered to be that of the first name listed.

**Secure Your Tax Records from Identity Theft**

Identity theft occurs when someone uses your personal information such as your name, social security number (SSN), or other identifying information, without your permission, to commit fraud or other crimes. An identity thief may use your SSN to get a job or may file a tax return using your SSN to receive a refund.

To reduce your risk:

- Protect your SSN,
- Ensure your employer is protecting your SSN, and
- Be careful when choosing a tax preparer.

If your tax records are affected by identity theft and you receive a notice from the IRS, respond right away to the name and phone number printed on the IRS notice or letter.

If your tax records are not currently affected by identity theft but you think you are at risk due to a lost or stolen purse or wallet, questionable credit card activity or credit report, contact the IRS Identity Theft Hotline at 1-800-908-4490 or submit Form 14039.

For more information, see Publication 4535, Identity Theft Prevention and Victim Assistance.

Victims of identity theft who are experiencing economic harm or a system problem, or are seeking help in resolving tax problems that have not been resolved through normal channels, may be eligible for Taxpayer Advocate Service (TAS) assistance. You can reach TAS by calling the TAS toll-free case intake line at 1-877-777-4778 or TTY/TDD 1-800-829-4059.

**Protect yourself from suspicious emails or phishing schemes.** Phishing is the creation and use of email and websites designed to mimic legitimate business emails and websites. The most common act is sending an email to a user falsely claiming to be an established legitimate enterprise in an attempt to scam the user into surrendering private information that will be used for identity theft.

The IRS does not initiate contacts with taxpayers via emails. Also, the IRS does not request personal detailed information through email or ask taxpayers for the PIN numbers, passwords, or similar secret access information for their credit card, bank, or other financial accounts.

If you receive an unsolicited email claiming to be from the IRS, forward this message to [phishing@irs.gov](mailto:phishing@irs.gov). You may also report misuse of the IRS name, logo, or other IRS property to the Treasury Inspector General for Tax Administration at 1-800-368-4484. You can forward suspicious emails to the Federal Trade Commission at: [spam@uce.gov](mailto:spam@uce.gov) or contact them at [www.ftc.gov/idtheft](http://www.ftc.gov/idtheft) or 1-877-IDTHEFT (1-877-438-4338).

Visit [IRS.gov](http://IRS.gov) to learn more about identity theft and how to reduce your risk.

**What Name and Number To Give the Requester**

For this type of account:	Give name and SSN of:
1. Individual	The individual
2. Two or more individuals (joint account)	The actual owner of the account or, if combined funds, the first individual on the account <sup>1</sup>
3. Custodian account of a minor (Uniform Gift to Minors Act)	The minor <sup>2</sup>
4. a. The usual revocable savings trust (grantor is also trustee) b. So-called trust account that is not a legal or valid trust under state law	The grantor-trustee <sup>3</sup> The actual owner <sup>1</sup>
5. Sole proprietorship or disregarded entity owned by an individual	The owner <sup>3</sup>
6. Grantor trust filing under Optional Form 1099 Filing Method 1 (see Regulation section 1.671-4(b)(2)(i)(A))	The grantor <sup>4</sup>
For this type of account:	Give name and EIN of:
7. Disregarded entity not owned by an individual	The owner
8. A valid trust, estate, or pension trust	Legal entity <sup>4</sup>
9. Corporation or LLC electing corporate status on Form 8832 or Form 2553	The corporation
10. Association, club, religious, charitable, educational, or other tax-exempt organization	The organization
11. Partnership or multi-member LLC	The partnership
12. A broker or registered nominee	The broker or nominee
13. Account with the Department of Agriculture in the name of a public entity (such as a state or local government, school district, or prison) that receives agricultural program payments	The public entity
14. Grantor trust filing under the Form 1041 Filing Method or the Optional Form 1099 Filing Method 2 (see Regulation section 1.671-4(b)(2)(i)(B))	The trust

<sup>1</sup>List first and circle the name of the person whose number you furnish. If only one person on a joint account has an SSN, that person's number must be furnished.

<sup>2</sup>Circle the minor's name and furnish the minor's SSN.

<sup>3</sup>You must show your individual name and you may also enter your business or "DBA" name on the "Business name/disregarded entity" name line. You may use either your SSN or EIN (if you have one), but the IRS encourages you to use your SSN.

<sup>4</sup>List first and circle the name of the trust, estate, or pension trust. (Do not furnish the TIN of the personal representative or trustee unless the legal entity itself is not designated in the account title.) Also see *Special rules for partnerships* on page 1.

\*Note. Grantor also must provide a Form W-9 to trustee of trust.

**Privacy Act Notice**

Section 6109 of the Internal Revenue Code requires you to provide your correct TIN to persons (including federal agencies) who are required to file information returns with the IRS to report interest, dividends, or certain other income paid to you; mortgage interest you paid; the acquisition or abandonment of secured property; the cancellation of debt; or contributions you made to an IRA, Archer MSA, or HSA. The person collecting this form uses the information on the form to file information returns with the IRS, reporting the above information. Routine uses of this information include giving it to the Department of Justice for civil and criminal litigation and to cities, states, the District of Columbia, and U.S. possessions for use in administering their laws. The information also may be disclosed to other countries under a treaty, to federal and state agencies to enforce civil and criminal laws, or to federal law enforcement and intelligence agencies to combat terrorism. You must provide your TIN whether or not you are required to file a tax return. Under section 3406, payers must generally withhold a percentage of taxable interest, dividend, and certain other payments to a payee who does not give a TIN to the payer. Certain penalties may also apply for providing false or fraudulent information.

**AMENDMENT TO CONTRACT**

CONTRACT OF SALE dated

between ("SELLER(S))",

and ("PURCHASER(S))",

relating to the sale of: **Street Address:**

**Tax Map Designation:**

**Section:**

**, Block:**

**, Lot:**

IS HEREBY AMENDED AS FOLLOWS:

1. The Price is (reduced/increased) from \$ \_\_\_\_\_ to \$ \_\_\_\_\_
2. The purchaser(s) agree(s) to accept a mortgage of \$ \_\_\_\_\_
3. The contract is further amended:

Name of Purchaser(s)/Seller(s) \_\_\_\_\_ is updated/changed to:

Name(s) of additional Purchaser(s)/Seller(s):

Other:

4. In all other respects, the original Contract is confirmed.

This Amendment is dated:

\_\_\_\_\_  
Seller

\_\_\_\_\_  
Purchaser

\_\_\_\_\_  
Seller

\_\_\_\_\_  
Purchaser

\_\_\_\_\_  
Seller

\_\_\_\_\_  
Purchaser

\_\_\_\_\_  
Seller

\_\_\_\_\_  
Purchaser

Broker Operations  
4050 Regent Blvd Mail Stop: N2A 210  
Irving, TX 75063  
(888) 987 2484

SAMPLE 1

COMMITMENT LETTER

~~February 04, 2011~~

~~Michael Baklanov, Esq. Broker~~  
~~100 West 42nd Street #20~~  
~~New York, NY 10018~~

RE: COMMITMENT LETTER FOR  
CMI APPLICATION 001122403058

EXECUTE & RETURN

PREMISES: ~~50 W 44TH ST~~  
~~NY, NY 10018~~

Dear ~~Michael Baklanov, Esq. Broker~~

CitiMortgage Inc. ("CMI") is pleased to issue this Mortgage Commitment for a first mortgage has been approved ("Commitment"). The loan ("Loan") will be evidenced by a Note and secured by a first lien on the Premises listed above. Please note that you must meet all of the terms and conditions listed in this letter and the enclosed Underwriting Requirements (collectively, "Commitment Letter") prior to or at the closing of your Loan.

If you have any questions concerning any of the information contained in this letter or the enclosed Underwriting Requirements, please contact your Broker. In order to accept this Commitment, all Loan Applicants must sign both copies of this letter. If your Broker does not receive a signed copy within thirty (30) calendar days of the date of this Commitment or prior to the Loan closing date (whichever is earlier), CMI reserves the right to withdraw the Commitment. Additionally, you must provide the documents and information requested in the Prior to Close section of the Underwriting Requirements document no later than 3 days prior to closing and meet all Closing conditions no later than the closing date or CMI reserves the right to withdraw the Commitment. CMI also reserves the right to withdraw or terminate this commitment letter upon the occurrence of any of the following conditions:

- a) CMI finds a material misrepresentation in any information provided to it with respect to this loan application;
- b) the mortgage broker that you have selected to process this mortgage loan for you is no longer eligible to conduct business with CMI; or
- c) CMI determines that you are not eligible for this loan based on the material provided by you or your broker during the underwriting process; or
- d) the product parameters or underwriting criteria for this loan materially change at CMI, the secondary market investor, or at the mortgage insurance provider (if applicable) prior to closing. With respect to the foregoing Section (c), CMI shall attempt to provide your mortgage broker with reasonable notice of such changes under the circumstances and shall inform your broker of the date by which this loan must close and disburse in accordance with CMI's underwriting requirements.

REVERIFICATION OF CREDIT AND OTHER APPLICATION INFORMATION:

This Commitment is subject to final review and approval of all requirements listed in the Underwriting Requirements form attached hereto and made a part of this Commitment. Please provide the documentation and information requested in the attached Underwriting Requirement form no later than 15 days after the date of this letter. If we do not receive the information or documentation within that time period, we regrettably will be unable to give further consideration to your credit request.

Loan #: 001122403058

CMI reserves the right to reverify your credit, income, asset and employment information at any time and may cancel this Commitment if there is a material adverse change in any of these factors.

I. LOAN TERMS

LOAN AMOUNT: \$ ~~400,000.00~~ 960,000.00  
TERM OF LOAN: ~~30 Year Fixed~~  
LOAN PROGRAM: 30 Year Fixed

If this box is checked, the interest rate on your Loan was floating at the time this Commitment Letter was prepared and the interest rate and monthly P&I amount referenced in your underwriting requirements form were used to underwrite your Loan. If the interest rate in effect at the time you elect to lock in rate is higher than the rate shown on your Underwriter Requirements Form, CMI reserves the right to reunderwrite your loan application and, if you do not qualify at the higher rate, withdraw this Commitment

If the Annual Percentage Rate ("APR") or the Rate Establishment Date differs from the Initial Interest Rate APR as last disclosed to you by more than the tolerances permitted under federal law, we will send you revised disclosures. Your loan closing cannot be scheduled until 3 business days elapse from the time you receive the revised disclosures.

II. ADDITIONAL COMMITMENT INFORMATION

COMMITMENT EXPIRATION DATE: May 31, 2013  
~~12/31/2011~~

The Commitment Expiration Date is the earlier of (i) the document expiration date as specified in the attached Underwriting Requirements, or (ii) the interest rate expiration date, as specified in the attached Underwriting Requirements and the corresponding Rate Lock Agreement (if applicable).

Upon the expiration of this Commitment, CMI shall, have no further obligation to make the Loan.

ESCROW ACCOUNT REQUIRED?

No

If an escrow account is required, each monthly loan payment will include an amount equal to one-twelfth (1/12th) of the estimated periodic: (i) real estate taxes and assessments, leasehold payments, and/or ground rents, if any, (collectively, the "Taxes"); (ii) hazard insurance premiums; (iii) flood insurance premiums, if required; and (iv) mortgage insurance premiums, if required (collectively, the "Insurance Premiums"). At loan closing, CMI will require you to make an initial payment to the escrow account which, when added to the monthly payments for the Taxes and Insurance Premiums, should enable CMI to pay the Taxes and Insurance Premiums when they become due. Except for monthly mortgage insurance, where permitted, an escrow cushion of up to two (2) months will also be collected.

ADJUSTABLE RATE MORTGAGE LOAN?

No

If you have applied for an adjustable rate mortgage (ARM) loan, please refer to the Truth-In-Lending Statement and the program disclosure which were provided by CMI for a description of the initial term, index description, and applicable interest rate caps.

III. CLOSING REQUIREMENTS

MONTHLY PAYMENTS

For the purposes of this section, the term "Closing" means the business day on which the loan proceeds are disbursed by CMI. For refinance transactions, loan proceeds are generally disbursed after the expiration of the right of rescission period.

Loan #: 001122403058

If the Closing is on the first day of the month, monthly payments will be due on the first day of the following month and on the first day of each month thereafter. If the Closing is on a day other than the first day of a month, monthly payments will be due on the first day of the second calendar month after Closing and on the first day of each month thereafter.

At the time of Closing, you may be required to pay interest on the Loan from (and including) the date of the Closing to the first day of the following month.

TITLE MATTERS

On or prior to the loan closing date, you shall obtain, at your own expense, and deliver to CMI or its closing agent: (i) a title insurance policy or commitment for title insurance in a form, amount and by a title insurance company (the "Title Insurance Company") satisfactory to CMI; (ii) copies of all instruments of record, leases and/or other agreements affecting the Premises; and (iii) if requested, a current survey of the Premises must be provided in a form acceptable to CMI.

At the loan closing, the Title Insurance Company shall deliver, and you shall pay the premium for, a title insurance policy that (i) lists only those exceptions to title as may be acceptable to CMI, (ii) insures the mortgage granted to CMI or its predecessor is a valid, first lien on the Premises and (iii) contains such endorsements and affirmative insurance on such matters as CMI may require. All matters affecting the sufficiency and status of title to the Premises must be satisfactory to CMI at the time of loan closing.

To avoid delay, you or your attorney/agent should order the title insurance commitment immediately upon receipt of this Commitment Letter.

HAZARD AND FLOOD INSURANCE REQUIREMENTS

Before Closing you shall deliver to us a fully paid original Homeowner's Insurance policy, binder or certificate, with the first year's paid receipt showing CitiMortgage, Inc. as first mortgagee. The insurance must be issued by a company acceptable to us. The insurance must be satisfactory to us in all respects and must be maintained during the term of the Loan. Coverage should be equal to at least 100% of the insurable value of the improvements as determined by the hazard insurance provider. The policy must indicate claims settlement will be on a replacement cost basis. The deductible may not exceed 5% of the dwelling coverage.

If the Property is part of a condominium, before Closing you must deliver proof of Master Insurance Policy from the Condominium Association and the Certificate of Insurance, issued by the insurance company for the condominium, currently in force on your unit. Please use the mortgagee or additional loss payee clause shown below.

Flood insurance requirements will be determined upon receipt of a flood certification report. If the Premises are located in a Special Flood Hazard Area (SFHA), flood insurance will be required. If an escrow account is required, flood insurance premiums must also be escrowed.

If flood insurance is required, the Property is located in an area designated by the Director of the Federal Emergency Management Agency as a special flood hazard area. You will receive a Notice of Special Flood Hazards and Availability of Federal Disaster Relief Assistance which you must sign and deliver to us at or before Closing. You must also deliver at or before Closing a flood insurance application or policy with the first year's paid receipt with the effective date on or before the closing date. The application or policy must be satisfactory to us in all respects. Insurance coverage in the amount shown below must be maintained during the term of the Loan, but the insurance coverage amount does not need to exceed the maximum amount currently available under the National Flood Insurance Program (NFIP) presently set at \$250,000.

Conventional Loans - Flood Insurance coverage must equal the higher of: (i) the principal balance of the Loan up to 100% of the full replacement cost of the insurable improvements, or (ii) 80% of the full replacement cost of the insurable improvements. The deductible may not exceed the maximum deductible allowed under the National Flood Insurance Program.

The deductible may not exceed \$5,000.

Loan #: 001122403058

The mortgagee or additional loss payee clause for both Hazard and Flood, if required, must read as follows:

CitiMortgage, Inc. It's Successors and/or Assigns  
 Account 001122403058  
 PO Box 7706  
 Springfield, Ohio 45501

Please contact your Broker if you have any questions regarding coverage amounts and provisions.

#### CERTIFICATES, PERMITS, LICENSES, AND APPROVALS

On or prior to the loan closing date, you must deliver to CMI or its closing agent any certificates, permits (e.g. occupancy permit), licenses and approvals required by any governmental agency or anyone else having authority over the Premises.

#### COSTS, FEES AND EXPENSES DUE AT THE CLOSING

At or prior to the closing of your Loan, you will be required to pay all costs, fees and expenses ("Closing Amounts") incurred in connection with the Loan origination process. Please refer to the Good Faith Estimate for additional details.

#### REFINANCE TRANSACTIONS

If the proceeds from this loan are being used to payoff a Citibank, CitiMortgage or CitiFinancial mortgage loan AND a prepayment penalty has been included in the payoff amount, contact your Broker for further instructions.

#### NO OTHER FINANCING PERMITTED

By signing and accepting this Commitment, you certify, that there shall be no other financing whatsoever (including but not limited to financing by the seller of the Premises) affecting the Premises at the time of the closing on your Loan unless such financing shall have been approved in advance by CMI. Please refer to the attached Underwriting Requirements to determine if other financing has been approved for this transaction.

#### OCCUPANCY

Unless the Premises has been approved as a second home or investment property, you must occupy and use the Premises as your principal residence within sixty (60) calendar days after the Loan closing date, and you must continue to occupy and use the Premises as your principal residence for at least one (1) year beginning on the date you first occupy the Premises unless CMI agrees, in writing, to waive these occupancy requirements.

#### INDEMNIFICATION AGREEMENT

By accepting this Commitment you agree to reimburse CMI for (i) the payment of any claims for brokerage or other commissions made by any person, corporation, or partnership arising from this transaction, and (ii) expenses incurred by CMI, its successors and/or assigns in the defense of such claims.

#### GENERAL PROVISIONS; AMENDMENT; ASSIGNMENT

Whenever the word "you" or "your" is used in this Commitment Letter, it includes all loan applicants. Any changes to this Commitment must be in writing signed by you and CMI. This Commitment may not be assigned to any other individual or entity.

#### REQUIRED DOCUMENTATION

At or prior to loan closing, you must execute and deliver to CMI or its closing agent all documents required by CMI and/or its closing agent.

Loan #: 001122403058

**DISCLOSURES REQUIRED BY STATE LAW**

If applicable, disclosures required by the State in which the Premises is located are on the attached State-Specific Commitment Letter Addendum.



**CANCELLATION OF COMMITMENT DUE TO CONDITION OF PREMISES**



CMI will not be obligated to close the Loan and/or disburse the Loan proceeds if, at or prior to the loan closing, the Premises are (i) damaged by fire, smoke or other casualty, or (ii) cited for any violation of the laws, statutes, rules or regulations of any applicable governmental or regulatory authority.

Please sign both copies of this Commitment Letter at the indicated location(s) and return one signed copy to your Broker as soon as possible. Please retain the other signed copy for your records. As indicated on Page 1, if your Broker does not receive a signed copy within thirty (30) days of the date of this Commitment or prior to closing (whichever is earlier), CMI reserves the right to withdraw the Commitment.

By: ~~XXXXXXXXXX~~ \_\_\_\_\_

BY SIGNING BELOW, I/WE (i) HEREBY AGREE TO THE TERMS AND CONDITIONS OF THIS COMMITMENT.



  
 \_\_\_\_\_ Date  
 \_\_\_\_\_ Date



  
 \_\_\_\_\_ Date  
 \_\_\_\_\_ Date



Broker Operations

## UNDERWRITING REQUIREMENTS

Borrower Names: Michael Saltzman, Eva Saltzman

CMI Loan No: 001122403058

Property Address: ~~504 W 111TH ST~~  
~~MT, NY 10020 1779~~Loan Program: 30 Year Fixed      LTV: ~~75.00%~~      Loan Amount: ~~401,050.00~~      Loan Term: 360 monthsOccupancy: Primary Residence      Rate Expiration Date: ~~March 21, 2011~~      Document Expiration Date: ~~March 17, 2011~~

Loan Status: Credit And Income Approved

 Float     Lock

The following conditions must be reviewed by a CMI underwriter before a decision can be rendered:

1. N/A

The following conditions must be reviewed by a CMI underwriter:

1. Any changes in loan data must be resubmitted to the AUS and must maintain approve/accept status.
2. ~~Subject to CMI Corp. Project Approval~~
3. Broker-Borrower Fee Agreement must be executed by the Broker and all Borrowers and dated within three days of completed application received by CitiMortgage.
4. Borrower acknowledgement(s) must accompany each GFE provided by the broker.
5. Broker to certify their receipt of applicant's intent to proceed after receiving the Good Faith Estimate.
6. Form 1004MC must be completed for any transaction on which an appraisal is obtained. Refer to the Fannie Mae Selling Guide for additional information.
7. ~~Condominiums, Cooperatives and Planned Unit Developments must meet CitiMortgage eligibility requirements. A satisfactory review of the completed project data sheet, insurance(s) and all applicable documentation is required.~~
8. Provide year end paystub for ~~Michael Saltzman~~ to verify monthly earnings of at least \$~~5000.00~~ and to meet FNMA requirement of at least 30 days of YTD earnings on paystub.
9. Provide year end paystub for ~~Eva Saltzman~~ to confirm monthly income of at least \$~~14,040.00~~, and to satisfy FNMA requirement to have at least 30 days of YTD earnings on paystub.
10. Drivers license shows an address of ~~1237 E 12th Street Unit 15 as of 12/2008~~, although application indicates that the borrower has lived at ~~241 West 11th Street Unit 2B~~ for 6 Year. Please explain.
11. Underwriter has reviewed and approved "Unexecuted Purchase Contract" Need fully executed contract for final review and approval.
12. Provide acceptable appraisal report supporting value of at least ~~\$175,000.1~~, 200,000
13. CMI to pull acceptable LoanSafe report on borrower and the subject property.
14. "CMI Processor to complete the GSA & LDP search for all parties. If any party is on the list, the loan must be referred to the Underwriter for a decline."
15. Thank you for your business. The Processor assigned to your file is Brooke Markus, You can reach her at Email: brooke.d.markus or phone at 469-220-0244. Please fax ALL conditions to (877) 357-0296 and only forward appraisals to citi.appraisals@citi.com <mailto:citi.appraisals@citi.com> (Please make sure that you have your loan number on



Broker Operations  
4030 Rogent Blvd Mail Stop: N2A-210  
Irving, TX 75063  
(888) 987-2484



COMMITMENT LETTER

[REDACTED]  
Michael Saltzman, Esq. Saltzman  
211 West 16th Street #20  
New York, NY 10011

RE: COMMITMENT LETTER FOR  
CMI APPLICATION LOAN #: 001122403058

PREMISES: 501 W 11th St #51  
New York, NY 10011

Dear Michael Saltzman, Esq. Saltzman,

CitiMortgage Inc. ("CMI") is pleased to issue this Mortgage Commitment. The loan ("Loan") will be evidenced by a Note and secured by a first lien on the Premises listed above. Please note that you must meet all of the terms and conditions listed in this letter and the enclosed Underwriting Requirements (collectively, "Commitment Letter") prior to or at the closing of your Loan.

If you have any questions concerning any of the information contained in this letter or the enclosed Underwriting Requirements, please contact your Broker. In order to accept this Commitment, all Loan applicants must sign both copies of this letter. If your Broker does not receive a signed copy within thirty (30) calendar days of the date of this Commitment or prior to the Loan closing date (whichever is earlier), CMI reserves the right to withdraw the Commitment. CMI also reserves the right to withdraw or terminate this commitment letter upon the occurrence of any of the following conditions:

- a) CMI finds a material misrepresentation in any information provided to it with respect to this loan application;
- b) the mortgage broker that you have selected to process this mortgage loan for you is no longer eligible to conduct business with CMI; or
- c) CMI determines that you are not eligible for this loan based on the material provided by you or your broker during the underwriting process; or
- d) the product parameters or underwriting criteria for this loan materially change at CMI, the secondary market investor, or at the mortgage insurance provider (if applicable) prior to closing. CMI shall attempt to provide your mortgage broker with reasonable notice of such changes under the circumstances and shall inform your broker of the date by which this loan must close and disburse in accordance with CMI's underwriting requirements.

REVERIFICATION OF CREDIT AND OTHER APPLICATION INFORMATION:

This Commitment is subject to final review and approval of all requirements listed in the Underwriting Requirements form attached hereto and made a part of this Commitment. Please provide the documentation and information requested in the attached Underwriting Requirement form no later than 15 days after the date of this letter. If we do not receive the information or documentation within that time period, we regrettably will be unable to give further consideration to your credit request. CMI reserves the right to reverify your credit, income, asset and employment information at any time and may cancel this Commitment if there is a material adverse change in any of these factors.

Loan #: 001122403058

I. LOAN TERMS

LOAN AMOUNT:  
TERM OF LOAN:  
LOAN PROGRAM:

\$ ~~1,000,000.00~~ 880,000.00  
360 Months  
30 Year Fixed

If this box is checked, the interest rate on your Loan was floating at the time this Commitment Letter was prepared and the interest rate and monthly P&I amount referenced in your underwriting requirements form were used to underwrite your Loan. If the interest rate in effect at the time you elect to lock in a rate is higher than the rate shown on your Underwriter Requirements Form, CMI reserves the right to reunderwrite your loan application and, if you do not qualify at the higher rate, withdraw this Commitment.

If the Annual Percentage Rate ("APR") or the Rate Establishment Date differs from the Initial Interest Rate APR as last disclosed to you by more than the tolerances permitted under federal law, we will send you revised disclosures. Your loan closing cannot be scheduled until 3 business days elapse from the time you receive the revised disclosures.

II. ADDITIONAL COMMITMENT INFORMATION

COMMITMENT EXPIRATION DATE: ~~12/31/2007~~

The Commitment Expiration Date is the earlier of (i) the document expiration date as specified in the attached Underwriting Requirements, or (ii) the interest rate expiration date, as specified in the attached Underwriting Requirements and the corresponding Rate Lock Agreement (if applicable).

Upon the expiration of this Commitment, CMI shall have no further obligation to make the Loan.

ESCROW ACCOUNT REQUIRED?

No

If an escrow account is required, each monthly loan payment will include an amount equal to one-twelfth (1/12th) of the estimated periodic: (i) real estate taxes and assessments, leasehold payments, and/or ground rents, if any, (collectively, the "Taxes"); (ii) hazard insurance premiums; (iii) flood insurance premiums, if required; and (iv) mortgage insurance premiums, if required (collectively, the "Insurance Premiums"). At loan closing, CMI will require you to make an initial payment to the escrow account which, when added to the monthly payments for the Taxes and Insurance Premiums, should enable CMI to pay the Taxes and Insurance Premiums when they become due. Except for monthly mortgage insurance, where permitted, an escrow cushion of up to two (2) months will also be collected.

ADJUSTABLE RATE MORTGAGE LOAN?

No

If you have applied for an adjustable rate mortgage (ARM) loan, please refer to the Truth-In-Lending Statement and the program disclosure which were provided by CMI for a description of the initial term, index description, and applicable interest rate caps.

III. CLOSING REQUIREMENTS

MONTHLY PAYMENTS

For the purposes of this section, the term "Closing" means the business day on which the loan proceeds are disbursed by CMI. For refinance transactions, loan proceeds are generally disbursed after the expiration of the right of rescission period.

If the Closing is on the first day of the month, monthly payments will be due on the first day of the following month and on the first day of each month thereafter. If the Closing is on a day other than the first day of a month, monthly payments will be due on the first day of the second calendar month after Closing and on the first day of each month thereafter.

At the time of Closing, you may be required to pay interest on the Loan from (and including) the date of the Closing to the first day of the following month.

Loan #: 001122403058

#### TITLE MATTERS

On or prior to the loan closing date, you shall obtain, at your own expense, and deliver to CMI or its closing agent: (i) a title insurance policy or commitment for title insurance in a form, amount and by a title insurance company (the "Title Insurance Company") satisfactory to CMI; (ii) copies of all instruments of record, leases and/or other agreements affecting the Premises; and (iii) if requested, a current survey of the Premises must be provided in a form acceptable to CMI.

At the loan closing, the Title Insurance Company shall deliver, and you shall pay the premium for, a title insurance policy that (i) lists only those exceptions to title as may be acceptable to CMI, (ii) insures the mortgage granted to CMI or its predecessor is a valid, first lien on the Premises and (iii) contains such endorsements and affirmative insurance on such matters as CMI may require. All matters affecting the sufficiency and status of title to the Premises must be satisfactory to CMI at the time of loan closing.

To avoid delay, you or your attorney/agent should order the title insurance commitment immediately upon receipt of this Commitment Letter.

#### HAZARD AND FLOOD INSURANCE REQUIREMENTS

Before Closing you shall deliver to us a fully paid original Homeowner's Insurance policy, binder or certificate, with the first year's paid receipt showing CitiMortgage, Inc. as first mortgagee. The insurance must be issued by a company acceptable to us. The insurance must be satisfactory to us in all respects and must be maintained during the term of the Loan. Coverage should be equal to at least 100% of the insurable value of the improvements as determined by the hazard insurance provider. The policy must indicate claims settlement will be on a replacement cost basis. The deductible may not exceed 5% of the dwelling coverage.

If the Property is part of a condominium, before Closing you must deliver proof of Master Insurance Policy from the Condominium Association and the Certificate of Insurance, issued by the insurance company for the condominium, currently in force on your unit. Please use the mortgagee or additional loss payee clause shown below.

Flood insurance requirements will be determined upon receipt of a flood certification report. If the Premises are located in a Special Flood Hazard Area (SFHA), flood insurance will be required. If an escrow account is required, flood insurance premiums must also be escrowed.

If flood insurance is required, the Property is located in an area designated by the Director of the Federal Emergency Management Agency as a special flood hazard area. You will receive a Notice of Special Flood Hazards and Availability of Federal Disaster Relief Assistance which you must sign and deliver to us at or before Closing. You must also deliver at or before Closing a flood insurance application or policy with the first year's paid receipt with the effective date on or before the closing date. The application or policy must be satisfactory to us in all respects. Insurance coverage in the amount shown below must be maintained during the term of the Loan, but the insurance coverage amount does not need to exceed the maximum amount currently available under the National Flood Insurance Program (NFIP) presently set at \$250,000.

Conventional Loans - Flood Insurance coverage must equal the higher of: (i) the principal balance of the Loan up to 100% of the full replacement cost of the insurable improvements, or (ii) 80% of the full replacement cost of the insurable improvements. The deductible may not exceed the maximum deductible allowed under the National Flood Insurance Program.

The deductible may not exceed \$5,000.

Loan #: 001122403058

The mortgagee or additional loss payee clause for both Hazard and Flood, if required, must read as follows:

CitiMortgage, Inc. It's Successors and/or Assigns  
Account 001122403058  
PO Box 7706  
Springfield, Ohio 45501

Please contact your Broker if you have any questions regarding coverage amounts and provisions.

#### CERTIFICATES, PERMITS, LICENSES, AND APPROVALS

On or prior to the loan closing date, you must deliver to CMI or its closing agent any certificates, permits (e.g. occupancy permit), licenses and approvals required by any governmental agency or anyone else having authority over the Premises.

#### COSTS, FEES AND EXPENSES DUE AT THE CLOSING

At or prior to the closing of your Loan, you will be required to pay all costs, fees and expenses ("Closing Amounts") incurred in connection with the Loan origination process. Please refer to the Good Faith Estimate for additional details.

#### REFINANCE TRANSACTIONS

If the proceeds from this loan are being used to payoff a Citibank, CitiMortgage or CitiFinancial mortgage loan AND a prepayment penalty has been included in the payoff amount, contact your Broker for further instructions.

#### NO OTHER FINANCING PERMITTED

By signing and accepting this Commitment, you certify, that there shall be no other financing whatsoever (including but not limited to financing by the seller of the Premises) affecting the Premises at the time of the closing on your Loan unless such financing shall have been approved in advance by CMI. Please refer to the attached Underwriting Requirements to determine if other financing has been approved for this transaction.

#### OCCUPANCY

Unless the Premises has been approved as a second home or investment property, you must occupy and use the Premises as your principal residence within sixty (60) calendar days after the Loan closing date, and you must continue to occupy and use the Premises as your principal residence for at least one (1) year beginning on the date you first occupy the Premises unless CMI agrees, in writing, to waive these occupancy requirements.

#### INDEMNIFICATION AGREEMENT

By accepting this Commitment you agree to reimburse CMI for (i) the payment of any claims for brokerage or other commissions made by any person, corporation, or partnership arising from this transaction, and (ii) expenses incurred by CMI, its successors and/or assigns in the defense of such claims.

#### GENERAL PROVISIONS; AMENDMENT; ASSIGNMENT

Whenever the word "you" or "your" is used in this Commitment Letter, it includes all loan applicants. Any changes to this Commitment must be in writing signed by you and CMI. This Commitment may not be assigned to any other individual or entity.

#### REQUIRED DOCUMENTATION

At or prior to loan closing, you must execute and deliver to CMI or its closing agent all documents required by CMI and/or its closing agent.

Loan #: 001122403058

**DISCLOSURES REQUIRED BY STATE LAW**

If applicable, disclosures required by the State in which the Premises is located are on the attached State-Specific Commitment Letter Addendum.

**CANCELLATION OF COMMITMENT DUE TO CONDITION OF PREMISES**

CMI will not be obligated to close the Loan and/or disburse the Loan proceeds if, at or prior to the loan closing, the Premises are (i) damaged by fire, smoke or other casualty, or (ii) cited for any violation of the laws, statutes, rules or regulations of any applicable governmental or regulatory authority.

Please sign both copies of this Commitment Letter at the indicated location(s) and return one signed copy to your Broker as soon as possible. Please retain the other signed copy for your records. As indicated on Page 1, if your Broker does not receive a signed copy within thirty (30) days of the date of this Commitment or prior to closing (whichever is earlier), CMI reserves the right to withdraw the Commitment.

By: [Redacted Signature]

BY SIGNING BELOW, I/WE (I) HEREBY AGREE TO THE TERMS AND CONDITIONS OF THIS COMMITMENT.

\_\_\_\_\_  
[Redacted Name], Date

\_\_\_\_\_  
[Redacted Name], Date

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date

**SCHEDULE B**

Set forth below are the additional matters which will appear in the policy as exceptions from coverage, unless disposed of to the Company's satisfaction prior to the closing or delivery of the policy:

Disposition	
	1. Taxes, tax liens, tax sales, water rates, sewer rents and assessments set forth in Schedule herein.
	2. Rights of tenants or persons in possession.
	3. Mortgages returned herein (5). See separate mortgage schedule herein.
	4. In the absence of a guaranteed Survey, Company will not certify as to the location nor dimension of within described premises on all sides, and will except any state of facts an accurate Survey may show.
	5. Covenants, conditions, easements, agreements of records, etc., as follows: <ul style="list-style-type: none"><li>a. Easement to Consolidated Edison Company of New York, Inc. dated 3/2/1961 and recorded on 8/18/1961 in Liber 6134 Cp 107 (Affects streets).</li><li>b. Easement to Consolidated Edison Company of New York, Inc. and New York Telephone Company dated 3/2/1961 and recorded on 8/18/1961 in Liber 6134 Cp 109 (Affects streets).</li><li>c. Unrecorded Agreement dated 11/2/1960 between Premium Pond Corporation and Premium Point Company.</li></ul>
	6. This report has been prepared for the purpose of insuring a conveyance for a valuable consideration. In the event that the transfer will not be for a valuable consideration, or is for an antecedent debt, this Company must be informed forthwith so that additional exceptions pertinent to such a transaction may be raised.
	7. Contract of Sale, and any amendments thereto or assignments thereof, must be presented to the Company prior to closing.
	8. Chapter 502 of the Laws of 1982 (Insurance Law Sec 440 Subdivision 5, effective 9/16/82) requires that title companies offer, at or prior to closing, an optional policy to cover the homeowner for the FUTURE market value of his house. You may, therefore, elect to obtain protection in excess of your purchase price. If you do not wish this additional statutory coverage, you MUST WAIVE by signing in the space below this exception:  _____  _____

[REDACTED]

**SCHEDULE B- Continued**

9. This report has been prepared for the purpose of insuring a mortgage transaction. In the event that the proposed mortgage to be insured is a revolving credit mortgage, a collateral mortgage or a mortgage given for an antecedent debt, this Company must be informed forthwith so that proper exceptions relative to such mortgage transaction may be raised.
10. If the within mortgage is taken by assignment, owner and lienor estoppel certificates from all concerned parties as to the validity of the mortgage and the amount due thereon, must be provided.

11. **FOR MORTGAGE POLICY ONLY:** The proposed mortgagor(s) [REDACTED] has (have) been run for Judgments, Parking Violation Bureau, Environmental Control Board, Transit Adjudication Bureau and Federal Tax liens of record in Westchester County for the sole purpose of the disposition of possible liens which may affect any further real property proceedings. The following 5 Judgments were found of record:

a. Judgment Creditor: [REDACTED]

Judgment Debtor: [REDACTED]

Amount: \$152,159.50  
Perfected: 9/10/2009  
Docketed: 9/10/2009  
Court: Westchester Supreme  
Index #: [REDACTED]  
Creditor's Atty: [REDACTED]

b. Judgment Creditor: [REDACTED]

Judgment Debtor: [REDACTED]

Amount: \$1,681.25  
Perfected: 1/20/1995  
Docketed: 3/13/1995  
Court: Pelham Court

SCHEDULE B- Continued

Index #: [REDACTED]  
Creditor's Atty: [REDACTED]  
[REDACTED]

c. Judgment Creditor: [REDACTED]  
[REDACTED]  
[REDACTED]

Judgment Debtor: [REDACTED]  
[REDACTED]  
[REDACTED]

Amount: \$4,138.15  
Perfected: 1/22/1999  
Docketed: 1/22/1999  
Court: Westchester Supreme  
Index #: [REDACTED]  
Creditor's Atty: [REDACTED]  
[REDACTED]

d. Judgment Creditor: [REDACTED]  
[REDACTED]  
[REDACTED]

Judgment Debtor: [REDACTED]  
[REDACTED]  
[REDACTED]

Amount: \$2,412.43  
Perfected: 4/27/2000  
Docketed: 4/27/2000  
Court: Westchester Supreme  
Index #: [REDACTED]  
Creditor's Atty: [REDACTED]  
[REDACTED]

e. Judgment Creditor: [REDACTED]  
[REDACTED]  
[REDACTED]



**SCHEDULE B- Continued**

Amount: \$1,371.00  
Perfected: 2/20/1996  
Docketed: 4/10/1996  
Court: Westchester Supreme  
Index #: ~~10000196~~

12. Proof is required to show that ~~any of the parties~~ (have) not been known by any other name(s) in the last ten (10) years. If said party(ies) has (have) been known by another name(s), searches must be run against the added names.

13. NOTE: Mortgage No. 1 is being further investigated with Ceo Title Agency, Inc., the prior title insurer under title No. CEO-02-8418

(If available please have owner furnish copy of fee polley.)

NOTE - Company will not accept personal uncertified checks in payment of its closing charges or fees in an amount greater than \$750.00 nor personal checks of the seller in any amount without prior authorization from an officer of this company.

**Abstracters' Information Service**  
1111 MARCUS AVENUE - SUITE M2214 LAKE SUCCESS, N.Y. 11042  
PHONE: (516) 918-4600 FAX: (516) 918-4540

**WESTCHESTER COUNTY TAX SEARCH**

DATE: 5/2/2011

PREMISES: [REDACTED]

CITY OF NEW ROCHELLE

ACREAGE: 0.76 LOT SIZE: NA

ASSESSED OWNER: [REDACTED]

TAX CLASSIFICATION: 210

ASSESSED VALUE: CITY 6500/43400

SD: NEW ROCHELLE SECTION: 1 BLOCK: 1 LOT: 167

**RETURNS**

SEC: 1 BLOCK: 1 LOT: 167

2010 COUNTY TAX PERIOD 1/1-12/31  
FULL TAX \$7,154.11 PAID DUE 6/1

2010/2011 SCHOOL TAX PERIOD 7/1-6/30  
1 1/2 TAX \$13,294.98 PAID DUE 10/1  
2 1/2 TAX \$13,294.96 PAID DUE 4/1  
BASIC STAR EXEMPTION  
BASE TAX WITHOUT EXEMPTION \$28,122.85

2011 CITY TAX PERIOD 1/1-12/31  
FULL TAX \$7,665.30 PAID DUE 1/1

WATER -- PRIVATE

SUBJECT TO CONTINUATION PRIOR TO CLOSING

**FOR TAX PAYMENT INFORMATION GO TO: <http://www.orpa.state.ny.us/cfapps/MuniProf>**  
**AFFIDAVIT SHOULD BE TAKEN AT CLOSING THAT OWNER HAS NOT RECEIVED NOTICE OF SPECIAL ASSESSMENTS (IE, SIDEWALK REPAIRS, LOT CLEARANCE, OR EMERGENCY REPAIRS). TAX SEARCH DOES NOT GUARANTEE AGAINST EXISTENCE OF SUCH NOTICES. TAX DUE DATES MAY VARY ANNUALLY. PLEASE CONFIRM DUE DATES WITH THE APPROPRIATE MUNICIPALITY.**

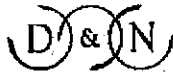
WESTCHESTER COUNTY TAX SEARCH SERVICE IS PROVIDED AS A PUBLIC SERVICE AND IS NOT GUARANTEED. THE INFORMATION IS PROVIDED AS IS AND WITHOUT WARRANTY OF ANY KIND. THE USER AGREES TO HOLD THE COUNTY AND THE TAX SEARCH SERVICE HARMLESS FROM ANY AND ALL CLAIMS, DAMAGES, LOSSES AND EXPENSES, INCLUDING REASONABLE ATTORNEY'S FEES, ARISING OUT OF OR IN CONNECTION WITH THE USE OF THIS SERVICE. THIS AGREEMENT SHALL BE GVERNED BY THE LAWS OF THE STATE OF NEW YORK.



**SURVEY READING**

Survey made by [REDACTED], dated 3/21/2012 shows a 1, 2 and 2 1/2 story building with garage under, a bay window, wood deck with steps, detached 1 story barn, detached 1 story stone building, pool and two stables; also shows the following;

- a) Gravel driveway extends onto [REDACTED] FOR MORTGAGE POLICY ONLY: Policy insures against monetary loss by reason of the enforced removal thereof.
- b) Wetland area at portion of the southeasterly portion of premises. (See Exception No. 9 of Schedule B-II)
- c) Wood fence is as much as 46.8 feet north of the southerly record line.
- d) Utility easement along the westerly record line. FOR MORTGAGE POLICY: Policy insures that said easement/right of way/agreement(s) will not prohibit the existing use of the improvements on the premises. (See Exception No. 5 of Schedule B-II)



DORF & NELSON LLP

The International Corporate Center, 555 Theodore Fremd Avenue, Rye, NY 10580

April 3, 2013

VIA EMAIL AND FEDERAL EXPRESS

April , 2013

Purchaser's Attorney, Esq.  
AB & C LLP  
500 Park Avenue  
New York, NY

Re: Seller to Purchaser  
100 Premium Point, New Rochelle, NY 10801  
Contract of Sale dated \_\_\_\_\_ ("Contract")

Dear Ms. Attorney:

This letter is to notify you that **TIME IS HEREBY MADE OF THE ESSENCE BY SELLER** and the Purchaser must close on the above transaction on or before \_\_\_\_\_ . The Contract closing date was set for \_\_\_\_\_ .

The Seller has already endured two adjournments of the closing date due to the fact that the Purchaser's lender has not been ready to close, through no fault of Seller, and as of today no firm closing date has been set.

Therefore, if your clients fail to close on or before \_\_\_\_\_ , they shall be in breach of the Contract and the Seller shall be entitled to terminate the Contract and retain the Downpayment amount as liquidated damages pursuant to paragraph \_\_\_\_\_ of the Contract.

Thank you,

Laura Alcott

**BARGAIN AND SALE DEED WITH COVENANT AGAINST GRANTOR'S ACTS**

**THIS INDENTURE**, made the       day of

**between**

, party of the first part, and

, party of the second part:

**WITNESSETH**, that the party of the first part, in consideration of ten dollars and other good and valuable consideration, lawful money of the United States, paid by the party of the second part, does hereby grant and release unto the party of the second part, the heirs or successors and assigns of the party of the second part forever;

**ALL** that certain plot piece or parcel of land, with the buildings and improvements thereon erected, situate, lying, and being in the City of       , County of       , State of New York, as more particularly described in schedule A attached hereto and made a part hereof.

**BEING** and intended to be the same premises as conveyed to the grantor herein by Deed dated and recorded on       in Liber       at Page       ;

**TOGETHER** with all right, title and interest, if any, of the party of the first part in and to any streets and roads abutting the above described premises to the center lines thereof;

**TOGETHER** with the appurtenances and all the estate and rights of the party of the first part in and to said premises;

**TO HAVE AND TO HOLD** the premises herein granted unto the party of the second part, the heirs or successors and assigns of the party of the second part forever.

**AND** the party of the first part covenants that the party of the first part has not done or suffered anything whereby the said premises have been encumbered in any way whatever, except as aforesaid.

And the party of the first part/grantor, in compliance with Section 13 of the Lien Law, covenants that the party of the first part/grantor will receive the consideration for this conveyance and will hold the right to receive such consideration as a trust fund to be applied first for the purpose of paying the cost of the improvement and will apply the same first to the payment of the cost of the improvement before using any part of the total of the same for any other purpose. The word "party" or "grantor" shall be construed as if it read "parties" or "grantors" whenever the sense of this document so requires.

**IN WITNESS WHEREOF**, the party of the first part has hereunto set his hand and seal the day and year first above written.

\_\_\_\_\_  
, Seller

Acknowledgment by a Person Within New York State (RPL § 309-a)

STATE OF NEW YORK )  
 ) ss.:  
COUNTY OF WESTCHESTER )

On the \_\_\_\_\_ day of \_\_\_\_\_ in the year 2011, before me, the undersigned, personally appeared Cynthia Bompey, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that she executed the same in her capacity(ies), and that by her signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.

\_\_\_\_\_  
(signature and office of individual taking acknowledgment)

**Deed**

Title No.

Section  
Block  
Lot  
County or Town

To

Street Address

**Return By Mail To:**

[Empty rectangular box for return by mail address]

**Reserve This Space For Use Of Recording Office**

[Large empty rectangular box for recording office use]

**CERTIFICATION OF NON-FOREIGN STATUS**

Section 1445 of the Internal Revenue Code provides that a Transferee (Buyer) of a U.S. real property interest must withhold tax if the Transferor (Seller) is a foreign person, a corporation, partnership, or trust. To inform \_\_\_\_\_ (the "Transferee") that the withholding of tax is not required upon disposition of a U.S. real property interest by \_\_\_\_\_ (the "Transferor"), the undersigned hereby certifies the following under penalty of perjury:

1. That the Transferor is the owner of the following described property:

Street Address: \_\_\_\_\_  
County: \_\_\_\_\_, State: \_\_\_\_\_  
Section \_\_\_\_\_, Block \_\_\_\_\_ and Lot \_\_\_\_\_

2. That Transferor is not a non-resident alien for purposes of the U.S. income taxation (as such term is defined in the Internal Revenue Code and Income Tax Regulations).

3. That Transferor's United States taxpayer identification number (Social Security Number) is:

\_\_\_\_\_.

4. The Transferor understands that this certification may be disclosed to the Internal Revenue Service by the Transferee and that any false statement I have made here could be punishable by fine, imprisonment, or both.

**UNDER PENALTIES OF PERJURY, I DECLARE THAT I HAVE EXAMINED THIS CERTIFICATION AND TO THE BEST OF MY KNOWLEDGE AND BELIEF IT IS TRUE, CORRECT AND COMPLETE.**

\_\_\_\_\_  
\_\_\_\_\_

Recording office time stamp



# Combined Real Estate Transfer Tax Return, Credit Line Mortgage Certificate, and Certification of Exemption from the Payment of Estimated Personal Income Tax

See Form TP-584-I, Instructions for Form TP-584, before completing this form. Print or type.

**Schedule A — Information relating to conveyance**

<b>Grantor/Transferor</b> <input type="checkbox"/> Individual <input type="checkbox"/> Corporation <input type="checkbox"/> Partnership <input type="checkbox"/> Estate/Trust <input type="checkbox"/> Single member LLC <input type="checkbox"/> Other	Name (if individual, last, first, middle initial) ( <input type="checkbox"/> check if more than one grantor ) Mailing address City State ZIP code Single member's name if grantor is a single member LLC (see Instructions)	Social security number Social security number Federal EIN Single member EIN or SSN
<b>Grantee/Transferee</b> <input type="checkbox"/> Individual <input type="checkbox"/> Corporation <input type="checkbox"/> Partnership <input type="checkbox"/> Estate/Trust <input type="checkbox"/> Single member LLC <input type="checkbox"/> Other	Name (if individual, last, first, middle initial) ( <input type="checkbox"/> check if more than one grantee ) Mailing address City State ZIP code Single member's name if grantee is a single member LLC (see Instructions)	Social security number Social security number Federal EIN Single member EIN or SSN

**Location and description of property conveyed**

Tax map designation – Section, block & lot (include dots and dashes)	SWIS code (six digits)	Street address	City, town, or village	County

**Type of property conveyed (check applicable box)**

1 <input type="checkbox"/> One- to three-family house 2 <input type="checkbox"/> Residential cooperative 3 <input type="checkbox"/> Residential condominium 4 <input type="checkbox"/> Vacant land	5 <input type="checkbox"/> Commercial/Industrial 6 <input type="checkbox"/> Apartment building 7 <input type="checkbox"/> Office building 8 <input type="checkbox"/> Other _____	Date of conveyance <table style="width: 100%; border: 1px solid black;"> <tr> <td style="width: 33%; text-align: center;">month</td> <td style="width: 33%; text-align: center;">day</td> <td style="width: 33%; text-align: center;">year</td> </tr> </table>	month	day	year	Percentage of real property conveyed which is residential real property _____ % (see Instructions)
month	day	year				

**Condition of conveyance (check all that apply)**

- |   |  |  |
|---|--|--|
| a. <input type="checkbox"/> Conveyance of fee interest<br><br>b. <input type="checkbox"/> Acquisition of a controlling interest (state percentage acquired _____ %) | f. <input type="checkbox"/> Conveyance which consists of a mere change of identity or form of ownership or organization (attach Form TP-584.1, Schedule F)<br><br>g. <input type="checkbox"/> Conveyance for which credit for tax previously paid will be claimed (attach Form TP-584.1, Schedule G)<br><br>h. <input type="checkbox"/> Conveyance of cooperative apartment(s) | i. <input type="checkbox"/> Option assignment or surrender<br><br>m. <input type="checkbox"/> Leasehold assignment or surrender<br><br>n. <input type="checkbox"/> Leasehold grant<br><br>o. <input type="checkbox"/> Conveyance of an easement<br><br>p. <input type="checkbox"/> Conveyance for which exemption from transfer tax claimed (complete Schedule B, Part III)<br><br>q. <input type="checkbox"/> Conveyance of property partly within and partly outside the state<br><br>r. <input type="checkbox"/> Conveyance pursuant to divorce or separation<br><br>s. <input type="checkbox"/> Other (describe) _____ |
| c. <input type="checkbox"/> Transfer of a controlling interest (state percentage transferred _____ %)   | d. <input type="checkbox"/> Conveyance to cooperative housing corporation<br><br>e. <input type="checkbox"/> Conveyance pursuant to or in lieu of foreclosure or enforcement of security interest (attach Form TP-584.1, Schedule E)   | j. <input type="checkbox"/> Syndication<br><br>k. <input type="checkbox"/> Contract assignment   |

For recording officer's use	Amount received Schedule B., Part I \$ _____ Schedule B., Part II \$ _____	Date received	Transaction number
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**Schedule B — Real estate transfer tax return (Tax Law, Article 31)**

**Part I — Computation of tax due**

1 Enter amount of consideration for the conveyance (if you are claiming a total exemption from tax, check the exemption claimed box, enter consideration and proceed to Part III) ..... <input type="checkbox"/> Exemption claimed	1.		
2 Continuing lien deduction (see Instructions If property is taken subject to mortgage or lien) .....	2.		
3 Taxable consideration (subtract line 2 from line 1) .....	3.		
4 Tax: \$2 for each \$500, or fractional part thereof, of consideration on line 3 .....	4.		
5 Amount of credit claimed for tax previously paid (see Instructions and attach Form TP-584.1, Schedule G) .....	5.		
6 Total tax due* (subtract line 5 from line 4) .....	6.		

**Part II — Computation of additional tax due on the conveyance of residential real property for \$1 million or more**

1 Enter amount of consideration for conveyance (from Part I, line 1) .....	1.		
2 Taxable consideration (multiply line 1 by the percentage of the premises which is residential real property, as shown in Schedule A) ..	2.		
3 Total additional transfer tax due* (multiply line 2 by 1% (.01)) .....	3.		

**Part III — Explanation of exemption claimed on Part I, line 1 (check any boxes that apply)**

The conveyance of real property is exempt from the real estate transfer tax for the following reason:

- a. Conveyance is to the United Nations, the United States of America, the state of New York, or any of their instrumentalities, agencies, or political subdivisions (or any public corporation, including a public corporation created pursuant to agreement or compact with another state or Canada)..... a
- b. Conveyance is to secure a debt or other obligation..... b
- c. Conveyance is without additional consideration to confirm, correct, modify, or supplement a prior conveyance..... c
- d. Conveyance of real property is without consideration and not in connection with a sale, including conveyances conveying realty as bona fide gifts ..... d
- e. Conveyance is given in connection with a tax sale..... e
- f. Conveyance is a mere change of identity or form of ownership or organization where there is no change in beneficial ownership. (This exemption cannot be claimed for a conveyance to a cooperative housing corporation of real property comprising the cooperative dwelling or dwellings.) Attach Form TP-584.1, Schedule F..... f
- g. Conveyance consists of deed of partition..... g
- h. Conveyance is given pursuant to the federal Bankruptcy Act ..... h
- i. Conveyance consists of the execution of a contract to sell real property, without the use or occupancy of such property, or the granting of an option to purchase real property, without the use or occupancy of such property..... i
- j. Conveyance of an option or contract to purchase real property with the use or occupancy of such property where the consideration is less than \$200,000 and such property was used solely by the grantor as the grantor's personal residence and consists of a one-, two-, or three-family house, an individual residential condominium unit, or the sale of stock in a cooperative housing corporation in connection with the grant or transfer of a proprietary leasehold covering an individual residential cooperative apartment..... j
- k. Conveyance is not a conveyance within the meaning of Tax Law, Article 31, section 1401(e) (attach documents supporting such claim) ..... k

\*The total tax (from Part I, line 6 and Part II, line 3 above) is due within 15 days from the date conveyance. Please make check(s) payable to the county clerk where the recording is to take place. If the recording is to take place in the New York City boroughs of Manhattan, Bronx, Brooklyn, or Queens, make check(s) payable to the **NYC Department of Finance**. If a recording is not required, send this return and your check(s) made payable to the **NYS Department of Taxation and Finance**, directly to the NYS Tax Department, RETT Return Processing, PO Box 5045, Albany NY 12205-5045.

**Schedule C – Credit Line Mortgage Certificate (Tax Law, Article 11)**

Complete the following only if the interest being transferred is a fee simple interest.

I (we) certify that: (check the appropriate box)

1.  The real property being sold or transferred is not subject to an outstanding credit line mortgage.
2.  The real property being sold or transferred is subject to an outstanding credit line mortgage. However, an exemption from the tax is claimed for the following reason:
  - The transfer of real property is a transfer of a fee simple interest to a person or persons who held a fee simple interest in the real property (whether as a joint tenant, a tenant in common or otherwise) immediately before the transfer.
  - The transfer of real property is (A) to a person or persons related by blood, marriage or adoption to the original obligor or to one or more of the original obligors or (B) to a person or entity where 50% or more of the beneficial interest in such real property after the transfer is held by the transferor or such related person or persons (as in the case of a transfer to a trustee for the benefit of a minor or the transfer to a trust for the benefit of the transferor).
  - The transfer of real property is a transfer to a trustee in bankruptcy, a receiver, assignee, or other officer of a court.
  - The maximum principal amount secured by the credit line mortgage is \$3,000,000 or more, and the real property being sold or transferred is not principally improved nor will it be improved by a one- to six-family owner-occupied residence or dwelling.

**Please note:** for purposes of determining whether the maximum principal amount secured is \$3,000,000 or more as described above, the amounts secured by two or more credit line mortgages may be aggregated under certain circumstances. See TSB-M-96(6)-R for more information regarding these aggregation requirements.

- Other (attach detailed explanation).

3.  The real property being transferred is presently subject to an outstanding credit line mortgage. However, no tax is due for the following reason:
  - A certificate of discharge of the credit line mortgage is being offered at the time of recording the deed.
  - A check has been drawn payable for transmission to the credit line mortgagee or his agent for the balance due, and a satisfaction of such mortgage will be recorded as soon as it is available.
4.  The real property being transferred is subject to an outstanding credit line mortgage recorded in \_\_\_\_\_ (insert liber and page or reel or other identification of the mortgage). The maximum principal amount of debt or obligation secured by the mortgage is \_\_\_\_\_. No exemption from tax is claimed and the tax of \_\_\_\_\_ is being paid herewith. (Make check payable to county clerk where deed will be recorded or, if the recording is to take place in New York City but not in Richmond County, make check payable to the NYC Department of Finance.)

**Signature (both the grantor(s) and grantee(s) must sign)**

The undersigned certify that the above information contained in schedules A, B, and C, including any return, certification, schedule, or attachment, is to the best of his/her knowledge, true and complete, and authorize the person(s) submitting such form on their behalf to receive a copy for purposes of recording the deed or other instrument effecting the conveyance.

Grantor signature	Title	Grantee signature	Title
Grantor signature	Title	Grantee signature	Title

**Reminder:** Did you complete all of the required information in Schedules A, B, and C? Are you required to complete Schedule D? If you checked e, f, or g in Schedule A, did you complete Form TP-584.1? Have you attached your check(s) made payable to the county clerk where recording will take place or, if the recording is in the New York City boroughs of Manhattan, Bronx, Brooklyn, or Queens, to the NYC Department of Finance? If no recording is required, send your check(s), made payable to the Department of Taxation and Finance, directly to the NYS Tax Department, RETT Return Processing, PO Box 5045, Albany NY 12205-5045.

**Schedule D - Certification of exemption from the payment of estimated personal income tax (Tax Law, Article 22, section 663)**

Complete the following only if a fee simple interest or a cooperative unit is being transferred by an individual or estate or trust.

If the property is being conveyed by a referee pursuant to a foreclosure proceeding, proceed to Part II, and check the second box under *Exemptions for nonresident transferor(s)/seller(s)* and sign at bottom.

**Part I - New York State residents**

If you are a New York State resident transferor(s)/seller(s) listed in Schedule A of Form TP-584 (or an attachment to Form TP-584), you must sign the certification below. If one or more transferors/sellers of the real property or cooperative unit is a resident of New York State, each resident transferor/seller must sign in the space provided. If more space is needed, please photocopy this Schedule D and submit as many schedules as necessary to accommodate all resident transferors/sellers.

**Certification of resident transferor(s)/seller(s)**

This is to certify that at the time of the sale or transfer of the real property or cooperative unit, the transferor(s)/seller(s) as signed below was a resident of New York State, and therefore is not required to pay estimated personal income tax under Tax Law, section 663(a) upon the sale or transfer of this real property or cooperative unit.

Signature	Print full name	Date
Signature	Print full name	Date
Signature	Print full name	Date
Signature	Print full name	Date

**Note:** A resident of New York State may still be required to pay estimated tax under Tax Law, section 685(c), but not as a condition of recording a deed.

**Part II - Nonresidents of New York State**

If you are a nonresident of New York State listed as a transferor/seller in Schedule A of Form TP-584 (or an attachment to Form TP-584) but are not required to pay estimated personal income tax because one of the exemptions below applies under Tax Law, section 663(c), check the box of the appropriate exemption below. If any one of the exemptions below applies to the transferor(s)/seller(s), that transferor(s)/seller(s) is not required to pay estimated personal income tax to New York State under Tax Law, section 663. Each nonresident transferor/seller who qualifies under one of the exemptions below must sign in the space provided. If more space is needed, please photocopy this Schedule D and submit as many schedules as necessary to accommodate all nonresident transferors/sellers.

If none of these exemption statements apply, you must complete Form IT-2663, *Nonresident Real Property Estimated Income Tax Payment Form*, or Form IT-2664, *Nonresident Cooperative Unit Estimated Income Tax Payment Form*. For more information, see *Payment of estimated personal income tax*, on page 1 of Form TP-584-1.

**Exemption for nonresident transferor(s)/seller(s)**

This is to certify that at the time of the sale or transfer of the real property or cooperative unit, the transferor(s)/seller(s) (grantor) of this real property or cooperative unit was a nonresident of New York State, but is not required to pay estimated personal income tax under Tax Law, section 663 due to one of the following exemptions:

- The real property or cooperative unit being sold or transferred qualifies in total as the transferor's/seller's principal residence (within the meaning of Internal Revenue Code, section 121) from \_\_\_\_\_ Date to \_\_\_\_\_ Date (see instructions).
- The transferor/seller is a mortgagor conveying the mortgaged property to a mortgagee in foreclosure, or in lieu of foreclosure with no additional consideration.
- The transferor or transferee is an agency or authority of the United States of America, an agency or authority of the state of New York, the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, the Government National Mortgage Association, or a private mortgage insurance company.

Signature	Print full name	Date
Signature	Print full name	Date
Signature	Print full name	Date
Signature	Print full name	Date

FOR COUNTY USE ONLY

C1. SWIS Code \_\_\_\_\_  
 C2. Date Deed Recorded \_\_\_\_\_  
Month Day Year  
 C3. Book \_\_\_\_\_ C4. Page \_\_\_\_\_



New York State Department of  
**Taxation and Finance**  
 Office of Real Property Tax Services  
**RP- 5217-PDF**  
 Real Property Transfer Report (8/10)

**PROPERTY INFORMATION**

1. Property Location  
 \* STREET NUMBER \_\_\_\_\_ \* STREET NAME \_\_\_\_\_  
 \_\_\_\_\_  
 \* CITY OR TOWN \_\_\_\_\_ VILLAGE \_\_\_\_\_ \* ZIP CODE \_\_\_\_\_

2. Buyer Name  
 \* LAST NAME/COMPANY \_\_\_\_\_ FIRST NAME \_\_\_\_\_  
 \_\_\_\_\_  
 LAST NAME/COMPANY \_\_\_\_\_ FIRST NAME \_\_\_\_\_

3. Tax Billing Address  
 Indicate where future Tax Bills are to be sent  
 If other than buyer address (at bottom of form)  
 LAST NAME/COMPANY \_\_\_\_\_ FIRST NAME \_\_\_\_\_  
 \_\_\_\_\_  
 STREET NUMBER AND NAME \_\_\_\_\_ CITY OR TOWN \_\_\_\_\_ STATE \_\_\_\_\_ ZIP CODE \_\_\_\_\_

4. Indicate the number of Assessment Roll parcels transferred on the deed \_\_\_\_\_ # of Parcels OR  Part of a Parcel (Only if Part of a Parcel) Check as they apply:  
 4A. Planning Board with Subdivision Authority Exists   
 4B. Subdivision Approval was Required for Transfer   
 4C. Parcel Approved for Subdivision with Map Provided

5. Dead Property Site  
 \* FRONT FEET \_\_\_\_\_ X \* DEPTH \_\_\_\_\_ OR \* ACRES \_\_\_\_\_  
 4B. Subdivision Approval was Required for Transfer   
 4C. Parcel Approved for Subdivision with Map Provided

6. Seller Name  
 \* LAST NAME/COMPANY \_\_\_\_\_ FIRST NAME \_\_\_\_\_  
 \_\_\_\_\_  
 LAST NAME/COMPANY \_\_\_\_\_ FIRST NAME \_\_\_\_\_

\*7. Select the description which most accurately describes the use of this property at the time of sale:  
 Check the boxes below as they apply:  
 8. Ownership Type is Condominium   
 9. New Construction on a Vacant Land   
 10A. Property Located within an Agricultural District   
 10B. Buyer received a disclosure notice indicating that the property is in an Agricultural District

**SALE INFORMATION**

\*11. Sale Contract Date \_\_\_\_\_  
 \*12. Date of Sale/Transfer \_\_\_\_\_  
 \*13. Full Sale Price \_\_\_\_\_ .00  
 (Full Sale Price is the total amount paid for the property including personal property. This payment may be in the form of cash, other property or goods, or the assumption of mortgages or other obligations.) Please round to the nearest whole dollar amount.

14. Indicate the value of personal property included in the sale \_\_\_\_\_ .00

15. Check one or more of those conditions as applicable to transfer:  
 A. Sale Between Relatives or Former Relatives  
 B. Sale between Related Companies or Partners in Business.  
 C. One of the Buyers is also a Seller  
 D. Buyer or Seller is Government Agency or Lending Institution  
 E. Deed Type not Warranty or Bargain and Sale (Specify Below)  
 F. Sale of Fractional or Less than Fee Interest (Specify Below)  
 G. Significant Change in Property Between Taxable Status and Sale Dates  
 H. Sale of Business is Included in Sale Price  
 I. Other Unusual Factors Affecting Sale Price (Specify Below)  
 J. None  
 Comment(s) on Condition: \_\_\_\_\_

**ASSESSMENT INFORMATION - Data should reflect the latest Final Assessment Roll and Tax Bill**

16. Year of Assessment Roll from which information taken (YY) \_\_\_\_\_ \*17. Total Assessed Value \_\_\_\_\_  
 \*18. Property Class \_\_\_\_\_ \*18. School District Name \_\_\_\_\_  
 \*20. Tax Map Identifier(s)/Roll Identifier(s) (If more than four, attach sheet with additional identifier(s)) \_\_\_\_\_

**CERTIFICATION**

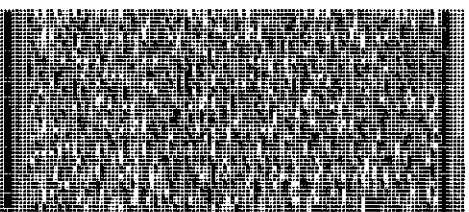
I certify that all of the items of information entered on this form are true and correct (to the best of my knowledge and belief) and I understand that the making of any willful false statement of material fact herein subject me to the provisions of the penal law relative to the making and filing of false instruments.

**SELLER SIGNATURE**  
 \_\_\_\_\_  
 SELLER SIGNATURE DATE  
 \_\_\_\_\_  
**BUYER SIGNATURE**  
 \_\_\_\_\_  
 BUYER SIGNATURE DATE  
 \_\_\_\_\_

**BUYER CONTACT INFORMATION**  
 (Enter information for the buyer. Note: If buyer is LLC, society, association, corporation, joint stock company, estate or entity that is not an individual agent or fiduciary, then a name and contact information of an individual/responsible party who can answer questions regarding the transfer must be entered. Type or print clearly.)

\* LAST NAME \_\_\_\_\_ FIRST NAME \_\_\_\_\_  
 \* AREA CODE \_\_\_\_\_ \* TELEPHONE NUMBER (Ex: 9999999) \_\_\_\_\_  
 \* STREET NUMBER \_\_\_\_\_ \* STREET NAME \_\_\_\_\_  
 \* CITY OR TOWN \_\_\_\_\_ \* STATE \_\_\_\_\_ \* ZIP CODE \_\_\_\_\_

**BUYER'S ATTORNEY**  
 \_\_\_\_\_  
 LAST NAME \_\_\_\_\_ FIRST NAME \_\_\_\_\_  
 \_\_\_\_\_  
 AREA CODE \_\_\_\_\_ TELEPHONE NUMBER (Ex: 9999999) \_\_\_\_\_





# A. Settlement Statement (HUD-1)

B. Type of Loan							
1. <input type="checkbox"/> FHA	2. <input type="checkbox"/> RHS	3. <input type="checkbox"/> Conv. Unins.	6. File Number:	7. Loan Number:	8. Mortgage Insurance Case Number:		
4. <input type="checkbox"/> VA	5. <input type="checkbox"/> Conv. Ins.						
C. Note: This form is furnished to give you a statement of actual settlement costs. Amounts paid to and by the settlement agent are shown. Items marked "(p.o.c.)*" were paid outside the closing; they are shown here for informational purposes and are not included in the totals.							
D. Name & Address of Borrower:			E. Name & Address of Seller:		F. Name & Address of Lender:		
G. Property Location:			H. Settlement Agent:		I. Settlement Date:		
			Place of Settlement:				

## J. Summary of Borrower's Transaction

100. Gross Amount Due from Borrower		
101. Contract sales price		
102. Personal property		
103. Settlement charges to borrower (line 1400)		\$0.00
104.		
105.		
Adjustment for items paid by seller in advance		
106. City/town taxes	to	
107. County taxes	to	
108. Assessments	to	
109.		
110.		
111.		
112.		
120. Gross Amount Due from Borrower		\$0.00
200. Amount Paid by or in Behalf of Borrower		
201. Deposit or earnest money		
202. Principal amount of new loan(s)		
203. Existing loan(s) taken subject to		
204.		
205.		
206.		
207.		
208.		
209.		
Adjustments for items unpaid by seller		
210. City/town taxes	to	
211. County taxes	to	
212. Assessments	to	
213.		
214.		
215.		
216.		
217.		
218.		
219.		
220. Total Paid by/for Borrower		\$0.00
300. Cash at Settlement from/to Borrower		
301. Gross amount due from borrower (line 120)		\$0.00
302. Less amounts paid by/for borrower (line 220)	(	\$0.00)
303. Cash <input type="checkbox"/> From <input type="checkbox"/> To Borrower		\$0.00

## K. Summary of Seller's Transaction

400. Gross Amount Due to Seller		
401. Contract sales price		
402. Personal property		
403.		
404.		
405.		
Adjustment for items paid by seller in advance		
406. City/town taxes	to	
407. County taxes	to	
408. Assessments	to	
409.		
410.		
411.		
412.		
420. Gross Amount Due to Seller		\$0.00
500. Reductions in Amount Due to seller		
501. Excess deposit (see instructions)		
502. Settlement charges to seller (line 1400)		\$0.00
503. Existing loan(s) taken subject to		
504. Payoff of first mortgage loan		
505. Payoff of second mortgage loan		
506.		
507.		
508.		
509.		
Adjustments for items unpaid by seller		
510. City/town taxes	to	
511. County taxes	to	
512. Assessments	to	
513.		
514.		
515.		
516.		
517.		
518.		
519.		
520. Total Reduction Amount Due Seller		\$0.00
600. Cash at Settlement to/from Seller		
601. Gross amount due to seller (line 420)		\$0.00
602. Less reductions in amounts due seller (line 520)	(	\$0.00)
603. Cash <input type="checkbox"/> To <input type="checkbox"/> From Seller		\$0.00

The Public Reporting Burden for this collection of information is estimated to average 35 minutes per response for collecting, reviewing, and reporting the data. This agency may not collect this information, and you are not required to complete this form, unless it displays a currently valid OMB control number. No confidentiality is assured; this disclosure is mandatory. This is designed to provide the parties to a RESPA covered transaction with information during the settlement process.

L. Settlement Charges				Paid From Borrower's Funds at Settlement	Paid From Seller's Funds at Settlement
700. Total Real Estate Broker Fees					
Division of commission (line 700) as follows:					
701. \$	to				
702. \$	to				
703. Commission paid at settlement					
704.					
800. Items Payable in Connection with Loan					
801. Our origination charge				(from GFE #1)	
802. Your credit or charge (points) for the specific interest rate chosen				(from GFE #2)	
803. Your adjusted origination charges				(from GFE #A)	
804. Appraisal fee to				(from GFE #3)	
805. Credit report to				(from GFE #3)	
806. Tax service to				(from GFE #3)	
807. Flood certification to				(from GFE #3)	
808.					
809.					
810.					
811.					
900. Items Required by Lender to be Paid in Advance					
901. Daily interest charges from to @ \$ /day				(from GFE #10)	
902. Mortgage insurance premium for months to				(from GFE #9)	
903. Homeowner's insurance for years to \$				(from GFE #11)	
904.					
1000. Expenses Unpaid at Loan Closing					
1001. Initial deposit for your escrow account				(from GFE #9)	
1002. Homeowner's insurance months @ \$ per month \$					
1003. Mortgage insurance months @ \$ per month \$					
1004. Property taxes months @ \$ per month \$					
1005. months @ \$ per month \$					
1006. months @ \$ per month \$					
1007. Aggregate Adjustment -\$					
1100. Title Charges					
1101. Title services and lender's title insurance				(from GFE #4)	
1102. Settlement or closing fee \$					
1103. Owner's title insurance				(from GFE #5)	
1104. Lender's title insurance \$					
1105. Lender's title policy limit \$					
1106. Owner's title policy limit \$					
1107. Agent's portion of the total title insurance premium to \$					
1108. Underwriter's portion of the total title insurance premium to \$					
1109.					
1110.					
1111.					
1200. Government Recording and Transfer Charges					
1201. Government recording charges				(from GFE #7)	
1202. Deed \$ Mortgage \$ Release \$					
1203. Transfer taxes				(from GFE #8)	
1204. City/County tax/stamps Deed \$ Mortgage \$					
1205. State tax/stamps Deed \$ Mortgage \$					
1206.					
1300. Additional Settlement Charges					
1301. Required services that you can shop for				(from GFE #6)	
1302. \$					
1303. \$					
1304.					
1305.					
1400. Total Settlement Charges (enter on lines 103, Section J and 502, Section K)				\$0.00	\$0.00



# UCC FINANCING STATEMENT AMENDMENT

FOLLOW INSTRUCTIONS (front and back) CAREFULLY

A. NAME & PHONE OF CONTACT AT FILER [optional]
B. SEND ACKNOWLEDGMENT TO: (Name and Address)

THE ABOVE SPACE IS FOR FILING OFFICE USE ONLY

1a. INITIAL FINANCING STATEMENT FILE #	1b. This FINANCING STATEMENT AMENDMENT is to be filed (for record) (or recorded) in the REAL ESTATE RECORDS. <input type="checkbox"/>
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2.  **TERMINATION:** Effectiveness of the Financing Statement identified above is terminated with respect to security interest(s) of the Secured Party authorizing this Termination Statement.

3.  **CONTINUATION:** Effectiveness of the Financing Statement identified above with respect to security interest(s) of the Secured Party authorizing this Continuation Statement is continued for the additional period provided by applicable law.

4.  **ASSIGNMENT** (full or partial): Give name of assignee in item 7a or 7b and address of assignee in item 7c; and also give name of assignor in item 9.

5. **AMENDMENT (PARTY INFORMATION):** This Amendment affects  Debtor **or**  Secured Party of record. Check only one of these two boxes.  
 Also check one of the following three boxes and provide appropriate information in items 6 and/or 7.  
 **CHANGE** name and/or address: Please refer to the detailed instructions in regards to changing the name/address of a party.  **DELETE** name: Give record name to be deleted in item 6a or 6b.  **ADD** name: Complete item 7a or 7b, and also item 7c; also complete items 7e-7g (if applicable).

6. **CURRENT RECORD INFORMATION:**

6a. ORGANIZATION'S NAME

OR

6b. INDIVIDUAL'S LAST NAME	FIRST NAME	MIDDLE NAME	SUFFIX
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7. **CHANGED (NEW) OR ADDED INFORMATION:**

7a. ORGANIZATION'S NAME

OR

7b. INDIVIDUAL'S LAST NAME	FIRST NAME	MIDDLE NAME	SUFFIX
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7c. MAILING ADDRESS

CITY	STATE	POSTAL CODE	COUNTRY
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7d. SEE INSTRUCTIONS Not Applicable	ADD'L INFO RE ORGANIZATION DEBTOR	7e. TYPE OF ORGANIZATION	7f. JURISDICTION OF ORGANIZATION	7g. ORGANIZATIONAL ID #, if any <input type="checkbox"/> NONE
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8. **AMENDMENT (COLLATERAL CHANGE):** check only one box.  
 Describe collateral  deleted or  added, or give entire  restated collateral description, or describe collateral  assigned.

9. **NAME OF SECURED PARTY OF RECORD AUTHORIZING THIS AMENDMENT** (name of assignor, if this is an Assignment). If this is an Amendment authorized by a Debtor which adds collateral or adds the authorizing Debtor, or if this is a Termination authorized by a Debtor, check here  and enter name of **DEBTOR** authorizing this Amendment.

9a. ORGANIZATION'S NAME

OR

9b. INDIVIDUAL'S LAST NAME	FIRST NAME	MIDDLE NAME	SUFFIX
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10. OPTIONAL FILER REFERENCE DATA



## Instructions for UCC Financing Statement Amendment (Form UCC3)

Please type or laser-print this form. Be sure it is completely legible. Read all instructions, especially Instruction 1a; correct file number of initial financing statement is crucial. Follow instructions completely.

Fill in form very carefully; mistakes may have important legal consequences. If you have questions, consult your attorney. Filing office cannot give legal advice. Do not insert anything in the open space in the upper portion of this form; it is reserved for filing office use.

An Amendment may relate to only one financing statement. Do not enter more than one file number in item 1a.

When properly completed, send Filing Office Copy, with required fee, to filing office. If you want an acknowledgment, complete item B and, if filing in a filing office that returns an acknowledgment copy furnished by filer, you may also send Acknowledgment Copy, otherwise detach. Always detach Debtor and Secured Party Copies.

If you need to use attachments, you are encouraged to use either Amendment Addendum (Form UCC3Ad) or Amendment Additional Party (Form UCC3AP).

Always complete items 1a and 9.

A. To assist filing offices that might wish to communicate with filer, filer may provide information in item A. This item is optional.

B. Complete item B if you want an acknowledgment sent to you. If filing in a filing office that returns an acknowledgment copy furnished by filer, present simultaneously with this form a carbon or other copy of this form for use as an acknowledgment copy.

1a. **File number:** Enter file number of initial financing statement to which this Amendment relates. Enter only one file number. In some states, the file number is not unique; in those states, also enter in item 1a, after the file number, the date that the initial financing statement was filed.

1b. Only if this Amendment is to be filed or recorded in the real estate records, check box 1b and also, in item 13 of Amendment Addendum, enter Debtor's name, in proper format exactly identical to the format of item 1 of financing statement, and name of record owner if Debtor does not have a record interest.

**Note:** Show purpose of this Amendment by checking box 2, 3, 4, 5 (in item 5 you must check two boxes) or 8; also complete items 6, 7 and/or 8 as appropriate. Filer may use this Amendment form to simultaneously accomplish both data changes (items 4, 5, and/or 8) and a Continuation (item 3), although in some states filer may have to pay a separate fee for each purpose.

2. To terminate the effectiveness of the identified financing statement with respect to security interest(s) of authorizing Secured Party, check box 2. See Instruction 9 below.

3. To continue the effectiveness of the identified financing statement with respect to security interest(s) of authorizing Secured Party, check box 3. See Instruction 9 below.

4. To assign (i) all of assignor's interest under the identified financing statement, or (ii) a partial interest in the security interest covered by the identified financing statement, or (iii) assignor's full interest in some (but not all) of the collateral covered by the identified financing statement: Check box in item 4 and enter name of assignee in item 7a if assignee is an organization, or in item 7b, formatted as indicated, if assignee is an individual. Complete 7a or 7b, but not both. Also enter assignee's address in item 7c. Also enter name of assignor in item 9. If partial Assignment affects only some (but not all) of the collateral covered by the identified financing statement, filer may check appropriate box in item 8 and indicate affected collateral in item 8.

5,6,7. To change the name of a party: Check box in item 5 to indicate whether this Amendment amends information relating to a Debtor or a Secured Party; also check box in item 5 to indicate that this is a name change; also enter name of affected party (current record name) in item 6a or 6b as appropriate; and enter new name (7a or 7b). If the new name refers to a Debtor complete (7c); also complete 7e-7g if 7a was completed.

5,6,7. To change the address of a party: Check box in item 5 to indicate whether this Amendment amends information relating to a Debtor or a Secured Party; also check box in item 5 to indicate that this is an address change; also enter name of affected party (current record name) in item 6a or 6b as appropriate; and enter new address (7c) in item 7.

5,6,7. To change the name and address of a party: Check box in item 5 to indicate whether this Amendment amends information relating to a Debtor or a Secured Party; also check box in item 5 to indicate that this is a name/address change; also enter name of affected party (current record name) in items 6a or 6b as appropriate; and enter the new name (7a or 7b). If the new name refers to a Debtor complete item 7c; also complete 7e-7g if 7a was completed.

5,6. To delete a party: Check box in item 5 to indicate whether deleting a Debtor or a Secured Party; also check box in item 5 to indicate that this is a deletion of a party, and also enter name (6a or 6b) of deleted party in item 6.

5,7. To add a party: Check box in item 5 to indicate whether adding a Debtor or Secured Party; also check box in item 5 to indicate that this is an addition of a party and enter the new name (7a or 7b). If the new name refers to a Debtor complete item 7c; also complete 7e-7g if 7a was completed. To include further additional Debtors or Secured Parties, attach Amendment Additional Party (Form UCC3AP), using correct name format.

**Note:** The preferred method for filing against a new Debtor (an individual or organization not previously of record as a Debtor under this file number) is to file a new Financing Statement (UCC1) and not an Amendment (UCC3).

7d. Reserved for Financing Statement Amendments to be filed in North Dakota or South Dakota only. If this Financing Statement Amendment is to be filed in North Dakota or South Dakota, the Debtor's taxpayer identification number (tax ID#) — social security number or employer identification number must be placed in this box.

8. Collateral change. To change the collateral covered by the identified financing statement, describe the change in item 8. This may be accomplished either by describing the collateral to be added or deleted, or by setting forth in full the collateral description as it is to be effective after the filing of this Amendment, indicating clearly the method chosen (check the appropriate box). If the space in item 8 is insufficient, use item 13 of Amendment Addendum (Form UCC3Ad). A partial release of collateral is a deletion. If, due to a full release of all collateral, filer no longer claims a security interest under the identified financing statement, check box 2 (Termination) and not box 8 (Collateral Change). If a partial assignment consists of the assignment of some (but not all) of the collateral covered by the identified financing statement, filer may indicate the assigned collateral in item 8, check the appropriate box in item 8, and also comply with instruction 4 above.

9. Always enter name of party of record authorizing this Amendment; in most cases, this will be a Secured Party of record. If more than one authorizing Secured Party, give additional name(s), properly formatted, in item 13 of Amendment Addendum (Form UCC3Ad). If the indicated financing statement refers to the parties as lessee and lessor, or consignee and consignor, or seller and buyer, instead of Debtor and Secured Party, references in this Amendment shall be deemed likewise so to refer to the parties. If this is an assignment, enter assignor's name. If this is an Amendment authorized by a Debtor that adds collateral or adds a Debtor, or if this is a Termination authorized by a Debtor, check the box in item 9 and enter the name, properly formatted, of the Debtor authorizing this Amendment, and, if this Amendment or Termination is to be filed or recorded in the real estate records, also enter, in item 13 of Amendment Addendum, name of Secured Party of record.

10. This item is optional and is for filer's use only. For filer's convenience of reference, filer may enter in item 10 any identifying information (e.g., Secured Party's loan number, law firm file number, Debtor's name or other identification, state in which form is being filed, etc.) that filer may find useful.

# THE KELSEY COMPANY

Real Estate Title Searches | Title Insurance | Established in 1922

## ACRIS/PREP E-TAX FORM INFORMATION SHEET

*Form should be completed and faxed to The Kelsey Company at 914-358-9324  
Please provide e-mail address, ACRIS forms once completed by us CANNOT be faxed.*

To:  
Company Name:  
Fax No.:  
Phone No.:

Date:

CO-OP TRANSFER: \_\_\_\_\_  
CO-OP Corporation Name: \_\_\_\_\_

INSURED TITLE: \_\_\_\_\_  
Title Number: \_\_\_\_\_

Date of Transfer: \_\_\_\_\_  
Purchase Price: \$ \_\_\_\_\_

Contract Date: \_\_\_\_\_

Seller: \_\_\_\_\_  
Seller: \_\_\_\_\_  
Address: \_\_\_\_\_

SS No.: \_\_\_\_\_  
SS No.: \_\_\_\_\_

Purchaser: \_\_\_\_\_  
Purchaser: \_\_\_\_\_  
Address: \_\_\_\_\_

SS No.: \_\_\_\_\_  
SS No.: \_\_\_\_\_

Property Address: \_\_\_\_\_  
County: \_\_\_\_\_ Block: \_\_\_\_\_ Lot: \_\_\_\_\_ Unit No. (if applies) \_\_\_\_\_  
Property Type: \_\_\_\_\_

Purchasers Attorney: \_\_\_\_\_  
Phone No.: \_\_\_\_\_

Sellers Attorney (Incl. Phone No.): \_\_\_\_\_  
Phone No.: \_\_\_\_\_

- Please provide first page of the contract of sale.
- If this is an Insured title where a closing date has been set, the e-tax forms will accompany the closer's package to the closing.
- If this is an uninsured CO-OP transfer only, the e-tax forms will be sent via mail to you to be signed and can be returned to this office for filing, for an additional fee.
- Please note that the cost for completing E-Tax Forms is \$150.00.

**THE KELSEY COMPANY**  
199 Main Street, Suite 1010, White Plains, New York 10601  
Phone-914-358-9323, Fax-914-358-9324

**THE KELSEY COMPANY**  
**AFFIDAVIT OF TITLE (Including New York City)**

State of New York        )  
                                  ) ss:  
County of                )

DATE: \_\_\_\_\_  
TITLE # \_\_\_\_\_

\_\_\_\_\_ and \_\_\_\_\_  
Residing at \_\_\_\_\_ being  
duly sworn, deposes and says:

1. That (I am the) (grantor) in (deed) bearing even date herewith (conveying) (mortgaging) premises known as
  
2. There is (are) presently ( ) tenant(s) in said premises. Said tenant(s) is (are) in possession under written lease containing a standard subordination clause fully and unconditionally subordinating said lease to all existing and future mortgages. There are no options to purchase or rights of first refusal either pursuant to written leases or by separate agreements.
  
3. That deponent is the same person(s) which acquired title to the premises herein by deed recorded in the \_\_\_\_\_ County Register's Office on \_\_\_\_\_ in Liber/Reel \_\_\_\_ page \_\_\_\_\_ or CRFN No. \_\_\_\_\_.
  
4. I have not been known by any other name for the past ten (10) years, except as \_\_\_\_\_.
  
5. I am not in arrears by two (2) months or more on any mortgages secured by the Premises.
  
6. Deponent agrees to indemnify the above Title Co. for and loss, cost of damage, for any unpaid vault charge(s) which may have been or may be levied by the City of New York.
  
7. In the absence of special water meter readings on the premises, the deponent agrees to pay any charges from the date of the last reading and any (revised) frontage charges, i.e. water rents and sewer charges entered and billed subsequent to the closing for the periods prior to closing, not shown in the City Collector's records at or prior to the closing.
  
8. There are no Judgments, Federal Tax Liens, Parking Violation Judgments Environmental Control Board Liens, Environmental Control Fire Liens, Transit Adjudication Liens, or any other liens against deponent in any jurisdiction nor are there any liens, executions, notices of attachments for the benefit of creditors against me or proceedings in bankruptcy court against me.
  
9. None of the judgments, federal tax liens, parking violation judgments, environmental control board lien, environmental control board fire liens, transit adjudication liens, or state tax warrants, set for in Exception(s) \_\_\_\_\_ are against deponent(s). Deponent has (have) never resided or maintained an office at any of the addresses in the federal tax liens, parking violation judgments, environmental control fire liens, transit adjudication liens, state tax warrants listed above.
  
10. Neither the mortgagor or any person or entity "related" to the mortgagor, including the person or entity executing the mortgage, has within the prior twelve months executed a mortgage on other property within the City of New York. (Strike this paragraph if the property being mortgaged is other than a one-to-three

family residence or dwelling, including a residential condominium unit, and the principal amount secured by the mortgage is \$500,000 or more.

11. No work has been done upon the above premises by the City of New York nor has any demand been made by the City of New York for any such work that may result in charges by the New York City Department of Rent and Housing Maintenance Emergency Services or charges by the New York City Department for Environmental Protection for water tap closings or any related work.

12. No inspection fees, permit fees, elevator(s), sign, boiler or other charges have been levied, charged or incurred that may become tax or other liens pursuant to Section 26-128 (formerly Section 643a-14.0) of the Administrative Code of the City of New York, as amended by Local Laws 10 of 1981 and 25 of 1984, and section 27-4029.1 of the Administrative Code of the City of New York as amended by LL 43, 1988 or any other section of the Law. Deponent agrees to indemnify the above Title Co. for any loss, cost of damage for any unpaid fee or charge claimed by the Department of Buildings and entered in the records of the City Collector after the date of closing.

13. That there has been no work performed by any agency of The City of New York to cure problems under the New York City Hazardous Substances Emergency Response Law. Nor can any claim be incurred pursuant to the aforementioned statute. Deponent agrees to indemnify the above Title Co. for any loss, cost or damage, for any lien incurred up to the date of this affidavit, whether filed or unfiled.

14. There are no street vaults adjoining or in front of said premises.

OR

14a. There are no unpaid vault charges.

15. That there has been no change in the membership of the partnership/limited liability company known as \_\_\_\_\_ since its organization, nor has there been any change in its (partnership agreement/operating agreement). That the person(s) executing the closing instruments are authorized to bind the (corporation/partnership/limited liability company).

16. That the charter of said corporation is in full force and effect and no proceeding is pending for its dissolution or annulment. Any unpaid New York State Franchise Tax and New York City Corporate Business Tax will be paid.

17. That we have executed no other mortgages encumbering the premises other than those that are set forth in the above title report.

That I make this affidavit to induce THE KELSEY COMPANY and its underwriter to insure said title free and clear of the aforesaid.

Sworn to before me  
this \_\_\_\_\_ day of \_\_\_\_\_ 200\_\_\_\_\_

\_\_\_\_\_  
Notary Public

**THE KELSEY COMPANY**  
**PURCHASER'S AFFIDAVIT**

State of New York        )  
                                  ss:  
County of                )

DATE: \_\_\_\_\_  
TITLE # \_\_\_\_\_

\_\_\_\_\_ and \_\_\_\_\_ Residing at \_\_\_\_\_  
\_\_\_\_\_ being duly sworn, deposes  
and says:

1. That I am/we are the purchasers of the premises affect by the transaction known as \_\_\_\_\_  
\_\_\_\_\_.

2. I/we have not been known by any other name(s) for the past ten (10) years, except as  
\_\_\_\_\_.

3. That there are no Judgments, Federal Tax Liens, Parking Violation Judgments, Environmental Control Board Liens, Environmental Control Fire Liens, Transit Adjudication Judgments, or any other liens against deponent in addition to those referred to in Schedule B of the Certificate of Title Report and that the returns listed in said Report are not against said deponent but against other persons of similar name and I/we have never resided, worked or done business at any address stated in said Report.

4. No proceeding in Bankruptcy has been instituted by or against me in any court, nor have I at any time made an assignment for the benefit of creditors or for rents of said premises.

5. Neither the mortgagor or any person or entity "related" to the mortgagor, including the person or entity executing the mortgage, has within the prior twelve months executed a mortgage on other property within the City of New York. (Strike this paragraph if the property being mortgaged is other than a one-to-three family residence or dwelling, including a residential condominium unit, and the principal amount secured by the mortgage is \$500,000 or more.) (Delete if outside of the City of New York)

6. That there has been no change in the membership of the partnership/limited liability company known as \_\_\_\_\_ since its organization, nor has there been any change in its (partnership agreement/operating agreement). That the person(s) executing the closing instruments are authorized to bind the (corporation/partnership/limited liability company). (Delete if not applicable)

7. That I make this affidavit to induce The KELSEY COMPANY and its underwriter to accept a \_\_\_\_\_ of/on said Premises, and to Induce \_\_\_\_\_ to issue its policy of Title Insurance numbered above covering said Premises knowing that they will rely on the statements herein made.

Name: \_\_\_\_\_  
Name: \_\_\_\_\_  
Name: \_\_\_\_\_

Soc. Sec. # \_\_\_\_\_  
Soc. Sec. # \_\_\_\_\_  
Soc. Sec. # \_\_\_\_\_

Sworn to before me  
this \_\_\_\_\_ day of \_\_\_\_\_ 200\_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
Notary Public

**SMOKE ALARM AFFIDAVIT (EXEC. LAW § 378(5))  
CARBON MONOXIDE DETECTOR (EXEC. LAW § 378 (5)(d))**

STATE OF NEW YORK     :  
                                  : ss.:  
COUNTY OF \_\_\_\_\_ :

\_\_\_\_\_, being duly sworn, deposes and says:

1. That Deponent is the owner of the above-referenced real property, which is improved by a one- or two-family dwelling used as a residence.
2. That there is installed in said one- or two-family dwelling used as a residence an operable single station smoke detecting alarm device or devices.
3. That there is installed in said one or two family dwelling used as a residence an operable carbon monoxide detector
4. That Deponent is executing this affidavit to indicate compliance with Section 378, Subdivision 5, and Section 378, Subdivision 5 (d) of the Executive Law of the State of New York.
5. That the word "Deponent" shall be construed to read in the plural whenever the sense of this affidavit so requires.

\_\_\_\_\_  
  
\_\_\_\_\_

Sworn to before me this  
\_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_

\_\_\_\_\_  
Notary Public

**THE KELSEY COMPANY**  
199 Mains Street, Suite 1010, White Plains, NY 10601  
Phone: (914) 358-9323 • Fax: (914) 358-9324

**RECEIPT AND DEPOSIT AGREEMENT**

TITLE #: KBL- \_\_\_\_\_

DATE: \_\_\_\_\_

UNDERWRITER: \_\_\_\_\_

The KELSEY COMPANY, LLC, as Depositary acknowledges receipt from the undersigned

\_\_\_\_\_, (hereinafter "Depositor") of  
(Print name(s) of Depositor(s))

the sum of \_\_\_\_\_ Dollars (\$) )  
(hereinafter, The "Deposit") as indemnity and security for the payment, satisfaction, discharge or disposition of the following liens, encumbrances, charges or other matters, to wit:

\_\_\_\_\_  
\_\_\_\_\_

affecting premises known as \_\_\_\_\_ in  
\_\_\_\_\_ County and also known as:

District \_\_\_\_\_ Section \_\_\_\_\_ Block \_\_\_\_\_ Lot \_\_\_\_\_

Upon the terms, covenants and conditions as follows:

\_\_\_\_\_ FOR IMMEDIATE PAYMENT. The depositary is hereby authorized out of said Deposit to pay, satisfy, discharge, or otherwise dispose of said items immediately. The Depositor agrees to pay to the Depositary any deficiency in the event the Depositary, in its sole discretion, determines that the Deposit is not sufficient to pay said items.

\_\_\_\_\_ HOLD. The Depositor agrees to produce proper PAID vouchers, or other evidence of payment or disposition or said items aforesaid, in form satisfactory to the Depositary before \_\_\_\_\_. If such vouchers etc. are not produced before such date the Depositary is authorized at its option, but is not obligated to pay, satisfy, discharge or otherwise dispose of said items, to retain counsel in connection therewith if it deems necessary and to pay out of said Deposit and the Depositor agrees to pay to the Depositary any deficiency in the event the Depositary, in its sole discretion, determines that the Deposit is not sufficient to pay or dispose of said items and fees.

**SEE TERMS AND CONDITIONS ON PAGE 2 WHICH THE DEPOSITOR ALSO AGREES TO**

THE KELSEY COMPANY, LLC  
By:

\_\_\_\_\_

AGREED TO:

\_\_\_\_\_  
(Print name(s) of Depositor(s))

\_\_\_\_\_  
Signature of Depositor(s)

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

Soc. Sec. Number: \_\_\_\_\_

## TERMS AND CONDITIONS

1. Upon receipt of the proofs required herein, Depository agrees to refund the balance of the funds deposited after deducting the services charges and all other expenses and payments incurred if any, by Depository as set forth below.

OR

After payment of the liens affecting the premises, the Depository agrees to refund the balance of the funds deposited after deducting the service and all other expenses and payment incurred, if any, by a Depository as set forth below.

2. a) In no event shall interest be allowed to the Depositor on the Deposit. The Deposit may be invested by Depository for its own benefit.

b) In addition, Depository may receive additional benefits, either directly or indirectly, by reason of its Deposit and maintenance of the escrow funds in a bank or other financial institution. Depository shall have no obligation to account to Depositor for the value of, or pay to Depositor the value of, any benefit received by Depository, directly or indirectly, by reason of the deposit of the escrow funds with any bank or financial institution or the maintenance of such accounts. Those benefits may include, without limitation, credits allowed by such bank or financial institution on loans to Depository and on accounting, reporting and other services and products or such bank of financial institution, and earning on investments made with the proceeds of such loans. Such benefits shall be deemed additional service charges or compensation to Depository for its services in connection with this escrow.

c) Depository may commingle the Deposit held hereunder with other similar deposits, but not with the Depository's own funds. Depositor agrees and acknowledges that Depository shall have no liability for the return of the Deposit in the event of the failure or insolvency of the bank or financial institution in which the Deposit is deposited.

3. The Depositor agrees that Depository may deduct service charges from the Deposit in accordance with the following Schedule:

- a) \$50.00 on the closing date;
- b) \$50.00 on the date by which the Depositor is required to deliver the necessary proofs, if such proofs have not been delivered to Depository;
- c) \$75.00 one year from the date of closing;
- d) \$100.00 two years from the date of closing;
- e) \$150.00 three years from the date of closing. In the event that the escrow is held for a period of years, the service charge for each year, or part of year after the third, shall increase 10% each year, until the required proofs are delivered to the Depository.
- f) Additional service charges may be deducted to Depository for any special services rendered;
- g) In the event that the sum remaining after payment of all services, charges and other expenses incurred by Depository is insufficient to satisfy the requirements set forth on Page 1 hereof, Depositor shall be billed for the difference and agrees to promptly pay the same to Depository

4. Depositor agrees to indemnify, save and hold harmless Depository from all losses and expenses arising from Depositor's failure to comply with its obligations under this agreement, including but not limited to, reasonable legal fees incurred by Depository in enforcing this agreement. Depositor authorizes Depository to offset against the Deposit or any other of Depositor's funds held by Depository in any amounts that Depositor owes for any reason, including but not limited to Depositor's indemnification, unpaid title charges, and losses and expenses incurred by Depository as a result of any defects liens and encumbrances affecting the depositor's title to the insured premises not covered by this agreement which become known to Depository.

5. Depositor acknowledges that it is familiar with Section 1317 of the Abandoned Property Law. In the event that Depository has sent the balance of the Deposit to New York State pursuant to the provisions of Section 1317, and thereafter the Depositor requests that the Depository return the Deposit to Depositor, the Depository shall take the necessary steps to relieve the Deposit from New York State and pay the same to the Depositor. Depositor agrees to cooperate with Depository in such procedure. Depository may impose an additional service charge of not less than \$300.00 therefore. Depositor agrees to notify the Depository of any change in its mailing address, such notification to be certified mail, return receipt requested, making reference to the title number.

6. In the event that the Deposit is taken for more than one purpose, the allocation of the funds among the several purposes shall be at the sole discretion of the Depository unless the Depositor and Depository agree to a specific allocation.

7. To assure Depository of compliance by Depositor of its obligations hereunder, Depositor grants to Depository a security interest in the Deposit superior to all other liens, encumbrances or claims.

8. Depositor and depository agree that this agreement shall not give rise to any cause of action in favor of a lienor or any third party against the Deposit or Depository.

9. Depositor acknowledges that the Deposit is made to induce Depository to issue its policy of title insurance to its insured in respect to the Premises. Depositor understands and agrees that Depository may issue subsequent title insurance policies and/or may indemnify other title insurance companies or third parties in order to protect and preserve the insured's title. If Depository has issued subsequent title insurance policies and/or has indemnified other title insurance companies or third parties in order to protect the title to the Premises as insured, Depositor shall not be entitled to a return of the Deposit solely by reason that the current insured shall not longer retain an interest in or title to the premises, and the Deposit shall continue to be held as an indemnity and security in accordance with the terms hereof.

10. Depositor acknowledges that any waiver by the Depository of any particular provision of this agreement shall not constitute a waiver of any other provision contained herein. In the event that any provision of this agreement is held unenforceable, all other provisions hereof shall remain in full force and effect.

11. This agreement constituted the entire agreement between the Depositor and Depository. This agreement may not be modified except by an agreement in writing signed the Depositor and the Depository.

12. This agreement shall be interpreted in accordance with the laws of the State of New York.



## TENANT ESTOPPEL CERTIFICATE

The undersigned ("Tenant") does hereby certify to you and your successors and assigns as follows:

1. Tenant is the tenant under the following lease (as amended, the "Lease") at the property known as [REDACTED] (the "Property"):

Landlord: [REDACTED]

Date: April 3, 2013

Floor: Retail Unit

Amendments (please specify): N/A

2. The Lease is in full force and effect, and has not been modified, supplemented or amended in any way except as referenced above.

3. The term of the Lease has commenced, Tenant is in occupancy of the space covered by the Lease, and the expiration date of the Lease is April, 2016.

4. Base rent of \$30,000 annually for Lease Year 1, \$30,900 annually for Lease Year 2, \$31,824 annually for Lease Year 3, \$32,784 annually for Lease Year 4, and \$33,768 for annually for Lease Year 5, together with additional rent for real estate taxes and other charges due Landlord under the Lease have been paid through April, 2013.

5. All of the tenant improvements or other work required to be performed by Landlord under the Lease have been duly performed, and all abatements, concessions, allowances, credits and payments, if any, to be made by Landlord under the Lease have been made.

6. No default exists under the Lease on the part of Tenant or Landlord.

7. The Lease contains the entire agreement between Tenant and Landlord with respect to the subject matter of the Lease.

8. Tenant claims no offsets, setoffs, rebates concessions, abatements or defenses against or with respect to rent, additional rent or other sums payable under the terms of the Lease.

Dated: April 3, 2013

TENANT:

[REDACTED]

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

[REDACTED]



# Application for School Tax Relief (STAR) Exemption

(See general information and instructions on the back page)

Name and telephone number of owner(s)

Mailing address of owner(s)

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Day phone number ( ) \_\_\_\_\_

E-mail address \_\_\_\_\_

Evening phone no. ( ) \_\_\_\_\_

Location of property

Street address \_\_\_\_\_

Village (if any) \_\_\_\_\_

City/town \_\_\_\_\_

School district \_\_\_\_\_

Tax map number or section/block/lot \_\_\_\_\_  
Property identification (see tax bill or assessment roll)

1. Did the combined income of the owners and spouses who reside on the property exceed \$500,000 in the 2011 income tax year? (Note: The NYS Department of Taxation and Finance will be confirming the income eligibility of STAR recipients.) Yes  No

If Yes, you are not eligible for the STAR exemption for the 2013-2014 school year.

2. Do you or your spouse own any other property that is currently receiving the STAR exemption? Yes  No

3. Do you or your spouse own property in another state that you are claiming as your full time residence and are receiving a residency tax benefit, such as the Florida Homestead exemption? Yes  No

If Yes, give the address of each such property: \_\_\_\_\_

You may be eligible for a larger school property tax savings if you meet these age and income requirements

4. If you are applying for STAR for the 2013-2014 school year:

a) Will all owners be at least 65 years of age as of December 31, 2013? OR

b) If the property is owned by a married couple or by siblings, will at least one of the spouses or siblings be at least 65 years of age as of December 31, 2013? Yes  No

5. Is the total 2011 income of all the owners, and of any owners' spouses residing on the premises, \$79,050 or less? (See definition of income for STAR purposes on back of form.) Yes  No

If the answer to both questions 4 and 5 is Yes, all owners, including nonresident owners, must attach a copy of either their 2011 federal or 2011 state income tax returns (if filed). (Tax schedules and tax form attachments are not routinely required.) The assessor may require proof of age.

Return this form to your local assessor by taxable status date (see back). Do not file this form with the New York State Tax Department or the Office of Real Property Tax Services.

**Caution:** Anyone who misrepresents his or her primary residence, age, or income shall be subject to a \$100 penalty, shall be prohibited from receiving the STAR exemption for five years, and may be subject to criminal prosecution.

I (we) certify that all of the above information is correct, that the property listed above is owned by me (us) and is my (our) primary residence and that my (our) 2011 income was less than \$500,000. I (we) understand it is my (our) obligation to notify the assessor if I (we) relocate to another primary residence and to provide any documentation of eligibility that is requested.

All resident owners must sign and date.

Signature _____	Date _____
Signature _____	Date _____
Signature _____	Date _____

### General information

The New York State School Tax Relief (STAR) Program provides an exemption from school taxes for owner-occupied, primary residences where the combined 2011 income of the owners and spouses who reside on the property does not exceed \$500,000. Senior citizens with combined 2011 incomes that do not exceed \$79,050 may qualify for a larger *Enhanced* exemption. Senior citizens who wish to continue receiving Enhanced STAR in future years without having to reapply and submit copies of their tax returns to their assessor every year are invited to sign up for the STAR Income Verification Program. See Form RP-425-IVP for more information. Seniors who do not choose to enroll in the income verification program must reapply each year to keep the *Enhanced* exemption in effect. If you are receiving the *Basic* exemption, you usually do not need to reapply in subsequent years, but you must notify the assessor if your primary residence changes and must provide income documentation when requested.

**Deadline:** The application must be filed with your local assessor on or before the applicable *taxable status date*, which is generally March 1; in Westchester towns it is either May 1 or June 1 - contact local assessor; in Nassau County it is January 2, and; in cities, check with your assessor. For further information, ask your local assessor.

### Application instructions

Print the name and mailing address of each person who both **owns and primarily resides** in the property. (If the title to the property is in a trust, the trust beneficiaries are deemed to be the owners for STAR purposes.) There is no single factor which determines whether the property is your primary residence, but factors such as utility bills, voting and automobile registrations, and the length of time you occupy the property each year may be relevant. The assessor may ask you to provide proof of residency and ownership. For the enhanced exemption, proof of age may also be required. The parcel identification number may be obtained from either the assessment roll or your tax bill.

**Income for STAR purposes:** Use the following table for identifying line references on 2011 federal and state income tax forms. You may **not** use your 2012 tax forms.

Form no.	Title of income tax form	Income for STAR purposes
IRS Form 1040	U.S. Individual Income Tax Return	Line 37 minus line 15b "adjusted gross income" minus "taxable amount" (of total IRA distributions)
IRS Form 1040A	U.S. Individual Income Tax Return	Line 21 minus line 11b "adjusted gross income" minus "taxable amount" (of total IRA distributions)
IRS Form 1040EZ	Income Tax Return for Single and Joint Filers With No Dependents	Line 4 only "adjusted gross income" (No adjustment needed for IRAs.)
NYS Form IT-201	Resident Income Tax Return	Line 18 minus line 9 "federal adjusted gross income" minus "taxable amount of IRA distributions"

### This Area for Assessor's Use Only

Application received _____	Approved	Yes _____	No _____
Proof of age _____	Senior additional	Yes _____	No _____
Proof of income _____	Form RP-425-IVP received	Yes _____	No _____
Proof of residency _____			

Assessor's signature \_\_\_\_\_ Date \_\_\_\_\_

## ESCROW AGREEMENT

Agreement made this 3rd day of August, 2010, between and among [REDACTED] with offices at [REDACTED] (the "Escrow Agent"), and [REDACTED] (the "Purchaser"), and [REDACTED] (the "Seller").

### WITNESSETH:

WHEREAS, Purchaser has entered into a Contract of Sale dated July 6, 2010, with Seller covering the premises (the "Premises") known as [REDACTED] ("Contract"); and

WHEREAS, paragraph R.10 (a) and (b) of the Contract provides that the conditions listed therein be resolved by the Seller prior to the closing; and

WHEREAS, the Premises are not in the condition called for by paragraph R.10 (a) and (b) of the Contract; and

WHEREAS, Purchaser will not close title to the Premises unless Seller deposits \$7,000.00 in escrow to secure its obligation to bring the Premises in compliance with the condition called for by the Contract ("Escrow Fund"); and

WHEREAS, Seller, Purchaser and the Escrow Agent desire to set forth their agreement as to responsibilities of the parties in connection with the Escrow Fund.

NOW, THEREFORE, in consideration of the foregoing premises and the sum of ten Dollars (\$10.00) each to the other paid, the parties hereto hereby agree as follows:

- A. The Escrow Fund shall be held in escrow by the Escrow Agent in a noninterest-bearing account. The Escrow Agent shall dispose of the proceeds held in escrow only in accordance with the provisions of this Agreement.
- B. Seller agrees to have all the conditions listed in paragraph R.10 (a) and (b) of the Contract resolved within 30 days hereof. In the event that Seller notifies Escrow Agent that it has satisfied said terms and is demanding delivery of the Escrow Fund, Escrow Agent shall provide written notice to Purchaser's attorney not more than five (5) business days after the date on which Escrow Agent has received said notice from Seller that the conditions have been satisfied. Purchaser's attorney shall notify Escrow Agent within five (5) business days from the date of received notice that either the conditions have been satisfied and the Escrow Funds will be released or that the conditions have not been satisfied.
- C. In the event that Purchaser notifies Escrow Agent that all conditions have not been met by Seller within 30 days of the date hereof and is demanding delivery of the Escrow Fund, Escrow Agent shall deliver the Escrow Fund to the Purchaser provided, however, Escrow Agent shall not honor such demand until not less than five (5) business days after

the date on which Escrow Agent shall have delivered a copy of such notice and demand to the Seller, nor thereafter if during such five (5) business day period the Escrow Agent shall have received notice of objection from Seller.

- D. Escrow Agent may deliver the Escrow Fund in accordance with the order of any court of competent jurisdiction or in accordance with any written instrument executed by both the Seller and the Purchaser. The Escrow Agent may, at any time, deliver the Escrow Fund to a court of competent jurisdiction, whether or not pursuant to an interpleader action, or take such affirmative steps as it may elect in order to substitute an impartial party to hold the Escrow Fund and to terminate its duties as Escrow Agent. The cost of any such action shall be borne equally by the parties.
- E. Any notice to the Escrow Agent shall be sufficient only if received by the Escrow Agent within the applicable time periods set forth herein. All mailings and notices from the Escrow Agent to the Purchaser or the Seller, or from the Purchaser or the Seller to the Escrow Agent, shall be forwarded by registered or certified mail, return receipt requested or by overnight delivery service at the addresses set forth in the preamble to this Agreement.
- F. It is expressly understood that the Escrow Agent acts hereunder as an accommodation to the Seller and the Purchaser and as a depository only and is not responsible or liable in any manner whatever for the sufficiency, correctness, genuineness or validity of any instrument deposited with it, or for the form of execution of such instruments or for the identity, authority or right of any person executing or depositing the same or for the terms and conditions of any instrument pursuant to which the Escrow Agent or the parties may act.
- G. The Escrow Agent shall have no duties or responsibilities except those set forth in this Agreement and shall incur no liability in acting upon any signature, notice, request, waiver, consent, receipt or other paper or document believed by the Escrow Agent to be genuine, and the Escrow Agent may assume that any person purporting to give it any notice on behalf of any party in accordance with the provisions hereof has been duly authorized to do so. The Seller and the Purchaser hereby jointly and severally agree to indemnify and save the Escrow Agent harmless from and against any and all loss, damage, claims, liabilities, judgments and other costs and expenses of every kind and nature which may be incurred by the Escrow Agent (including attorneys' fees) by reason of its acceptance of, and its performance under, this Agreement unless caused by the gross negligence or the willful default of the Escrow Agent. The Escrow Agent shall be automatically released from all responsibility and liability under this Agreement upon the Escrow Agent's deposit of the Escrow Fund in accordance with the provisions of this Agreement.
- H. The terms and provisions of this Agreement shall not create any right in any person, firm, corporation or entity other than the parties hereto and their respective successors and permitted assigns, and no third party shall have the right to enforce or benefit from the terms hereof.

- I. The Escrow Agent shall deem and treat the legal representative of the estate of any deceased party in interest hereunder as the successor in interest of said deceased person for all purposes of this Agreement.
- J. The Escrow Agent may act or refrain from acting with respect to any matter referred to herein in full reliance upon and with the advice of counsel which may be selected by it (including any member of its firm) and shall be fully protected in so acting or refraining from acting upon the advice of such counsel.
- K. The Escrow Agent may act as counsel to the Seller, whether or not the Escrow Fund shall have been delivered by the Escrow Agent to a substitute impartial party or a court of competent jurisdiction.
- L. Purchaser agrees to fully cooperate with respect to allowing reasonable access to the Premises in order for said conditions to be met by contractors hired by Seller.

IN WITNESS WHEREOF, the parties hereto have set their names and seals the day and year first above written.

ESCROW AGENT: [REDACTED]

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

PURCHASER: [REDACTED]

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

PURCHASER: [REDACTED]

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

## POST-CLOSING POSSESSION AGREEMENT

THIS AGREEMENT made this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by and between \_\_\_\_\_, hereinafter referred to as "Purchaser," and \_\_\_\_\_, hereinafter referred to as "Seller."

### W I T N E S S E T H :

WHEREAS, the parties have heretofore executed a Contract dated \_\_\_\_\_, for the purchase and sale of certain property commonly known as \_\_\_\_\_, Section \_\_\_\_\_, Block \_\_\_\_\_ and Lot \_\_\_\_\_ (herein "Premises"), hereinafter referred to as "Contract"; and

WHEREAS, circumstances have arisen subsequent to said contract which require or make it desirable for the parties to alter the dates therein specified for closing and delivery of possession, so that the date for delivery of possession will succeed the date for closing.

NOW THEREFORE, provided the mortgage commitment is granted and its terms and conditions accepted, it is hereby agreed as follows:

1. The closing of the sale shall occur on \_\_\_\_\_ or on any other date prior to the date stated in said prior Contract which the Purchaser shall designate by \_\_\_\_\_ days, written notice to the Seller, provided (a) said notice shall not accelerate, without Seller's consent, any time limited in the Contract for the performance by the Seller of any other condition precedent by the Seller to be performed, and (b) Purchaser has tendered or tenders, at the time of such accelerated closing date, due performance of all Purchaser's obligations under the Contract, as herein modified.
2. The Seller shall have the option of remaining in possession subsequent to the closing of title for all or any part of a period expiring the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.
3. It is agreed that the relationship between the Purchaser and Seller during such period of deferred possession is not a lease and shall be subject to termination at the lapse of this agreement by summary proceedings on \_\_\_\_\_ days' written notice pursuant to Section 713(8) of the Real Property Actions and Proceedings Law of the State of New York.
4. The rent due pursuant to this agreement shall be at the rate of \$ \_\_\_\_\_ per day for each day of such deferred possession.
5. (a) To secure the payment of the rent, the Purchaser may withhold from the payment due the Seller at the closing of title (1) the sum of \$ \_\_\_\_\_ or (2) a sum determined by multiplying the maximum allowable days of the hold-over period by the above-stated per diem rental rate. Such withholding shall constitute advance payment of rent, or so much thereof as may thereafter accrue.  
(b) In addition to said advance rent payment, Purchaser may withhold the further sum of \$ \_\_\_\_\_ as security against damages arising out of (1) the cost and expense of enforcing timely removal; and/or (2) repair of damage, if any, caused by Seller and occurring subsequent to closing of title; and/or (3) to apply to rental at the increased rate of \$ \_\_\_\_\_ per day, which shall be the accrual of rental subsequent to the last date limited herein for holdover.



6. The attorney for the Purchaser [or Seller], upon signing this agreement, shall act as escrow agent in regard to such withheld sums, and shall have no duty or obligation to either of the parties hereto, other than with respect to any sums held against pursuant hereto, to hold same in his or her attorney trust account without obligation for the payment of interest, and with respect to any sums held against rent, to: (a) pay accrued rent to the Purchaser at the time of removal by the Seller; (b) pay any surplus to the Seller after such payment of accrued rent to the Purchaser, provided, however, that the escrow holder shall release no funds until the key to the premises has been delivered to such escrow holder or to the Purchaser and that the key delivery date shall be presumptively determinative of the last day of the holdover period; and (c) with respect to any sums held as security against either expenses of enforced removal, physical damage to the subject premises or increased rental, to hold same until the sooner of (i) receipt of written authorization to release by Purchaser or Purchaser's attorney, or (ii) the lapse of \_\_\_\_\_ days from the date of service of written notice of intention to release the escrow by the holder thereof without a responsive written objection, or (iii) the lapse of \_\_\_\_\_ days' from the date of service of written notice of demand for release of the escrow without a responsive written objection.

Either form of notice shall be served by the person issuing it simultaneously to each of the other parties and their respective attorney(s).

Failure of response of written objection, within the time limited, shall constitute a waiver of objection.

Service shall be deemed made when made personally upon the person to be noticed, or when mailed registered or certified to the address, if any, listed as the post-closing address of the parties at paragraph \_\_\_\_\_, or, if none is listed, to the attorney for such party, or, if none, to the address for such party recited in the original Contract.

7. Objection to release of escrow based on either rent or damage claims shall be specific, detailed, itemized and as to physical damage claims, cost estimated as to each item specified. The excess, if any, over the aggregate of the itemized amounts shall be promptly remitted to the Seller by the escrow holder.

As to claims related to cost of enforced removal or unspecified (due to lack of access to inspect) physical damage, the entire escrow shall be retained until such removal costs are finally determined or such repair and/or replacement of physical damage claims finally mutually settled or judicially determined.

8. The Seller will be responsible for the payment of, and shall pay for, all utilities used subsequent to the date of closing and to the date of delivery of possession. Neither party shall take any action in regard to changing the name on any utilities accounts until the date of delivery of possession.

9. Risk of casualty loss shall be in Seller to the date of closing of title and in Purchaser thereafter. The parties will maintain and keep in force and effect fire or homeowner's insurance accordingly, but neither party shall have, and each hereby expressly disclaims, any interest in any policy of the other.

10. Seller will, either by change endorsement of former homeowner's policy or by new issuance, obtain and keep in effect a tenant liability policy for the period of holdover possession with minimum limits of \$ \_\_\_\_\_ / \$ \_\_\_\_\_ for personal injury and \$ \_\_\_\_\_ for property damage.

11. Purchaser will, for the same period, obtain and keep in effect a homeowner's or liability policy with minimum limits of \$ \_\_\_\_\_ / \$ \_\_\_\_\_ for personal injury and \$ \_\_\_\_\_ for property damage.

12. Seller shall reimburse Purchaser as of the date of possession for all insurance premiums paid by Purchaser, if any, and interest on Purchaser's mortgage, if any, with respect to the Premises allocable to the holdover period of possession, immediately upon presentation of paid invoices therefor.

13. Seller will assume all obligation for maintenance and repair (other than related to casualty events) of the property during the holdover period. The Seller will be responsible for delivery of the property at the conclusion of the holdover in a physical condition equal to that which existed at the time of closing of title. Purchaser shall have the right to inspect the premises prior to delivery of possession.

14. The Seller will indemnify and hold the Purchaser harmless during the holdover period from claims arising out of his/her said use and occupancy during that period in favor of himself/herself, members of his/her family and household and all lawful guests, licensees and invitees.

The addresses, if any, other than those listed in the primary contract, which this agreement amends, for the giving of notices hereunder, are to be as follows: \_\_\_\_\_

The word "party" shall be construed as if it read "parties" whenever the sense of this indenture so requires.

**IN WITNESS WHEREOF**, the parties have hereunto set their hands and seals the day and year first above written.

\_\_\_\_\_  
Purchaser

\_\_\_\_\_  
Seller

\_\_\_\_\_  
Purchaser

\_\_\_\_\_  
Seller

\_\_\_\_\_  
Attorney for Purchaser

\_\_\_\_\_  
Attorney for Seller

AGREED TO:

\_\_\_\_\_  
Escrow Agent

**SELLERS' CLOSING STATEMENT**

RE: :

SALE OF: :

CLOSING DATE: :

CLOSING LOCATION: :

PURCHASERS: :

SELLER:

**PRESENT AT CLOSING**

SELLER: :

PURCHASERS: :

SELLERS' ATTORNEY: :

PURCHASERS' ATTORNEY :

TITLE COMPANY: :

LENDER: :

LENDER'S ATTORNEY: :

BROKERS: :

**SELLER'S CLOSING STATEMENT**

**PREPARED BY**

**DORF & NELSON LLP**

## CLOSING ADJUSTMENTS

1. CREDITS TO SELLERS:

Purchase Price: \$

2012 County Tax: \$

(\$ /365 = \$ X days)

Water \$

Fuel \$

Total Credits to Sellers \$

2. CREDITS TO PURCHASERS:

Down payment: \$

Property Condition  
Disclosure Statement \$

School Tax \$

(\$ = \$ X days)

Total Credits to Purchasers \$

Net Due at Closing: \$

3. CERTIFIED/BANK CHECKS FROM PURCHASER AT CLOSING

Payable to: \$ \_\_\_\_\_

Payable to: \$ \_\_\_\_\_

4. Checks for Seller's Expenses out of Escrow

BROKERS: \$

TITLE (Transfer Tax): \$

LEGAL FEES:

(Balance of Escrow):

5. FUNDS PAID TO SELLER AS FOLLOWS:

a) (Mortgage Payoff) \$

(Certified Check from )

b)

c)

Total paid to Seller at closing: \$

Residential Real Estate: Contract to Closing without a Headache  
Pace Law School  
April 6, 2013

## The New Rules for Mortgages

Dale Robyn Siegel, Esq.

1. Intro-
2. Your clients' pre approval- is it real
3. Contract language- what the lenders want to see
  - Dates, names and addresses
  - Mortgage contingencies
  - Seller concessions
  - Short sales
4. Appraisal
  - Disputing low value
  - Negotiating with the seller
  - Loan to values, credit scores and interest rates
5. Client disclosures- what should you review?
  - GFE and pre-HUD
  - Anti-steering
  - Commitment letters
6. Important dates
  - Locking in and extending rate locks
  - Expiration of docs
  - Setting a closing date
7. How you client can get rejected for a mortgage- what not to do
  - Credit
  - Income
  - Assets
8. The pre closing audit- what you and your client need to know

Circle Mortgage Group  
500 Mamaroneck Avenue Suite 320  
Harrison, New York 10528  
(914) 422 0810

[dale@circlemortgagegroup.com](mailto:dale@circlemortgagegroup.com)  
[www.circlemortgagegroup.com](http://www.circlemortgagegroup.com)

**INFORMATION FROM YOUR MORTGAGE BROKER**

Loan Number:

Borrower Name:

Dear Borrower,

**1. Fees Paid to Your Mortgage Broker.** You are requesting your mortgage broker invest time in researching, processing and providing assistance to you in the home loan process. Your mortgage broker will be paid for the time and effort spent on your behalf, and you are agreeing that your mortgage broker will be paid as follows.

You have or will be provided with a Good Faith Estimate ("GFE"). The first line item on the second page of the GFE is labeled "Our origination charge". This line includes the combined fees that are charged by your mortgage broker, the lender and, in some cases, other parties. Please be sure that you have received the GFE, and that you understand and are comfortable with the fees disclosed on it. If you pay fees before the loan closes, ask your mortgage broker whether those fees are partially or fully refundable and under what circumstances.

Depending on your mortgage broker's policies and the lenders with whom your mortgage broker does business, you may have a choice in how your mortgage broker will be paid. You may either pay your mortgage broker yourself or the lender may pay all your mortgage broker fees for you, but in exchange you may have to pay a higher interest rate. Ask your mortgage broker about what options may be available and how those options impact your interest rate and fees.

You are applying for a loan in which *(check and complete only one option)*:

**Consumer-Paid Mortgage Broker Fees.** You will pay your mortgage broker fees yourself in the amount of \$;

**Lender-Paid Mortgage Broker Fees.** The lender will pay your mortgage broker fees for you in the amount of \$3982.50.

These amounts are based in part on your estimated loan amount; if your loan amount changes, the dollar amount of these fees will also change.

**2. Your Loan Options.** For each type of transaction in which you expressed an interest, your mortgage broker has obtained loan options from a significant number of the creditors with which your mortgage broker regularly does business. Your mortgage broker has a good faith belief that you likely qualify for the following loans:

Type of Transaction <i>(check one)</i> <input checked="" type="checkbox"/> Fixed Rate <input type="checkbox"/> Adjustable Rate	Interest Rate	Total origination points or fees and discount points
Loan with the lowest Interest Rate ⇒	<u>3.75</u> %	\$ <u>1</u>
Loan with the lowest Interest Rate without negative amortization, a prepayment penalty, interest-only payments, a balloon payment in the first 7 years of the life of the loan, a demand feature, shared equity, or shared appreciation ⇒	<u>3.75</u> %	\$ <u>1</u>
Loan with the lowest total dollar amount for origination points or fees and discount points ⇒	<u>4.00</u> %	\$ <u>0</u>
<i>You are applying for a loan with the following terms</i> ⇒	<u>4.00</u> %	\$ <u>0</u>

If you expressed an interest in an adjustable rate loan and if the loan's initial rate is fixed for at least 5 years, the "Interest Rate" disclosed in this document is the initial rate that would be in effect at consummation. If the loan's initial rate is not fixed for at least 5 years, the Interest Rate is the fully-indexed rate that would be in effect at consummation without regard to any initial discount or premium.

**This is not a lock-in agreement or a loan commitment.** While the Interest Rate and fees described throughout this document are available on the date this document was prepared, if you have not locked your loan they are subject to change and may not be available on the day you do lock your loan. Additionally, even if your loan is locked, the Interest Rate and fees may be subject to change as the loan is underwritten.

If you have not locked your loan, please be aware that interest rates move constantly. The way to set a certain Interest Rate and fees is for your mortgage broker to lock your loan. Once you lock your loan, you are agreeing to close your loan within a certain period of time and at a certain interest rate. If you instruct your mortgage broker to lock your loan, your mortgage broker can explain to you the Interest Rate and fees you will pay.

Be sure that you understand and are satisfied with the product and terms that have been offered to you.

Signed:

dale siegel

Broker Loan Officer Name

circle mortgage group

Broker Entity Name

Broker Loan Officer Signature

Date

500 mamamroneck ave harrison ny 10528  
#34927

Broker Entity Address & License Number

Borrower Name

Borrower Signature

Date

Borrower Name

Borrower Signature

Date

Borrower Name

Borrower Signature

Date

Borrower Name

Borrower Signature

Date

Borrower Name

Borrower Signature

Date

Borrower Name

Borrower Signature

Date

Borrower Name

Borrower Signature

Date

Borrower Name

Borrower Signature

Date

Borrower Name

Borrower Signature

Date



03FIG01

**Seller paid closing costs**

**LTV**

Over 90%

75%- 90%

Under 75%

Investment property

(primary only)

(primary/second home)

(primary/second home)

up to 90%

**Concession**

3%

6%

9%

2%

01FIG01

Fico Score - Loan to Value Adjustments \*

Credit Score	LTV Ratios									
	<=60.00	60.01-70	70.01-75	75.01-80	80.01-85	85.01-90	90.01-95	95.01-97	97.01-100	
>=740	-0.250	0.000	0.000	0.000	0.000	0.000	0.000	0.000	-0.250	NA
720-739	-0.250	0.000	0.000	0.250	0.000	0.000	0.000	0.000	-0.250	NA
700-719	-0.250	0.500	0.500	0.750	0.500	0.500	0.500	0.500	0.250	NA
680-699	0.000	0.500	1.000	1.500	1.000	0.750	0.750	0.750	0.250	NA
660-679	0.000	1.000	2.000	2.500	2.250	1.750	1.750	1.750	1.000	NA
640-659	0.500	1.250	2.500	3.000	2.750	2.250	2.250	2.250	1.500	NA
620-639	0.500	1.500	3.000	3.000	3.000	2.750	2.750	2.750	2.250	NA
< 620	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA

\*This chart is for purchase loans and refinances without cash back to you.

\*These figures are subject to change. Use this as a guide but check with your lender for current adjustments.



# Good Faith Estimate (GFE)

<b>CIRCLE MORTGAGE CORPORATION</b> 605 BROADWAY AVE SUITE 100 HARTFORD, CT 06103 TEL: 860-234-1234 WWW.CIRCLEMORTGAGECORPORATION.COM	Borrower: <b>JOHN D. SAMPLE / KAREN A. SAMPLE</b> Property: <b>100 MAIN STREET</b> Address: <b>BRIDGE PLAIN, CT 06607 County: Yorktown</b> Date of GFE: <b>06/01/2010</b>
--	--

### Purpose

This GFE gives you an estimate of your settlement charges and loan terms if you are approved for this loan. For more information, see HUD's Special Information Booklet on settlement charges, your Truth-in-Lending Disclosures, and other consumer information at [www.hud.gov/RESPA](http://www.hud.gov/RESPA). If you decide you would like to proceed with this loan, contact us.

### Shopping for your loan

Only you can shop for the best loan for you. Compare this GFE with other loan offers, so you can find the best loan. Use the shopping chart on page 3 to compare all the offers you receive.

### Important dates

- The interest rate for this GFE is available through **06/01/2010 10:00 AM**. After this time, the interest rate, some of your loan Origination Charges, and the monthly payment shown below can change until you lock your interest rate.
- This estimate for all other settlement charges is available through **06/12/2010 10:00 AM**.
- After you lock your interest rate, you must go to settlement within **na** days (your rate lock period) to receive the locked interest rate.
- You must lock the interest rate at least **5** days before settlement.

### Summary of your loan

Your initial loan amount is	\$ <b>200,000.00</b>	
Your loan term is	<b>30</b> years	
Your initial interest rate is	<b>5.000</b> %	
Your initial monthly amount owed for principal, interest, and any mortgage insurance is	\$ <b>1,073.64</b> per month	
Can your interest rate rise?	<input checked="" type="checkbox"/> No	<input type="checkbox"/> Yes, it can rise to a maximum of % The first change will be in
Even if you make payments on time, can your loan balance rise?	<input checked="" type="checkbox"/> No	<input type="checkbox"/> Yes, it can rise to a maximum of \$
Even if you make payments on time, can your monthly amount owed for principal, interest, and any mortgage insurance rise?	<input checked="" type="checkbox"/> No	<input type="checkbox"/> Yes, the first increase can be in and the monthly amount owed can rise to \$ . The maximum it can ever rise to is \$
Does your loan have a prepayment penalty?	<input checked="" type="checkbox"/> No	<input type="checkbox"/> Yes, your maximum prepayment penalty is \$
Does your loan have a balloon payment?	<input checked="" type="checkbox"/> No	<input type="checkbox"/> Yes, you have a balloon payment of \$ due in years.

### Escrow account information

Some lenders require an escrow account to hold funds for paying property taxes or other property-related charges in addition to your monthly amount owed of \$ **1,073.64**.

Does escrow account you to have an escrow account for your loan?

No, you do not have an escrow account. You must pay these charges directly to the lender.

Yes, you have an escrow account. In this case, your monthly payment of \$ **1,073.64** includes the amount for these charges.

### Summary of your settlement charges

<b>A</b>	Your Adjusted Origination Charges (See page 2)	\$ <b>1,000.00</b>
<b>B</b>	Your Charges for All Other Settlement Services (See page 3)	\$ <b>11,000.00</b>
<b>A + B</b>	<b>Total Estimated Settlement Charges</b>	\$ <b>12,000.00</b>

Understanding  
your estimated  
settlement charges

Your Adjusted Origination Charges	
<b>1. Our origination charge</b> This charge is for getting this loan for you.	<b>6,445.00</b>
<b>2. Your credit or charge (points) for the specific interest rate chosen</b> <input type="checkbox"/> The credit or charge for the interest rate of _____ % is included in "Our origination charge." (See item 1 above.) <input checked="" type="checkbox"/> You receive a credit of \$ <b>5,000.00</b> for this interest rate of <b>5.000</b> %. This credit <b>reduces</b> your settlement charges. <input type="checkbox"/> You pay a charge of \$ _____ for this interest rate of _____ %. This charge (points) <b>increases</b> your total settlement charges. The tradeoff table on page 3 shows that you can change your total settlement charges by choosing a different interest rate for this loan.	<b>- 5,000.00</b>
<b>A</b> Your Adjusted Origination Charges	<b>\$ 1,445.00</b>

Some of these charges  
can change at settlement.  
See the top of page 3 for  
more information.

Your Charges for All Other Settlement Services																	
<b>3. Required services that we select</b> These charges are for services we require to complete your settlement. We will choose the providers of these services. <table border="1" style="width: 100%;"> <thead> <tr> <th>Service</th> <th>Charge</th> </tr> </thead> <tbody> <tr> <td>Appraisal</td> <td style="text-align: right;">500.00</td> </tr> <tr> <td>Credit Report</td> <td style="text-align: right;">18.00</td> </tr> <tr> <td>Flood Certification</td> <td style="text-align: right;">19.00</td> </tr> <tr> <td>Tax Service Fee</td> <td style="text-align: right;">90.00</td> </tr> <tr> <td> </td> <td> </td> </tr> <tr> <td> </td> <td> </td> </tr> <tr> <td> </td> <td> </td> </tr> </tbody> </table>	Service	Charge	Appraisal	500.00	Credit Report	18.00	Flood Certification	19.00	Tax Service Fee	90.00							<b>627.00</b>
Service	Charge																
Appraisal	500.00																
Credit Report	18.00																
Flood Certification	19.00																
Tax Service Fee	90.00																
<b>4. Title services and lender's title insurance</b> This charge includes the services of a title or settlement agent, for example, and title insurance to protect the lender, if required.	<b>2,475.00</b>																
<b>5. Owner's title insurance</b> You may purchase an owner's title insurance policy to protect your interest in the property.	<b>3,452.00</b>																
<b>6. Required services that you can shop for</b> These charges are for other services that are required to complete your settlement. We can identify providers of these services or you can shop for them yourself. Our estimates for providing these services are below. <table border="1" style="width: 100%;"> <thead> <tr> <th>Service</th> <th>Charge</th> </tr> </thead> <tbody> <tr> <td> </td> <td> </td> </tr> <tr> <td> </td> <td> </td> </tr> <tr> <td> </td> <td> </td> </tr> </tbody> </table>	Service	Charge															
Service	Charge																
<b>7. Government recording charges</b> These charges are for state and local fees to record your loan and title documents.	<b>400.00</b>																
<b>8. Transfer taxes</b> These charges are for state and local fees on mortgages and home sales.	<b>2,400.00</b>																
<b>9. Initial deposit for your escrow account</b> This charge is held in an escrow account to pay future recurring charges on your property and includes <input checked="" type="checkbox"/> all property taxes, <input checked="" type="checkbox"/> all insurance, and <input type="checkbox"/> other _____.	<b>1,992.00</b>																
<b>10. Daily interest charges</b> This charge is for the daily interest on your loan from the day of your settlement until the first day of the next month or the first day of your normal mortgage payment cycle. This amount is \$ <b>27.7778</b> per day for <b>15</b> days (if your settlement is _____).	<b>416.67</b>																
<b>11. Homeowner's insurance</b> This charge is for the insurance you must buy for the property to protect from a loss, such as fire. <table border="1" style="width: 100%;"> <thead> <tr> <th>Policy</th> <th>Charge</th> </tr> </thead> <tbody> <tr> <td>Hazard Insurance</td> <td style="text-align: right;">1,224.00</td> </tr> <tr> <td> </td> <td> </td> </tr> </tbody> </table>	Policy	Charge	Hazard Insurance	1,224.00			<b>1,224.00</b>										
Policy	Charge																
Hazard Insurance	1,224.00																
<b>B</b> Your Charges for All Other Settlement Services	<b>\$ 12,986.67</b>																
<b>A + B</b> Total Estimated Settlement Charges	<b>\$ 14,431.67</b>																



# Instructions

## Understanding which charges can change at settlement

This GFE estimates your settlement charges. At your settlement, you will receive a HUD-1, a form that lists your actual costs. Compare the charges on the HUD-1 with the charges on this GFE. Charges can change if you select your own provider and do not use the comparison we identify. (See below for details.)

Charges that can change	The total of these charges can increase up to 10% at settlement.	Charges that cannot change
<ul style="list-style-type: none"> <li>• Our origination charge</li> <li>• Your credit or charge (points) for the specific interest rate chosen (after you lock in your interest rate)</li> <li>• Your adjusted origination charges (after you lock in your interest rate)</li> <li>• Transfer taxes</li> </ul>	<ul style="list-style-type: none"> <li>• Prepaid interest for the loan</li> <li>• Title insurance and recording fees</li> <li>• Lender's title insurance of your loan (except for the portion of your loan that is not covered by your title insurance)</li> <li>• Prepaid interest that is not for the portion of your loan that is not covered by your title insurance</li> <li>• Government recording charges</li> </ul>	<ul style="list-style-type: none"> <li>• Prepaid interest for the loan</li> <li>• Title insurance and recording fees</li> <li>• Lender's title insurance of your loan (except for the portion of your loan that is not covered by your title insurance)</li> <li>• Prepaid interest that is not for the portion of your loan that is not covered by your title insurance</li> <li>• Government recording charges</li> </ul>

## Using the tradeoff table

In this GFE, we offered you this loan with a particular interest rate and estimated settlement charges. However:

- If you want to choose this same loan with **lower settlement charges**, then you will have a **higher interest rate**.
- If you want to choose this same loan with a **lower interest rate**, then you will have **higher settlement charges**.

If you would like to choose an available option, you must ask us for a new GFE.

Loan originators have the option to complete this table. Please ask for additional information if the table is not completed.

	The loan in this GFE	The same loan with lower settlement charges	The same loan with a lower interest rate
Your initial loan amount	\$ 200,000.00	\$	\$
Your initial interest rate <sup>1</sup>	5.000 %	%	%
Your initial monthly amount owed	\$ 1,073.64	\$	\$
Change in the monthly amount owed from this GFE	No change	You will pay \$ <b>more</b> every month	You will pay \$ <b>less</b> every month
Change in the amount you will pay at settlement with this interest rate	No change	Your settlement charges will be <b>reduced</b> by \$	Your settlement charges will <b>increase</b> by \$
How much your total estimated settlement charges will be	\$ 14,431.67	\$	\$

<sup>1</sup> For an adjustable rate loan, the comparisons above are for the initial interest rate before adjustments are made.

## Using the shopping chart

Use this chart to compare GFEs from different loan originators. Fill in the information by using a different column for each GFE you receive. By comparing loan offers, you can shop for the best loan.

	This loan	Loan 2	Loan 3	Loan 4
Loan originator name	CIRCLE MORTGAGE CORPORATION			
Initial loan amount	\$ 200,000.00			
Loan term	30 years			
Initial interest rate	5.000 %			
Initial monthly amount owed	\$ 1,073.64			
Rate lock period	na days			
Can interest rate rise?	NO			
Can loan balance rise?	NO			
Can monthly amount owed rise?	NO			
Prepayment penalty?	NO			
Balloon payment?	NO			
<b>Total Estimated Settlement Charges</b>	<b>\$ 14,431.67</b>			

## If your loan is sold in the future

Some lenders may sell your loan after settlement. Any fees lenders receive in the future cannot change the loan you receive or the charges you paid at settlement.



## NOTICE TO THE HOME LOAN APPLICANT CREDIT SCORE INFORMATION DISCLOSURE

<p><b>APPLICANT(S) NAME AND ADDRESS</b></p> <p><b>SAM S SAMPLE KAREN A SAMPLE 145 HOUSE STREET Harrison NY, 10528</b></p>	<p><b>* LENDER NAME AND ADDRESS (ORIGINATOR):</b>  <b>* This Credit Score Disclosure is provided on behalf of Lender by:</b>  <b>CIRCLE MORTGAGE CORPORATION                      500 MAMARONECK AVE SUITE 320                      Harrison, NY 10528                      (P) 914-422-0810, (F) 914-422-2994</b></p>
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In connection with your application for a home loan, the lender must disclose to you the score that a consumer reporting agency distributed to users and the lender used in connection with your home loan, and the key factors affecting your credit scores.

The credit score is a computer-generated summary calculated at the time of the request and based on information a consumer reporting agency or lender has on file. The scores are based on data about your credit history and payment patterns. Credit scores are important because they are used to assist the lender in determining whether you will obtain a loan. They may also be used to determine what interest rate you may be offered on the mortgage. Credit scores can change over time, depending on your conduct, how your credit history and payment patterns change, and how credit-scoring technologies change.

Because the score is based on information in your credit history, it is very important that you review the credit related information that is being furnished to make sure it is accurate. Credit records may vary from one company to another.

If you have questions about your credit score or the credit information that is furnished to you, contact the consumer reporting agency at the address and telephone number provided with this notice, or contact the lender, if the lender developed or generated the credit score. The consumer reporting agency plays no part in the decision to take any action on the loan application and is unable to provide you with specific reasons for the decision on a loan application.

If you have questions concerning the terms of the loan, contact the lender.

The consumer reporting agencies listed below provided a credit score that was used in connection with your home loan application.

Consumer Reporting Agency	Borrower: SAM S SAMPLE	Co-Brw: KAREN A SAMPLE
<p><b>Experian</b>  <b>PO Box 2002</b>  <b>Allen, TX 75013-3742</b>  <b>(P)888-397-3742</b></p> <p>Model Used:  <u>          Fair Isaac          </u></p> <p>Range of Possible Scores  <u>      250      </u> to <u>      900      </u></p>	<p>Score: <b>756</b>                      Created:</p> <p>Factors</p>	<p>Score: <b>800</b>                      Created:</p> <p>Factors</p>

Consumer Reporting Agency	Borrower: SAM S SAMPLE	Co-Brw: KAREN A SAMPLE
<p>Trans Union PO Box 1000 Crum Lynne, PA 19022 (P)800-916-8800</p> <p>Model Used: <u>          New Empirica          </u></p> <p>Range of Possible Scores <u>      300      </u> to <u>      850      </u></p>	<p>Score: <b>763</b>                      Created:</p> <hr/> <p>Factors</p>	<p>Score: <b>793</b>                      Created:</p> <hr/> <p>Factors</p>
<p>Equifax PO Box 740243 Atlanta, GA 30374 (P)800-685-1111</p> <p>Model Used: <u>          Beacon 5          </u></p> <p>Range of Possible Scores <u>      300      </u> to <u>      850      </u></p>	<p>Score: <b>777</b>                      Created:</p> <hr/> <p>Factors</p>	<p>Score: <b>783</b>                      Created:</p> <hr/> <p>Factors</p>

I/We have received a copy of this disclosure.

Applicant **SAM S SAMPLE**

Date

Applicant **KAREN A SAMPLE**

Date

# Understanding the Good Faith Estimate



## Good Faith Estimate (GFE)

OMB Approval No. 2502-0265

Enter primary borrower and, if space permits, additional co-borrowers. If space does not allow, enter primary borrower and et al.

Name of Originator	Insert broker/originator company name	Borrower	
Originator Address	Insert broker/originator company address	Property Address	Collateral Address
Originator Phone Number	Insert broker/originator contact phone number	Date of GFE Prepared/Issued date	
Originator Email	Insert broker/originator contact email		

Purpose

This GFE gives you an estimate of your settlement charges and loan terms if you are approved for this loan. For more information, see HUD's Special Information Booklet on settlement charges, your Truth-in-Lending Disclosures, and other consumer information at [www.hud.gov/respa](http://www.hud.gov/respa). If you decide you would like to proceed with this loan, contact us.

If locked, use rate expiration date. If not locked, enter N/A.

Shopping for your loan

Only you can shop for the best loan for you. Compare this GFE with other loan offers, so you can find the best loan. Use the shopping chart on page 3 to compare all the offers you receive.

Ten days from Date of GFE (date of GFE - day 0). Excludes Sundays.

Important dates

1. The interest rate for this GFE is available through [ ] . After this time, the interest rate, some of your loan Origination Charges, and the monthly payment shown below can change until you lock your interest rate.
2. This estimate for all other settlement charges is available through [ ] .
3. After you lock your interest rate, you must go to settlement within [ ] days (your rate lock period) to receive the locked interest rate.
4. You must lock the interest rate at least [ ] days before settlement.

Enter rate lock period (e.g., 15, 30, 45, 60). If not locked, enter 'N/A'.

Your loan

Your initial loan amount is	\$ 57,600.00
Your loan term is	30 years
Your initial interest rate is	5.750 %
Your initial monthly amount owed for principal, interest, and any mortgage insurance is	\$ 392.60 per month
Can your interest rate rise?	<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes, it can rise to a maximum of % The first change will be in
Even if you make payments on time, can your loan balance rise?	<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes, it can rise to a maximum of \$
Even if you make payments on time, can your monthly amount owed for principal, interest, and any mortgage insurance rise?	<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes, the first increase can be in and the monthly amount owed can rise to \$. The maximum it can ever rise to is \$
Does your loan have a prepayment penalty?	<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes, your maximum prepayment penalty is \$
Does your loan have a balloon payment?	<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes, you have a balloon payment of \$ due in years

Enter the rate driving the initial payment, excluding ACH discount.

Escrow

Some lenders require an escrow account to hold funds for paying property taxes or other property-related charges in addition to your monthly amount owed of \$ [392.60].  
 Do we require you to have an escrow account for your loan?  
 No, you do not have an escrow account. You must pay these charges directly when due.  
 Yes, you have an escrow account. It may or may not cover all of these charges. Ask us.

Charges

<b>A</b>	Your Adjusted Origination Charges (See page 2)	\$ 1160.37
<b>B</b>	Your Charges for All Other Settlement Services (See page 2)	\$ 3206.15
<b>A + B</b>	<b>Total Estimated Settlement Charges</b>	<b>\$ 4366.52</b>

Enter maximum payment, not the fully indexed amortized amount.

Enter monthly payment without escrow amount (p&i & mortgage insurance only). Must match the payment amount disclosed above in 'summary of your loan'.

\* To consider a complete GFE, all fields are required to be completed unless otherwise noted.



# Understanding the Good Faith Estimate

WELLS FARGO  
MONEY CENTER

Enter 0 if no fees are charged

Your Adjusted Origination Charges		
1. Our origination charge This charge is for getting this loan for you.		\$1860.37
2. Your credit or charge (points) for the specific interest rate chosen <input type="checkbox"/> The credit or charge for the interest rate of _____ % is included in "Our origination charge." (See item 1 above.) <input checked="" type="checkbox"/> You receive a credit of \$5500.00 this interest rate of 6.75 % This credit reduces your settlement charges. <input type="checkbox"/> You pay a charge of \$ _____ for this interest rate of _____ % This charge (points) increases your total settlement charges. The tradeoff table on page 3 shows that you can change your total settlement charges by choosing a different interest rate for this loan.	(\$500.00)	
<b>A</b> Your Adjusted Origination Charges		\$ 1160.37
Your Charges for All Other Settlement Services		
3. Required services that we select These charges are for services we require to complete your settlement. We will choose the providers of these services.		
<i>Service</i>	<i>Charge</i>	
Credit Report	\$50	\$1187.00
Appraisal	\$450	
FHA Upfront MIP	\$687	
4. Title services and lender's title insurance This charge includes the services of a title or settlement agent, for example, and title insurance to protect the lender, if required.		\$350.00
5. Owner's title insurance You may purchase an owner's title insurance policy to protect your interest in the property.		\$400.00 - Purchase N/A - Non Purchase
6. Required services that you can shop for These charges are for other services that are required to complete your settlement. We can identify providers of these services or you can shop for them yourself. Our estimates for providing these services are below.		
<i>Service</i>	<i>Charge</i>	
Flood Certification	\$15	\$124.00
Tax Services	\$109	
7. Government recording charges These charges are for state and local fees to record your loan and title documents.		\$116.00
8. Transfer taxes These charges are for state and local fees on mortgages and home sales.		\$0.00
9. Initial deposit for your escrow account This charge is held in an escrow account to pay future recurring charges on your property and includes <input type="checkbox"/> all property taxes, <input type="checkbox"/> all insurance, and <input checked="" type="checkbox"/> other (Hazard, City Tax).		\$675.00
10. Daily interest charges This charge is for the daily interest on your loan from the day of your settlement until the first day of the next month or the first day of your normal mortgage payment cycle. This amount is \$18.51 per day for 15 days (if your settlement is _____).		\$129.15
11. Homeowner's insurance This charge is for the insurance you must buy for the property to protect from a loss, such as fire.		
<i>Policy</i>	<i>Charge</i>	
Hazard	\$225	\$225.00
F3006		
<b>B</b> Your Charges for All Other Settlement Services		\$ 3206.15
<b>A + B</b> Total Estimated Settlement Charges		\$ 4366.52

Check only one box. There cannot be both a credit and a charge in the same transaction.

Understanding your estimated settlement charges

Par pricing

Over par pricing, such as YSP

Under par pricing, such as discount points used to buy down the rate

can change at settlement. See the top of page 3 for more information.

Enter the service, not the name of the service provider.

Enter fees, if charged by the title company, related to the settlement.

Enter the service, not name of the service provider.

If no escrows, enter "0" in the fee column.

Total of sections 1 and 2.

Enter insurance to be purchased at or before settlement.

\* To consider a complete GFE, all fields are required to be completed unless otherwise noted.

## Instructions

### Understanding which charges can change at settlement

This GFE estimates your settlement charges. At your settlement, you will receive a HUD-1, a form that lists your actual costs. Compare the charges on the HUD-1 with the charges on this GFE. Changes are charges if your lender can't provide you the reasons the comparison was different. (See below for details.)

Item	Can the amount change at settlement?	Can the charge change at settlement?
1. The amount of charges	Yes	Yes
2. The amount of charges for optional items	Yes	Yes
3. The amount of charges for optional items that are not required by law	Yes	Yes
4. The amount of charges for optional items that are required by law	No	Yes
5. The amount of charges for optional items that are required by law and are subject to a maximum amount	No	Yes
6. The amount of charges for optional items that are required by law and are subject to a maximum amount and are subject to a maximum amount	No	Yes
7. The amount of charges for optional items that are required by law and are subject to a maximum amount and are subject to a maximum amount and are subject to a maximum amount	No	Yes
8. The amount of charges for optional items that are required by law and are subject to a maximum amount and are subject to a maximum amount and are subject to a maximum amount and are subject to a maximum amount	No	Yes
9. The amount of charges for optional items that are required by law and are subject to a maximum amount and are subject to a maximum amount and are subject to a maximum amount and are subject to a maximum amount and are subject to a maximum amount	No	Yes
10. The amount of charges for optional items that are required by law and are subject to a maximum amount and are subject to a maximum amount and are subject to a maximum amount and are subject to a maximum amount and are subject to a maximum amount and are subject to a maximum amount	No	Yes

### Using the tradeoff table

When we offered you this loan with a particular interest rate and estimated settlement charges, however:

- If you want to choose this same loan with lower settlement charges, then you will have a higher interest rate.
- If you want to choose this same loan with a lower interest rate, then you will have higher settlement charges.

If you would like to choose an available option, you must ask us for a new GFE.

Loan originators have the option to complete this table. Please ask for additional information if the table is not completed.

Column 1 must be completed.

Completion of columns 2 & 3 are optional.

	The loan in this GFE	The same loan with lower settlement charges	The same loan with a lower interest rate
Your initial loan amount	\$ 57,600.00	\$	\$
Your initial interest rate*	6.750 %	%	%
Your initial monthly amount owed	\$ 530.65	\$	\$
Change in the monthly amount owed from this GFE	No change	You will pay \$ more every month	You will pay \$ less every month
Change in the amount you will pay at settlement with this interest rate	No change	Your settlement charges will be reduced by \$	Your settlement charges will increase by \$
How much your total estimated settlement charges will be	\$ 4,366.52	\$	\$

\* For an adjustable rate loan, the comparisons above are for the initial interest rate before adjustments are made.

### Using the shopping chart

Use this chart to compare GFEs from different loan originators. Fill in the information by using a different column for each GFE you receive. By comparing loan offers, you can shop for the best loan.

	This loan	Loan 2	Loan 3	Loan 4
Loan originator name				
Initial loan amount				
Loan term				
Initial interest rate				
Initial monthly amount owed				
Rate lock period				
Can interest rate rise?				
Can loan balance rise?				
Can monthly amount owed rise?				
Prepayment penalty?				
Balloon payment?				
<b>Total Estimated Settlement Charges</b>				

### If your loan is sold in the future

Some lenders may sell your loan after settlement. Any fees lenders receive in the future cannot change the loan you receive or the charges you paid at settlement.

\* To consider a complete GFE, all fields are required to be completed unless otherwise noted.





# A. Settlement Statement (HUD-1)

B. Type of Loan							
1. <input type="checkbox"/> FHA	2. <input type="checkbox"/> RHS	3. <input checked="" type="checkbox"/> Conv. Unins.	6. File Number:	7. Loan Number:	8. Mortgage Insurance Case Number:		
4. <input type="checkbox"/> VA	5. <input type="checkbox"/> Conv. Ins.			0564823			
<b>C. Note:</b> This form is furnished to give you a statement of actual settlement costs. Amounts paid to and by the settlement agent are shown. Items marked "(p.o.c.*)" were paid outside the closing; they are shown here for informational purposes and are not included in the totals.							
<b>D. Name &amp; Address of Borrower:</b> Sam and Karen Sample 145 House Street Harrison, NY 10528			<b>E. Name &amp; Address of Seller:</b> Christopher and Nadine Seller 111 Home Street White Plains, NY 10601			<b>F. Name &amp; Address of Lender:</b> 123 Mortgage Corp. 1 Lending Street Harrison, NY 10528	
<b>G. Property Location:</b> 111 Home Street White Plains, NY 10601			<b>H. Settlement Agent:</b> Paul Attorney, Esq.  Place of Settlement: White Plains, NY		<b>I. Settlement Date:</b> 06/15/2010		

J. Summary of Borrower's Transaction	
<b>100. Gross Amount Due from Borrower</b>	
101. Contract sales price	\$250,000.00
102. Personal property	
103. Settlement charges to borrower (line 1400)	
104.	
105.	
Adjustment for items paid by seller in advance	
106. City/town taxes to	
107. County taxes to	
108. Assessments to	
109.	
110.	
111.	
112.	
<b>120. Gross Amount Due from Borrower</b>	
<b>200. Amount Paid by or in Behalf of Borrower</b>	
201. Deposit or earnest money	\$25,000.00
202. Principal amount of new loan(s)	\$200,000.00
203. Existing loan(s) taken subject to	
204.	
205.	
206.	
207.	
208.	
209.	
Adjustments for items unpaid by seller	
210. City/town taxes to	
211. County taxes to	
212. Assessments to	
213.	
214.	
215.	
216.	
217.	
218.	
219.	
<b>220. Total Paid by/for Borrower</b>	
<b>300. Cash at Settlement from/to Borrower</b>	
301. Gross amount due from borrower (line 120)	
302. Less amounts paid by/for borrower (line 220)	( )
303. Cash <input checked="" type="checkbox"/> From <input type="checkbox"/> To Borrower	

K. Summary of Seller's Transaction	
<b>400. Gross Amount Due to Seller</b>	
401. Contract sales price	\$250,000.00
402. Personal property	
403.	
404.	
405.	
Adjustment for items paid by seller in advance	
406. City/town taxes to	
407. County taxes to	
408. Assessments to	
409.	
410.	
411.	
412.	
<b>420. Gross Amount Due to Seller</b>	
<b>500. Reductions in Amount Due to seller</b>	
501. Excess deposit (see instructions)	
502. Settlement charges to seller (line 1400)	
503. Existing loan(s) taken subject to	
504. Payoff of first mortgage loan	
505. Payoff of second mortgage loan	
506.	
507.	
508.	
509.	
Adjustments for items unpaid by seller	
510. City/town taxes to	
511. County taxes to	
512. Assessments to	
513.	
514.	
515.	
516.	
517.	
518.	
519.	
<b>520. Total Reduction Amount Due Seller</b>	
<b>600. Cash at Settlement to/from Seller</b>	
601. Gross amount due to seller (line 420)	
602. Less reductions in amounts due seller (line 520)	( )
603. Cash <input checked="" type="checkbox"/> To <input type="checkbox"/> From Seller	

The Public Reporting Burden for this collection of information is estimated at 35 minutes per response for collecting, reviewing, and reporting the data. This agency may not collect this information, and you are not required to complete this form, unless it displays a currently valid OMB control number. No confidentiality is assured; this disclosure is mandatory. This is designed to provide the parties to a RESPA covered transaction with information during the settlement process.

**L. Settlement Charges**

		Paid from Borrower's Funds at Settlement	Paid from Seller's Funds at Settlement
<b>700. Total Real Estate Broker Fees</b>			
Division of commission (line 700) as follows:			
701.	\$ 10,000.00 to Houlihan Lawrence		
702.	\$ 10,000.00 to Coldwell Banker		
703.	Commission paid at settlement		\$20,000.00
704.			
<b>800. Items Payable in Connection with Loan</b>			
801.	Our origination charge \$ 6,445.00 (from GFE #1)		
802.	Your credit or charge (points) for the specific interest rate chosen \$ 5,000.00 (from GFE #2)		
803.	Your adjusted origination charges (from GFE #A)	\$1,445.00	
804.	Appraisal fee to RELS \$500 POC (from GFE #3)		
805.	Credit report to CREDCO \$18 (from GFE #3)		
806.	Tax service to See line 1302 \$90 (from GFE #3)		
807.	Flood certification to 123 Mortgage Corp See line 1303 \$19 (from GFE #3)		
808.			
809.			
810.			
811.			
<b>900. Items Required by Lender to be Paid in Advance</b>			
901.	Daily interest charges from 09/15/2010 to 09/30/2010 @ \$ 27.78 /day (from GFE #10)	\$416.67	
902.	Mortgage insurance premium for months to (from GFE #3)		
903.	Homeowner's insurance for 1 years to \$1224 POC (from GFE #11)		
904.			
<b>1000. Reserves Deposited with Lender</b>			
1001.	Initial deposit for your escrow account (from GFE #9)	\$1,992.00	
1002.	Homeowner's insurance 3 months @ \$ 102.00 per month \$ 306.00		
1003.	Mortgage insurance months @ \$ per month \$		
1004.	Property Taxes 3 months @ \$ 562.00 per month \$ 1,686.00		
1005.	months @ \$ per month \$		
1006.	months @ \$ per month \$		
1007.	Aggregate Adjustment -\$		
<b>1100. Title Charges</b>			
1101.	Title services and lender's title insurance (from GFE #4)	\$2,475.00	
1102.	Settlement or closing fee Paul Attorney \$ 975.00		
1103.	Owner's title insurance (from GFE #5)	\$1,989.00	
1104.	Lender's title insurance \$ 540.00		
1105.	Lender's title policy limit \$ 200,000.00		
1106.	Owner's title policy limit \$ 250,000.00		
1107.	Agent's portion of the total title insurance premium to \$		
1108.	Underwriter's portion of the total title insurance premium to \$		
1109.			
1110.			
1111.			
<b>1200. Government Recording and Transfer Charges</b>			
1201.	Government recording charges (from GFE #7)	\$380.00	
1202.	Deed \$ Mortgage \$ Release \$		
1203.	Transfer taxes (from GFE #8)	\$2,400.00	
1204.	City/County tax/stamps Deed \$ Mortgage \$		
1205.	State tax/stamps Deed \$ Mortgage \$		
1206.			
<b>1300. Additional Settlement Charges</b>			
1301.	Required services that you can shop for (from GFE #6)	\$109.00	
1302.	Flood certification fee to 123 Mortgage Corp \$ 19.00		
1303.	Tax Service Fee \$ 90.00		
1304.			
1305.			
<b>1400. Total Settlement Charges (enter on lines 103, Section J and 502, Section K)</b>			

Change in Loan Amount	
Change in Interest Rate	
Change in Term	
Change in Escrow Account	
Change in Other Fees	
Change in Other Charges	
Change in Other	

Good Faith Estimate	HUD-1
\$6,445.00	\$6,445.00
\$5,000.00	\$5,000.00
\$1,445.00	\$1,445.00
\$2,400.00	\$2,400.00

Change in Loan Amount	
Change in Interest Rate	
Change in Term	
Change in Escrow Account	
Change in Other Fees	
Change in Other Charges	
Change in Other	

Good Faith Estimate	HUD-1
\$400.00	\$380.00
\$627.00	\$627.00
\$2,475.00	\$2,475.00
\$1,989.00	\$1,989.00
\$5,491.00	\$5,471.00
\$ -20	or %

Change in Loan Amount	
Change in Interest Rate	
Change in Term	
Change in Escrow Account	
Change in Other Fees	
Change in Other Charges	
Change in Other	

Good Faith Estimate	HUD-1
\$1,992.00	
\$416.67	
\$1,224.00	

**Loan Terms**

Your initial loan amount is	\$ 200,000.00
Your loan term is	30 years
Your initial interest rate is	5 %
Your initial monthly amount owed for principal, interest, and any mortgage insurance is	\$ 1073.64 includes <input checked="" type="checkbox"/> Principal <input checked="" type="checkbox"/> Interest <input type="checkbox"/> Mortgage insurance
Can your interest rate rise?	<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes, it can rise to a maximum of % . The first change will be on and can change again every after . Every change date, your interest rate can increase or decrease by % . Over the life of the loan, your interest rate is guaranteed to never be lower than % or higher than % .
Even if you make payments on time, can your loan balance rise?	<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes, it can rise to a maximum of \$
Even if you make payments on time, can your monthly amount owed for principal, interest, and mortgage insurance rise?	<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes, the first increase can be on and the monthly amount owed can rise to \$ . The maximum it can ever rise to is \$
Does your loan have a prepayment penalty?	<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes, your maximum prepayment penalty is \$
Does your loan have a balloon payment?	<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes, you have a balloon payment of \$ due in years on
Total monthly amount owed including escrow account payments	<input type="checkbox"/> You do not have a monthly escrow payment for items, such as property taxes and homeowner's insurance. You must pay these items directly yourself. <input checked="" type="checkbox"/> You have an additional monthly escrow payment of \$ 664 that results in a total initial monthly amount owed of \$ 1737.64 . This includes principal, interest, any mortgage insurance and any items checked below: <input checked="" type="checkbox"/> Property taxes <input checked="" type="checkbox"/> Homeowner's insurance <input type="checkbox"/> Flood insurance <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>

Note: If you have any questions about the Settlement Charges and Loan Terms listed on this form, please contact your lender.

## TRUTH-IN-LENDING DISCLOSURE STATEMENT

(THIS IS NEITHER A CONTRACT NOR A COMMITMENT TO LEND)

Applicants: SAM S SAMPLE / KAREN A SAMPLE  
 Property Address: 111 HOME STREET  
 White Plains, NY 10601

Prepared By: CIRCLE MORTGAGE CORPORATION  
 500 MAMARONECK AVE SUITE 320  
 Harrison, NY 10528

Application No: sample

Date Prepared: 06/01/2010 Ph: 914-422-0810

<b>ANNUAL PERCENTAGE RATE</b> The cost of your credit as a yearly rate  <p style="text-align: right;">* 5.000 %</p>	<b>FINANCE CHARGE</b> The dollar amount the credit will cost you  <p style="text-align: right;">\$ * 186,513.24</p>	<b>AMOUNT FINANCED</b> The amount of credit provided to you or on your behalf  <p style="text-align: right;">\$ * 200,000.00</p>	<b>TOTAL OF PAYMENTS</b> The amount you will have paid after making all payments as scheduled  <p style="text-align: right;">\$ * 386,513.24</p>
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**REQUIRED DEPOSIT:** The annual percentage rate does not take into account your required deposit  
**PAYMENTS:** Your payment schedule will be:

No. of Pmts	Amount of Payments**	Payments Due	No. of Pmts	Amount of Payments**	Payments Due	No. of Pmts	Amount of Payments**	Payments Due	No. of Pmts	Amount of Payments**	Payments Due
		Monthly Beginning:			Monthly Beginning:			Monthly Beginning:			Monthly Beginning:
359	1,073.64										
1	1,076.48										

**DEMAND FEATURE:** This obligation has a demand feature.  
 **VARIABLE RATE FEATURE:** This loan contains a variable rate feature. A variable rate disclosure has been provided earlier.

**CREDIT LIFE/CREDIT DISABILITY:** Credit life insurance and credit disability insurance are not required to obtain credit, and will not be provided unless you sign and agree to pay the additional cost.

Type	Premium	Signature
Credit Life		I want credit life insurance. Signature: _____
Credit Disability		I want credit disability insurance. Signature: _____
Credit Life and Disability		I want credit life and disability insurance. Signature: _____

**INSURANCE:** The following insurance is required to obtain credit:  
 Credit life insurance  Credit disability  Property insurance  Flood insurance  
 You may obtain the insurance from anyone you want that is acceptable to creditor.  
 If you purchase  property  flood insurance from creditor you will pay \$ \_\_\_\_\_ for a one year term.

**SECURITY:** You are giving a security interest in: 111 HOME STREET, White Plains NY 10601

The goods or property being purchased  Real property you already own.

**FILING FEES:** \$ 325.00

**LATE CHARGE:** If a payment is more than 15 days late, you will be charged 5.000 % of the payment.

**PREPAYMENT:** If you pay off early, you  may  will not have to pay a penalty.  
 may  will not be entitled to a refund of part of the finance charge.

**ASSUMPTION:** Someone buying your property  may  may, subject to conditions  may not assume the remainder of your loan on the original terms.  
 See your contract documents for any additional information about nonpayment, default, any required repayment in full before the scheduled date and prepayment refunds and penalties  \* means an estimate  all dates and numerical disclosures except the late payment disclosures are estimates.  
 You are not required to complete this agreement merely because you have received these disclosures or signed a loan application.

\*\* NOTE: The Payments shown above include reserve deposits for Mortgage Insurance (if applicable), but exclude Property Taxes and Insurance.

THE UNDERSIGNED ACKNOWLEDGES RECEIVING A COMPLETED COPY OF THIS DISCLOSURE.

Applicant SAM S SAMPLE Date \_\_\_\_\_

Applicant KAREN A SAMPLE Date \_\_\_\_\_

Applicant Date \_\_\_\_\_

Applicant Date \_\_\_\_\_

Lender Date \_\_\_\_\_

Form **4506-T**  
(Rev. January 2010)

# Request for Transcript of Tax Return

OMB No. 1545-1872

Department of the Treasury  
Internal Revenue Service

▶ Request may be rejected if the form is incomplete or illegible.

**Tip.** Use Form 4506-T to order a transcript or other return information free of charge. See the product list below. You can also call 1-800-829-1040 to order a transcript. If you need a copy of your return, use **Form 4506, Request for Copy of Tax Return**. There is a fee to get a copy of your return.

**1a** Name shown on tax return. If a joint return, enter the name shown first.  
**SAM S SAMPLE**

**1b** First social security number on tax return or employer identification number (see instructions)  
**123-45-6789**

**2a** If a joint return, enter spouse's name shown on tax return  
**KAREN A SAMPLE**

**2b** Second social security number if joint tax return  
**987-65-4321**

**3** Current name, address (including apt., room, or suite no.), city, state, and ZIP code  
**SAM S SAMPLE**  
**145 HOUSE STREET, Harrison, NY 10528**

**4** Previous address shown on the last return filed if different from line 3

**5** If the transcript or tax information is to be mailed to a third party (such as a mortgage company), enter the third party's name, address, and telephone number. The IRS has no control over what the third party does with the tax information.  
**LENDER'S OFFICE**  
**123 MAIN ST, New York, NY 10003**

**Caution:** If the transcript is being mailed to a third party, ensure that you have filled in line 6 and line 9 before signing. Sign and date the form once you have filled in these lines. Completing these steps helps to protect your privacy.

**6** Transcript requested. Enter the tax form number here (1040, 1065, 1120, etc.) and check the appropriate box below. Enter only one tax form number per request. ▶ **Form 1040**

**a** **Return Transcript**, which includes most of the line items of a tax return as filed with the IRS. A tax return transcript does not reflect changes made to the account after the return is processed. Transcripts are only available for the following returns: Form 1040 series, Form 1065, Form 1120, Form 1120A, Form 1120H, Form 1120L, and Form 1120S. Return transcripts are available for the current year and returns processed during the prior 3 processing years. Most requests will be processed within 10 business days.

**b** **Account Transcript**, which contains information on the financial status of the account, such as payments made on the account, penalty assessments, and adjustments made by you or the IRS after the return was filed. Return information is limited to items such as tax liability and estimated tax payments. Account transcripts are available for most returns. Most requests will be processed within 30 calendar days.

**c** **Record of Account**, which is a combination of line item information and later adjustments to the account. Available for current year and 3 prior tax years. Most requests will be processed within 30 calendar days.

**7** **Verification of Nonfiling**, which is proof from the IRS that you did not file a return for the year. Current year requests are only available after June 15th. There are no availability restrictions on prior year requests. Most requests will be processed within 10 business days.

**8** **Form W-2, Form 1099 series, Form 1098 series, or Form 5498 series transcript.** The IRS can provide a transcript that includes data from these information returns. State or local information is not included with the Form W-2 information. The IRS may be able to provide this transcript information for up to 10 years. Information for the current year is generally not available until the year after it is filed with the IRS. For example, W-2 information for 2007, filed in 2008, will not be available from the IRS until 2009. If you need W-2 information for retirement purposes, you should contact the Social Security Administration at 1-800-772-1213. Most requests will be processed within 45 days.

**Caution:** If you need a copy of Form W-2 or Form 1099, you should first contact the payer. To get a copy of the Form W-2 or Form 1099 filed with your return, you must use Form 4506 and request a copy of your return, which includes all attachments.

**9** Year or period requested. Enter the ending date of the year or period, using the mm/dd/yyyy format. If you are requesting more than four years or periods, you must attach another Form 4506-T. For requests relating to quarterly tax returns, such as Form 941, you must enter each quarter or tax period separately.  
**12/31/2009**      **12/31/2008**

**Signature of taxpayer(s).** I declare that I am either the taxpayer whose name is shown on line 1a or 2a, or a person authorized to obtain the tax information requested. If the request applies to a joint return, either husband or wife must sign. If signed by a corporate officer, partner, guardian, tax matters partner, executor, receiver, administrator, trustee, or party other than the taxpayer, I certify that I have the authority to execute Form 4506-T on behalf of the taxpayer. **Note.** For transcripts being sent to a third party, this form must be received within 120 days of signature date.

Telephone number of taxpayer on line 1a or 2a  
**914-123-4567**

**Sign Here** Signature (see instructions) \_\_\_\_\_ Date \_\_\_\_\_

Title (if line 1a above is a corporation, partnership, estate, or trust) \_\_\_\_\_

Spouse's signature \_\_\_\_\_ Date \_\_\_\_\_

## General Instructions

**Purpose of form.** Use Form 4506-T to request tax return information. You can also designate a third party to receive the information. See line 5.

**Tip.** Use Form 4506, Request for Copy of Tax Return, to request copies of tax returns.

**Where to file.** Mail or fax Form 4506-T to the address below for the state you lived in, or the state your business was in, when that return was filed. There are two address charts: one for individual transcripts (Form 1040 series and Form W-2) and one for all other transcripts.

If you are requesting more than one transcript or other product and the chart below shows two different RAIVS teams, send your request to the team based on the address of your most recent return.

**Automated transcript request.** You can call 1-800-829-1040 to order a transcript through the automated self-help system. Follow prompts for "questions about your tax account" to order a tax return transcript.

## Chart for individual transcripts (Form 1040 series and Form W-2)

If you filed an individual return and lived in:	Mail or fax to the "Internal Revenue Service" at:
Florida, Georgia, North Carolina, South Carolina,	RAIVS Team P.O. Box 47-421 Stop 91 Doraville, GA 30362  770-455-2335
Alabama, Kentucky, Louisiana, Mississippi, Tennessee, Texas, a foreign country, or A.P.O. or F.P.O. address	RAIVS Team Stop 6716 AUSC Austin, TX 73301  512-460-2272
Alaska, Arizona, California, Colorado, Hawaii, Idaho, Illinois, Indiana, Iowa, Kansas, Michigan, Minnesota, Montana, Nebraska, Nevada, New Mexico, North Dakota, Oklahoma, Oregon, South Dakota, Utah, Washington, Wisconsin, Wyoming	RAIVS Team Stop 37106 Fresno, CA 93888  559-456-5876
Arkansas, Connecticut, Delaware, District of Columbia, Maine, Maryland, Massachusetts, Missouri, New Hampshire, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, Vermont, Virginia, West Virginia	RAIVS Team Stop 6705 P-6 Kansas City, MO 64999  816-292-6102

## Chart for all other transcripts

If you lived in or your business was in:	Mail or fax to the "Internal Revenue Service" at:
Alabama, Alaska, Arizona, Arkansas, California, Colorado, Florida, Hawaii, Idaho, Iowa, Kansas, Louisiana, Minnesota, Mississippi, Missouri, Montana, Nebraska, Nevada, New Mexico, North Dakota, Oklahoma, Oregon, South Dakota, Tennessee, Texas, Utah, Washington, Wyoming, a foreign country, or A.P.O. or F.P.O. address	RAIVS Team P.O. Box 9941 Mail Stop 6734 Ogden, UT 84409  801-620-6922
Connecticut, Delaware, District of Columbia, Georgia, Illinois, Indiana, Kentucky, Maine, Maryland, Massachusetts, Michigan, New Hampshire, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, South Carolina, Vermont, Virginia, West Virginia, Wisconsin	RAIVS Team P.O. Box 145500 Stop 2800 F Cincinnati, OH 45250  859-669-3592

**Line 1b.** Enter your employer identification number (EIN) if your request relates to a business return. Otherwise, enter the first social security number (SSN) shown on the return. For example, if you are requesting Form 1040 that includes Schedule C (Form 1040), enter your SSN.

**Line 6.** Enter only one tax form number per request.

**Signature and date.** Form 4506-T must be signed and dated by the taxpayer listed on line 1a or 2a. If you completed line 5 requesting the information be sent to a third party, the IRS must receive Form 4506-T within 120 days of the date signed by the taxpayer or it will be rejected.

**Individuals.** Transcripts of jointly filed tax returns may be furnished to either spouse. Only one signature is required. Sign Form 4506-T exactly as your name appeared on the original return. If you changed your name, also sign your current name.

**Corporations.** Generally, Form 4506-T can be signed by: (1) an officer having legal authority to bind the corporation, (2) any person designated by the board of directors or other governing body, or (3) any officer or employee on written request by any principal officer and attested to by the secretary or other officer.

**Partnerships.** Generally, Form 4506-T can be signed by any person who was a member of the partnership during any part of the tax period requested on line 9.

**All others.** See Internal Revenue Code section 6103(e) if the taxpayer has died, is insolvent, is a dissolved corporation, or if a trustee, guardian, executor, receiver, or administrator is acting for the taxpayer.

**Documentation.** For entities other than individuals, you must attach the authorization document. For example, this could be the letter from the principal officer authorizing an employee of the corporation or the Letters Testamentary authorizing an individual to act for an estate.

**Privacy Act and Paperwork Reduction Act Notice.** We ask for the information on this form to establish your right to gain access to the requested tax information under the Internal Revenue Code. We need this information to properly identify the tax information and respond to your request. You are not required to request any transcript; if you do request a transcript, sections 6103 and 6109 and their regulations require you to provide this information, including your SSN or EIN. If you do not provide this information, we may not be able to process your request. Providing false or fraudulent information may subject you to penalties.

Routine uses of this information include giving it to the Department of Justice for civil and criminal litigation, and cities, states, and the District of Columbia for use in administering their tax laws. We may also disclose this information to other countries under a tax treaty, to federal and state agencies to enforce federal nontax criminal laws, or to federal law enforcement and intelligence agencies to combat terrorism.

You are not required to provide the information requested on a form that is subject to the Paperwork Reduction Act unless the form displays a valid OMB control number. Books or records relating to a form or its instructions must be retained as long as their contents may become material in the administration of any Internal Revenue law. Generally, tax returns and return information are confidential, as required by section 6103.

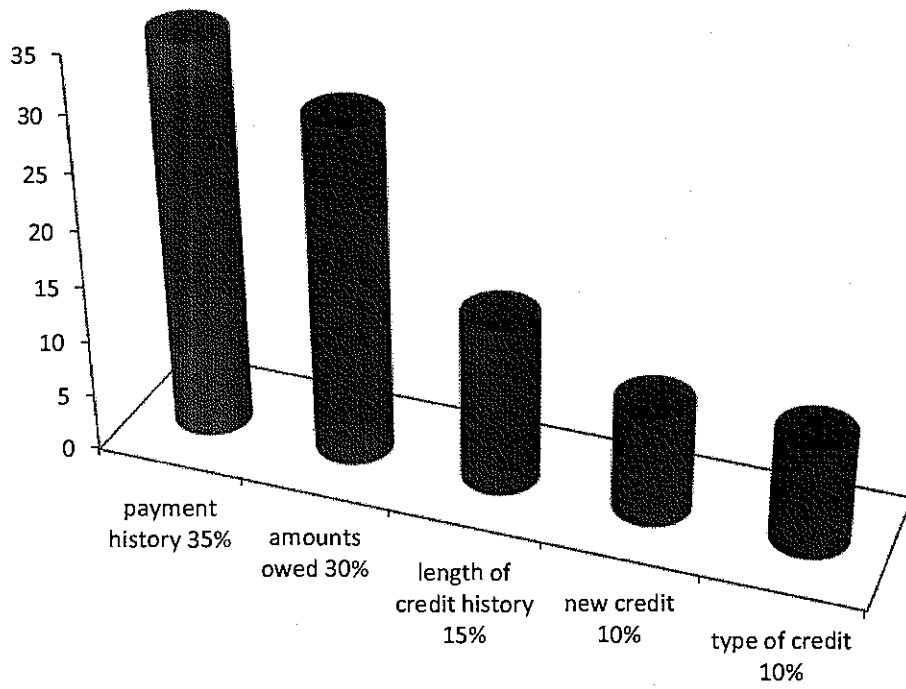
The time needed to complete and file Form 4506-T will vary depending on individual circumstances. The estimated average time is: **Learning about the law or the form**, 10 min.; **Preparing the form**, 12 min.; and **Copying, assembling, and sending the form to the IRS**, 20 min.

If you have comments concerning the accuracy of these time estimates or suggestions for making Form 4506-T simpler, we would be happy to hear from you. You can write to the Internal Revenue Service, Tax Products Coordinating Committee, SE:W:CAR:MP:T:T:SP,1111 Constitution Ave. NW, IR-6526, Washington, DC 20224. Do not send the form to this address. Instead see *Where to file* on this page.



What makes up your FICO score?

### Credit Score



**CLOSINGS**  
**PREPARATION & ATTENDANCE**  
**A PRACTICAL GUIDE**

**BY: DANIEL R. TOTA, ESQ.**

**DURANTE, BOCK & TOTA, PLLC**

**2000 MAPLE HILL STREET – SUITE 206**

**YORKTOWN HEIGHTS, NY 10598**

**TEL: 914-245-6060 / FAX: 914-245-6844**

I. **Introduction & Assumptions:** The following course materials are provided to assist the practitioner with Closing preparation and attendance. The issues addressed and practice tips offered are by no means comprehensive, but should serve to reduce the potential for complications and provide for a smooth transaction free of surprises. Further, the materials presuppose that the underlying contract adequately covered all matters to be addressed at Closing. The materials do not include cooperative transfers and associated issues.

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II. **The Goals of the Seller:** Get the money. Represent as little as possible. “Close” the deal and eliminate any residual liability or trailing issues.

III. **The Goals of the Purchaser:** Get the Deed. Make sure the property and transaction are “clean”.

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IV. **Closing Preparation:** A “How-To” guide to work with the Lender, Opposing Counsel and Title Company.

*\* Practice Tip: Prevent Error. To ensure that every conceivable issue and item is anticipated and addressed at closing, I recommend (literally) emptying your file and reading through it from start to finish. Although cumbersome, there is often no better substitute for issue detection than picking through the papers piece-by-piece. You will often discover a notation in the deal memorandum, a note on your intake form, or a question that your client asked on an old email that may have otherwise remained unaddressed. Having an answer “on the ready” can make you look great at the table.*

V. **Determining Readiness:**

A. **Contract of Sale:** The Contract provides a roadmap for Closing preparation and completion.

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B. **The Title Report:** Use the Title Report to determine if the Seller is in a position to comply with their Contractual obligations and if the Purchaser is safe to proceed.

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- C. **The Commitment Letter:** Review the loan Commitment to ensure that all pre-closing conditions have been satisfied and that the lender has "cleared" the file to close.

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VI. **Scheduling:**

*\* Practice Tip: Admissions. Prior to scheduling, be sure that your client is "ready, willing and able" to perform. Understand that in a potential default situation, premature scheduling notices could be considered admissions and are potentially discoverable. In an environment of financial uncertainty and never-ending complications, one ought to be mindful of this.*

*\* Practice Tip: Closing Confirmations. Send a written Closing confirmation to all parties including an acknowledgement that "if there are any other outstanding [conditions, requirements, items, etc.] in order to provide for this Closing request, please contact the undersigned immediately. Otherwise, we will expect that....." If an issue is then raised at Closing, your position is defensible by virtue of the predicate request. At the least, your client will know that you were on top of it.*

- A. **Seller's Counsel:** Generally responsible for the preparation of the transfer documents, calculating the Closing adjustments, requesting the allocation of proceeds, directing payment to third parties, verifying amounts due, requesting Closing invoices and written payoffs (including estimated per diem interest) etc.

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**To-Do's:** Set the Closing. Confirm the Closing. Review the Contract and Title report. Ensure that all Contractual obligations have been satisfied and that the Seller can convey insurable title. Check repairs. Draft the transfer documents (Deed, RPT-5217, TP-584, local transfer forms, income tax forms, Affidavits, IT-2663, etc.) Verify electronic filing as appropriate. Verify costs/charges for all parties involved. Request third-party invoices (brokers, contractors, title, etc.). Request written payoff statements (mortgages/HELOC's, judgments, liens, etc.). Get the Closing Statement to your client for review. Confirm Walk-through scheduling and utility/insurance management.

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**\* Practice Tip: Verification of Information.** During your preparation, be sure to check the names and middle initials of the parties, the Purchase Price, Downpayment amount, proper address and description of the Premises, County/City requirements to determine if additional taxes or municipal compliance are necessary.

**\* Practice Tip: Downpayment.** Before drawing against the Downpayment, **MAKE SURE IT CLEARED YOUR ACCOUNT.** A short period between Contract and Closing can cause a big problem. Bring extra attorney escrow checks to Closing.

**\* Practice Tip: Payoffs in general.** Be sure to request a written payoff statement well in advance of the Closing (at least a week or more – longer if the loan is in default or with counsel). With increasing frequency, lenders are requiring written authorization from the borrower to generate payoffs. Review the application of the existing escrow account, confirm when the last tax was paid or is otherwise scheduled to be paid, as applicable. Calculate extra per diem interest, note non-business days, and provide sufficient time for the title closer to arrange for payment. Confirm whether certified funds are required.

**\* Practice Tip: Payoffs HELOCs.** Respecting HELOCs (Home Equity Lines of Credit), be sure to “freeze” the account at least 72 hrs prior to Closing. Lenders may no longer permit an account freeze at the table. Also note that some lenders may offer a “pay-down” statement rather than a “payoff” statement. Watch for \$0.00 balances on a HELOC. Avoid a premature “payoff” and account closure. If the SAT is sent for recording outside the Closing the title company would likely require an escrow or undertaking for discharge.

**\* Practice Tip: Check Requests.** Seller’s counsel will generally request the checks (total amounts payable and to whom). Note that the Purchaser’s attorney (and lender’s counsel) will generally determine the breakdown (lender’s NET proceeds – Money from the Purchaser). Understand the relationship between the parties and don’t overstep. The Seller doesn’t care who pays so long as the money is green.

**\* Practice Tip: Title Compliance.** If there are exceptions in the Schedule B that are concerning, ask the title insurer for written confirmation of “omits” prior to Closing. Also verify that closing affidavits will be acceptable to cure any other possible exceptions at the table. The forms are best drafted & approved prior to Closing.

**\* Practice Tip: Deeds from Trustees.** Grantor/Grantee must name the individual Trustee under the Trust **NOT** solely the Trust.

**\* Practice Tip: Attendance.** If the Seller pre-signs documents and does not attend the Closing, make sure that they are available by telephone, get a copy of their government issued identification, have them pre-sign the deed and transfer documents (to avoid additional recording expense) request title affidavits in advance and draft a Power of Attorney with a limited modification provision that is acceptable to the other parties. Get their forwarding addresses.

**Condominiums / HOA's:** Condominiums and Home Owners Associations. Make sure that the complete prospectus (offering plan, amendments, by-laws, financial statements, rules & regulations, application, meeting minutes, etc.) have been obtained and delivered to the proper parties. Verify the procedure and closing requirements with management. Secure, as appropriate, the waiver, statement of common charges, Power of Attorney (and add recording charge) and fee requirements (capital contribution, next month's charges and security deposits). Don't forget to complete the information requests at Closing and don't forget the common area keys.

*\* Practice Tip: Security Deposits. Verify with management if security deposits can be waived, in the event of prior vacancy, or paid by personal check. Having to re-issue an attorney escrow check can be a hassle after Closing (sometimes the check is not negotiated).*

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**B. Purchaser's Counsel:** Generally responsible for making sure that the proceeds will be available, that it's a "clean" transaction and that the Purchaser obtains title. Also responsible for making sure that the title company and lender have what they need to complete the transaction.

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**To-Do's:** Set the Closing. Confirm the Closing. Notify all parties. Review the Contract title report and title policy. Ensure that all contractual obligations have been satisfied and that the Purchaser can perform. Check repairs. Verify costs/charges for all parties involved. Request third-party invoices (brokers, contractors, title, etc.). Order a title continuation search. Get the numbers to the lender's counsel. Get the NET proceeds from the lender's counsel. Request your checks. Get the Closing Statement to you client for review. Confirm Walk-through scheduling and utility/insurance management.

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