

CONTRACT OF SALE – CONDOMINIUM UNIT

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").

In the event of any alteration to this form which is not clearly indicated as such, the provisions of the original unaltered form as approved by the Cooperative & Condominium Law Committee of the Association of the Bar of the City of New York and the Committee of Condominiums & Cooperatives of the Real Property Law Section of the New York State Bar Association shall be deemed controlling, regardless of such change.

CONSULT YOUR LAWYER BEFORE SIGNING THIS AGREEMENT

This Contract (the "Contract") for the sale of the Unit as defined below is made as of
between "Seller" and "Purchaser" identified below.

1. Certain Definitions and Information

1.1 The "Parties" (each a "Party") are:

1.1.1 "Seller":

Prior names used by Seller:

Address:

1.1.2 "Purchaser":

Prior names used by Purchaser:

Address:

(For security, social security numbers are not included on this form but shall be provided to the attorneys for the Parties upon request.)

1.2 "Attorneys" (each an "Attorney") are (name, address telephone and email):

1.2.1 "Seller's Attorney":

1.2.2 "Purchaser's Attorney":

1.3 "Escrowee" is the _____ (as defined in ¶13.1.2 below):

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

1.5 The real estate "Broker(s)" (see ¶18) is/are (company name, address and individual name):

1.6 The name of the "Condominium" is:

- 1.7 The unit number is: _____ (the "Unit") located at: _____ (the "Building");
- 1.8 The Unit's percentage of the undivided interest in the Condominium common elements ("Common Elements") is:
- 1.9 The tax lot number of the Unit as set forth in the Condominium declaration (the "Declaration") is:
- 1.10 The real estate taxes for the Unit for the fiscal year of are \$ _____ .
The amount of real estate taxes is provided for information only and is not a representation of Seller;
- 1.11 Seller agrees to sell and Purchaser agrees to purchase the Unit and the Unit's percentage interest in the Common Elements in accordance with the terms and provisions of this Contract;
- 1.12 The sale includes all of Seller's right, title and interest in and to the following personal property ("Personal Property") to the extent existing in the Unit on the date hereof (strike out inapplicable items):

and articles of property and fixtures attached to or appurtenant to the Unit, not excluded in ¶1.13, 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 and made a part hereof; and

- 1.13 Specifically excluded from this sale are furniture and furnishings and all other personal property unless specifically included in ¶1.12 and:
- 1.14 The sale _____ include Seller's interest in ("Included Interests") (a Rider is required if any of the Included Interests is/are (a) separate and distinct Condominium Unit(s) or subject to a transferrable license agreement);
- 1.15 The "Closing" is the delivery of the Closing Documents referred to in ¶13 and the payment of the Balance referred to in ¶1.17.2;
- 1.16 The date on which Closing is scheduled is _____ ("Scheduled Closing Date")
at _____ at the offices of _____ Attorney
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;
- 1.17 The "Purchase Price" is: \$ _____ payable as follows:
- 1.17.1 The "Contract Deposit" is: \$ _____
payable on the signing of this Contract by good check subject to collection, the receipt of which is hereby acknowledged, payable to the order of Escrowee and held in escrow pursuant to ¶13;
- 1.17.2 The "Balance" of the Purchase Price due at Closing is: \$ _____
payable by certified check of Purchaser or official bank check (except as otherwise agreed to in writing by the Parties) to the order of Seller (or as Seller otherwise directs);

- 1.17.3 All checks in payment of the Purchase Price shall represent United States currency and be drawn on or issued by a bank or trust company either chartered in or having a branch and doing business in New York State;
- 1.17.4 All checks for closing adjustments aggregating in excess of \$2,500.00 shall be certified checks of Purchaser or official bank checks payable to Seller or as Seller otherwise directs.
- 1.18 The monthly common charges (excluding separately billed utility charges) are
\$ (See ¶12.2) (the "Common Charges");
- 1.19 The assessment, if any, payable to the Condominium, at the date of this Contract is
\$ (the "Assessment"), payable as follows:
- 1.20 The Condominium's flip tax or transfer fee (apart from the Managing Agent, Condominium or closing attorney fee), if any (the "Flip Tax") shall be paid by the Party upon whom the Flip Tax is imposed by the Condominium, or, if not so imposed, the Flip Tax shall be paid by ;
- 1.21
- 1.22 If ¶1.21.1 or 1.21.2 applies, the "Financing Terms" for ¶19 are: A loan of \$
secured by a mortgage for a term of at least years or such lesser amount or shorter term as
applied for or as acceptable to Purchaser; and the "Loan Commitment Date" for ¶19 is
calendar days after the Delivery Date (as defined in ¶1.23 below);
- 1.23 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;
- 1.24 The Contract Deposit shall be held in a segregated (not commingled with Escrowee's business accounts) [IOLA] [non-IOLA] escrow account. If the account is a non- IOLA account then interest shall be paid to the Party entitled to the Contract Deposit. Interest shall be payable to the party entitled to the Contract Deposit, except as otherwise required by law. The Party receiving the interest shall pay any income taxes thereon. A W-9 or W-8 form shall be submitted, as appropriate. The escrow account shall be at:

Address:

("Depository") (See ¶13)

1.25 All "Proposed Occupants" of the Unit are:

1.25.1 Persons and relationship to Purchaser:

1.25.2 Pets:

2. Representations, Warranties and Covenants: Seller represents, warrants and covenants that:

- 2.1 Seller is the sole owner of the Unit and the Personal Property together with the Included Interests and Seller has the full right, power and authority to sell, convey and transfer the same. If Seller is a corporation, partnership, limited liability company, trust or other entity, the Sale has been duly authorized by such entity and the person signing this Contract is fully authorized by the entity to do so, and Seller shall deliver evidence of the same at Closing;
- 2.2 The Common Charges (excluding separately billed utility charges) for the Unit on the date hereof are as stated above. If the Common Charges as of the date of this Contract have been understated in this Contract, Seller shall give to Purchaser at Closing a lump sum credit equal to twelve times the amount of such understatement as Purchaser's sole and exclusive remedy for such understatement (Example: an understatement of \$50.00 per month generates Purchaser a one-time credit of \$600.00). Seller has not received any written notice of any intended assessment or increase in Common Charges not reflected above. Purchaser acknowledges that it will not have the right to cancel this Contract in the event of the imposition of any assessment or increase in Common Charges after the date hereof of which Seller has not heretofore received written notice. Seller also represents that Seller has no actual knowledge of an increase in Common Charges or an assessment which has been adopted by the Condominium board of managers (the "Board");
- 2.3 Seller is not a "sponsor" or a nominee of a "sponsor," or a successor sponsor or nominee or designee of sponsor, under any plan of condominium organization affecting the Unit;
- 2.4 At the time of Closing, all refrigerators, freezers, ranges, dishwashers, washing machines, clothes dryers, air conditioning equipment and other appliances, fixtures and equipment included in this sale, and all plumbing, heating and electrical systems will be in working order, to the extent maintenance and repair of same is the responsibility of Seller (as opposed to the Condominium);
- 2.5 If a copy is attached to this Contract, the copy of the certificate of occupancy covering the Unit is a true and correct copy. However, any certificate of occupancy is provided for information only, and the contents thereof do not constitute a representation of Seller;
- 2.6 Seller is not a "foreign person" as defined in ¶14. (If applicable, delete and provide for compliance with Code Withholding Section, as defined in ¶14);
- 2.7 Seller has made no material alterations to the Unit, except as enumerated in Schedule A-1;
- 2.8 Seller has never signed an alteration agreement with the Managing Agent or Board, except as enumerated in Schedule A-2. Seller has no actual knowledge of any material alteration by a prior owner affecting the Unit or alteration agreement affecting the Unit signed by a prior owner of the Unit, except as enumerated in Schedule A-3;
- 2.9 To the best of Seller's knowledge, there have been no leaks into or emanating from the Unit during the twenty-four (24) months prior to the date of this Contract, and the Unit shall be delivered free from leaks which are the responsibility of Seller to repair at the time of Closing;

- 2.10 During the twenty-four (24) months prior to the date of this Contract, neither Seller nor to Seller's knowledge any occupants of the Unit have/has made any written complaints to the Board, Managing Agent or any other unit owner regarding the Unit, the Building or any other unit owner, except as set forth in Schedule A-4;
 - 2.11 Seller has received no written notice that the use and/or occupancy of the Unit is in violation of the Declaration, the Condominium's by-laws (the "By-Laws") or house rules (the "House Rules"), or any applicable provision of law;
 - 2.12 Seller has no knowledge of the presence of bedbugs in the Unit or an adjacent or contiguous unit in the Building within the past twenty-four (24) months;
 - 2.13 At Closing, Seller shall have sufficient funds, either from the proceeds of the sale of the Unit or otherwise, to pay all existing liens, judgments, mortgages and other encumbrances;
 - 2.14 Seller has made no insurance claims with respect to the Unit within the past twenty-four (24) months.
 - 2.15 Seller covenants that its representations and covenants contained in this ¶12 shall be true and complete at Closing and shall survive Closing, but any action based thereon must be instituted within twelve (12) months after Closing.
- 3. Closing Documents:** At Closing, the Parties shall deliver the following (collectively hereinafter referred to as the "Closing Documents"):
- 3.1 At Closing, Seller shall deliver the following:
 - 3.1.1 Bargain and sale deed with covenant against grantor's acts ("Deed"), complying with RPL §339-o and containing the covenant required by Lien Law §13(5), conveying to Purchaser title to the Unit, together with its undivided interest in the Common Elements appurtenant thereto (which shall be deemed to include Seller's rights and obligations with respect to any limited Common Elements attributable to or used in connection with the Unit), free and clear of all liens and encumbrances other than Permitted Exceptions. The Deed shall be executed and acknowledged by Seller and, if requested or required by the Condominium, executed and acknowledged by Purchaser, in proper statutory form for recording;
 - 3.1.2 Provided Seller is a legal entity, and not just one or more natural persons, Seller shall deliver such resolutions and/or affidavits or other evidence as may be reasonably acceptable to Purchaser to the effect that the entity was, at the time of execution of this Contract, authorized to execute and deliver this Contract, and is, at the time of Closing, authorized to execute and deliver the Deed, and any and all other Closing Documents necessary or appropriate to effectuate Closing, and that each of the person(s) actually executing those documents on behalf of that entity is an authorized signatory for that entity for the purposes of effectuating the subject transaction. In the event Seller is a corporation, the Deed shall contain a recital sufficient to establish compliance with the requirements of BCL §909. Evidence of such authorization that would be acceptable to the title company (the "Title Company") from which Purchaser has ordered a title insurance report and which is authorized and licensed to do business in New York State (but not an agent or abstract company unless confirmed by its underwriter in writing) will be deemed to be reasonably acceptable to Purchaser;

- 3.1.3 A waiver of right of first refusal (the "Waiver") of the Board, evidenced in writing (the "Waiver Confirmation") if required in accordance with ¶15;
 - 3.1.4 A written statement by the Condominium or its Managing Agent stating the date through which the Common Charges and any Assessments due and payable to the Condominium have been paid;
 - 3.1.5 All keys to the doors of, and mailbox for, the Unit; and the keys, key codes or combinations to open or lock any cabinets, interior doors, storage spaces, alarms or other included Personal Property;
 - 3.1.6 Such affidavits and/or other evidence as the Title Company 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;
 - 3.1.7 New York City Real Property Transfer Tax Return, if applicable, and New York State Real Estate Transfer Tax Return (including Real Property Transfer Report/Equalization Return, as appropriate), and if required by the Tax Law an IT-2663 form, prepared and duly executed by Seller in proper form for submission;
 - 3.1.8 Checks as may be acceptable to the Title Company in payment of all applicable real property transfer taxes due in connection with the sale, including any tax due in connection with the filing of an IT-2663 form, if applicable, except a transfer tax (such as the so-called New York State "Mansion Tax") which by law is primarily imposed on the purchaser ("Purchaser Transfer Tax"). In lieu of delivery of such checks, Seller shall have the right, upon reasonable prior notice to Purchaser, to cause Purchaser to deliver said checks at Closing and to credit the amount thereof against the balance of the Purchase Price;
 - 3.1.9 Certification pursuant to ¶14 below that Seller is not a foreign person or a withholding certificate from the Internal Revenue Service. (If inapplicable, delete and provide for compliance with the Internal Revenue Code sections described in ¶14);
 - 3.1.10 Affidavit that an operable single station smoke detecting alarm device and an operable carbon monoxide detector are installed pursuant to New York Executive Law §378(5), and, if the Building and the Unit are located within New York City, an affidavit that a single station carbon monoxide detecting alarm device is installed pursuant to N.Y.C. Admin. Code §§28-312.1 and 28-312.2 and NYCRR tit. 19, §1220.1;
 - 3.1.11 Any alteration agreement enumerated in Schedule A-2 or A-3;
 - 3.1.12 Any assignment necessary or appropriate to transfer any Included Interest; and
 - 3.1.13 Any currently effective written warranties and/or operating manuals in Seller's possession for any items of Personal Property that are included in the subject sale;
- 3.2 At Closing, Purchaser shall deliver the following:
- 3.2.1 Checks in payment of (y) the Balance; and (z) any Purchaser Transfer Tax (all checks in payment of any Purchaser Transfer Tax shall be in a form acceptable to the Title Company);

- 3.2.2 If and to the extent required by the Declaration or By-Laws, power of attorney to the Board, prepared by Seller or the Condominium, in the form required by the Condominium, which shall be executed, acknowledged and recorded by Purchaser and, after being recorded, shall be sent to the Condominium;
 - 3.2.3 New York City Real Property Transfer Tax Return, if applicable, and New York State Real Estate Transfer Tax Return, each duly executed 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
 - 3.2.4 If required, New York State Real Property Transfer Report/Equalization Return executed and acknowledged by Purchaser in proper form for submission;
- 3.3 It is a condition of Purchaser's obligation to close title hereunder that:
- 3.3.1 All notes or notices of violations of law or government 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, but this shall not include notices of violation, the curing and removal of which are the obligation of the Condominium;
 - 3.3.2 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 House Rules shall have been cured and;
 - 3.3.3 The Condominium is a valid condominium created pursuant to RPL Art. 9-B and the Title Company will so insure;
- 3.4 The Parties shall provide such other documents as may be reasonably required or requested by the Title Company or the other Party to effectuate the transfer of title in accordance with this Contract and applicable law;
- 3.5 The Party having primary responsibility for payment of a particular tax is also responsible for paying any and all interest and penalties in connection with such tax, including any additional amount claimed to be due by the taxing authorities by reason of re-calculation of such tax, which obligation shall survive Closing.

4. Closing Adjustments:

- 4.1 The following adjustments shall be made as of 11:59 P.M. of the day before Closing:
 - 4.1.1 Real estate taxes and water charges and sewer rents, if separately assessed, 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 reading, subject to adjustment after 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 based upon the Unit's percentage interest in the Common Elements;
 - 4.1.2 Common Charges; and
 - 4.1.3 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;

- 4.2 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 past due or required to be paid are to be paid by Seller at Closing. All installments which the Condominium does not require to have been paid by the time of Closing shall be the obligation of Purchaser;
- 4.3 Any errors or omissions in computing closing adjustments shall be corrected. The provisions of this Article 4 shall survive Closing for six (6) months;
- 4.4 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 set forth in a rider attached hereto;

5. Right of First Refusal:

- 5.1 If so provided in the Declaration or By-Laws, this sale is subject to and conditioned upon the Waiver. Purchaser shall in good faith submit to the Board or the Managing Agent an application on the form required by the Board, containing such data and together with such documents as the Board requires, and pay the applicable fees and charges that the Board imposes upon Purchaser. All of the foregoing shall be submitted within 10 business days after the Delivery Date, or, if ¶¶1.21.1 or 1.21.2 applies and the Loan Commitment Letter is required by the Board, within 3 business days after the earlier of (i) the Loan Commitment Date or (ii) the date of receipt of the Loan Commitment Letter. Unless the Board requires a separate submission by Seller, Purchaser's submission of an application shall be deemed to satisfy the notice requirement set forth in the Declaration and/or By-Laws;
- 5.2 If the Board shall exercise such right of first refusal, Seller shall promptly refund to Purchaser the Contract Deposit 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 obligations or liabilities to, the other by reason of this Contract. If the Board shall issue a Waiver Confirmation (a copy of which shall be delivered by the recipient to the Parties promptly following receipt thereof), the Parties shall proceed with this sale in accordance with the provisions of this Contract;
- 5.3 Closing shall be adjourned for up to 30 business days if the Board neither exercises its right of first refusal nor issues a Waiver Confirmation on or before the Scheduled Closing Date. If neither Seller nor Purchaser nor their respective Attorneys shall have received either of such notices by such adjourned Closing Date, then Seller and Purchaser each will have the right to cancel this Contract by giving Notice (as defined in Paragraph 11) to the other, provided that, prior to the giving of such notice of cancellation, neither Seller nor Purchaser nor their respective Attorneys shall have received a Waiver Confirmation. In the event this Contract is cancelled pursuant to the foregoing provisions of this ¶5.3, then the Escrowee shall refund the Contract Deposit to Purchaser;
- 5.4 Notwithstanding the provisions of the preceding ¶5.3 that otherwise give Seller the right to cancel by reason of not having received a Waiver Confirmation, Purchaser will have the right to reject Seller's notice of cancellation for such reason, thereby obligating Seller to fulfill its obligations and close hereunder, in the event the Title Company agrees to insure title without exception for failure to obtain a Waiver Confirmation, and if applicable Purchaser's Lender advises that it is prepared to close without issuance by the Board of a Waiver Confirmation, or if Purchaser notifies Seller that Purchaser wishes to close notwithstanding the failure of the Board to issue a Waiver Confirmation, provided that if, prior to Closing, one or both of the parties hereto receives notice from the Board of the Board's exercise of its right of first refusal, Purchaser's right to close under the provisions of this ¶5.4 shall terminate;

5.5 If the Board's failure to either exercise such right of first refusal or issue a Waiver Confirmation is attributable to either Party's bad faith conduct, that Party shall then be in default hereunder and the provisions of Article 10 shall apply.

6. Certain Transaction Fees:

- 6.1 Any fee imposed by the Condominium for the application to the Board for its issuance of a Waiver Confirmation shall be payable by Purchaser;
- 6.2 Any move-out fee (including deposits) imposed by the Condominium shall be payable by Seller;
- 6.3 Any move-in fee (including deposits) imposed by the Condominium shall be payable by Purchaser; and
- 6.4 Any fees for contributions to the working capital fund or reserve fund except for a Flip Tax specifically payable by Seller pursuant to ¶1.20 imposed by the Condominium shall be payable by Purchaser;
- 6.5 All fees other than those listed in the preceding subparagraphs of this ¶6 in connection with processing the transaction contemplated by this Contract (including but not limited to the legal fees, if any, of the Condominium's attorney in connection with this sale, all "flip taxes," transfer or entrance or exit fees or similar charges however denominated and whether known or unknown) which are imposed by the Condominium shall be paid by the Party upon whom they were expressly imposed. However, if there is ambiguity as to the Party responsible for a particular fee (other than the Flip Tax) then such fee shall be paid in equal portions by Seller and Purchaser. In the event any increase in any aforementioned fee is imposed between the date hereof and the date of Closing, the Party obliged to pay the fee, cost or expense or contribution shall also be obliged to pay the increase.

7. No Other Representations:

- 7.1 Purchaser has examined or has waived the examination of:
 - 7.1.1 the offering plan, all amendments to the offering plan, the Declaration, the By-Laws and the House Rules;
 - 7.1.2 the minutes of the meetings of the Board and the unit owners;
 - 7.1.3 the alteration policy including any mandatory upgrade policy for windows, plumbing or other unit features;
 - 7.1.4 the form of alteration agreement;
 - 7.1.5 the form of application to purchase, application instructions and related written requirements, and the enumeration and allocation of applicable fees, if any;
 - 7.1.6 the last financial statement of the Condominium; and
 - 7.1.7 all other matters pertaining to this Contract and to the purchase to be made hereunder;
- 7.2 Purchaser has inspected or waived inspection of the Unit, its fixtures, appliances and equipment and the Personal Property, if any, included in this sale, as well as the Common Elements (except those Common Elements limited in use to other units of the Condominium), and knows the condition thereof and, subject to ¶2.5, agrees to accept the same "as is," i.e., in the condition they are in on the date hereof, subject to normal use, wear and tear between the date hereof and Closing. Purchaser 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 (including but not limited to square footage or room count) 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.

8. Possession: Seller shall, prior to Closing, remove from the Unit all furniture, furnishings and other personal property not included in this sale, shall repair any material damage caused by such removal, and shall deliver exclusive possession of the Unit at Closing, vacant, broom-clean and free of tenancies or other rights of use or possession. Seller shall not be responsible for immaterial damage such as small holes that can be repaired with touch-up plaster, spackle or similar material or touch-up paint. Purchaser cannot take possession prior to Closing except pursuant to a separate written agreement signed by Seller and Purchaser.

9. 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 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 after Seller vacates immediately preceding Closing.

10. Defaults and Remedies:

10.1 If Purchaser defaults hereunder, Seller's sole remedy shall be to retain the Contract Deposit as liquidated damages, it being agreed that Seller's damages in case of Purchaser's default might be impossible to ascertain and that the Contract Deposit constitutes a fair and reasonable amount of damages under the circumstances and is not a penalty.

10.2 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.

11. Notices: Any notice, demand, request or other communication ("Notice") given or made hereunder, except for a request for an inspection, which shall not be deemed a Notice, shall be in writing and sent by either Party or that Party's Attorney and delivered by hand or sent by next business day delivery or certified or registered mail, return receipt requested to the other Party at the address set forth in 1.1 hereof and that Party's Attorney, at the address set forth in 1.2 hereof, unless prior Notice has been given that an address of a Party or an Attorney has been changed. A communication by email, fax, telephone or other electronic means shall not qualify as a Notice. Each Notice shall be deemed given on the same day if delivered by hand or the following business day if sent by next business day delivery or the third business day following the date of mailing. Failure to accept a Notice does not invalidate the Notice.

12. Purchaser's Lien: The Contract Deposit and all other sums paid on account of this Contract and the reasonable expenses of the Title Report (as defined in ¶15.1 hereof) are hereby made a lien upon the Unit, but such lien shall not continue after default by Purchaser hereunder. This Contract shall not be recorded by either Party.

13. Contract Deposit in Escrow:

13.1 Escrowee shall hold the Contract Deposit (together with any interest thereon) in escrow as set forth in ¶1.17.1 at the Depository insured by the FDIC or equivalent in amounts up to the maximum amount for which insurance is provided by the FDIC, until Closing or sooner termination of this Contract, and shall pay over or apply the Contract Deposit in accordance with the terms of this Contract. The Social Security or Federal Identification numbers of the Parties shall be furnished to Escrowee upon request. At Closing, the Contract Deposit shall be paid by Escrowee to Seller or as Seller otherwise directs. If for any reason Closing does not occur and either of the Parties gives a 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 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 business 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 or a final, nonappealable judgment, order or decree of a court. However, Escrowee shall have the right at any time to deposit the Contract Deposit with the clerk of a court in the county in which the Unit is located and shall give Notice of such deposit to the Parties. Upon such deposit or other disbursement in accordance with the terms of this ¶13, Escrowee shall be relieved and discharged of all further obligations and responsibilities hereunder.

13.2 The Parties acknowledge that, with regard to the Contract Deposit, Escrowee is acting solely as a stakeholder without compensation 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. The Parties 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 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) 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.

13.3 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 Escrowee (including any member of Escrowee's firm) and shall be fully protected in so acting or refraining from action upon the advice of such counsel.

13.4 Escrowee acknowledges receipt of the Contract Deposit by check subject to collection or by wire transfer and Escrowee's agreement to the provisions of this ¶13 by signing in the place indicated in this Contract.

13.5 In the event the Contract Deposit exceeds the maximum amount for which insurance is provided by the FDIC, the Parties understand the amount in excess of the maximum amount insured by the FDIC may be uninsured unless appropriate provisions are made, such as having more than one Depository.

13.6 Escrowee or any member of its firm shall be permitted to act as counsel for Seller (assuming Seller's counsel is acting as Escrowee) in any dispute as to the disbursement of the Contract Deposit or any other dispute between the Parties whether or not Escrowee is in possession of the Contract Deposit and continues to act as Escrowee.

13.7 If the Escrowee is the attorney for one of the parties hereto, that party shall be liable for any 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. If Escrowee is a title company, the Party who designates the Escrowee shall be liable for any loss of the Contract Deposit.

14. FIRPTA: The Parties shall comply with IRC §§897 and 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, up to and including 10% of the Purchase Price. Seller hereby waives any right of action against Purchaser on account of such withholding and/or remittance. Any cost or expense that may be incurred as a result of such actions, including without limitation Purchaser's Attorneys fees and/or accounting fees, shall be paid by Seller. This paragraph shall survive Closing.

15. Title Report; Acceptable Title:

- 15.1 Purchaser shall, within 10 business days after the date hereof, or if ¶1.21.1 applies, within 3 business days after receipt of the Loan Commitment Letter, order a title insurance report (the "Title Report") from the Title Company. Promptly after receipt of the Title Report and thereafter of any continuations thereof and supplements thereto, Purchaser shall forward (or cause the Title Company to forward) a copy of each such Title Report, continuation or supplement to the Seller's Attorney. Purchaser shall further promptly notify Seller's Attorney of any other objections to title not reflected in the Title Report reasonably promptly after becoming aware of such objections.
- 15.2 Any unpaid taxes, assessments, water charges and sewer rents payable by the Seller, together with the interest and penalties thereon to a date not less than two 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 Closing.
- Upon request made a reasonable time before Closing, Purchaser shall provide at Closing separate checks for the foregoing payable to the order of the holder of any such lien, charge or encumbrance and otherwise complying with ¶1.17. 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 lender, if any, free and clear of any such charges, liens and encumbrances, then Seller shall have the right in lieu of payment and discharge to deposit with the Title Company such funds or to give such assurance or to pay such special or additional premiums as the Title Company may require in order to so insure. In such case, the charges, liens and encumbrances with respect to which the Title Company has agreed so to insure shall not be considered objections to title. Any fees, costs or expenses incurred in connection with the payment of such charges, liens and/or encumbrances shall be paid by Seller. The provisions of this subparagraph shall survive Closing.
- 15.3 Seller shall convey and Purchaser shall accept fee simple title to the Unit in accordance with the terms of the Contract, subject only to: (1) the Permitted Exceptions and (2) such other matters as (i) the Title Company or any other title insurer licensed by the State of New York (but not an agent or abstract company) shall be willing, without special or additional premium, to omit as exceptions to coverage or to insure against collection out of or enforcement against the Unit. Notwithstanding the foregoing, if ¶1.21.1 applies and the Loan Commitment Letter (as defined in ¶19.1.2) is issued pursuant to ¶19, then Purchaser shall not be required to accept any defect in title which the Institutional Lender (as defined in ¶19.1.2) will not accept.
- 15.4 Notwithstanding any contrary provisions in this 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 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 Contract Deposit to Purchaser, together with the reasonable cost of the Title Report, and upon the making of such refund and payment, this Contract shall be deemed cancelled and of no further force or effect and neither of the Parties shall have any further rights against, or obligations or liabilities to, the other by reason of this Contract. However, nothing contained in this ¶15.4 shall be construed to relieve Seller from liability due to willful default.

16. Risk of Loss; Casualty:

- 16.1 The risk of loss or damage to the Unit or the Personal Property, by fire or other casualty, until the earlier of Closing or possession of the Unit by Purchaser, is assumed by Seller, but without any obligation of Seller to repair or replace any such loss or damage unless Seller elects to do so as hereinafter provided. For purposes of this ¶16 only, the term "Unit" shall be deemed to include a terrace, balcony, private yard, parking space and/or storage space appurtenant to the Unit. Seller shall notify Purchaser of the occurrence of any such loss or damage to the Unit or the Personal Property within 10 days after such occurrence or by the date of Closing, whichever first occurs, and by such Notice shall state whether or not Seller elects to repair or restore the Unit and/or Personal Property, as the case may be. If Seller elects to make such repairs and restorations, Seller's Notice shall set forth an adjourned date for Closing, which shall be not more than 60 days after the date of the giving of Seller's Notice. If Seller either does not elect to do so or, having elected to make such repairs and restorations, fails to complete the same on or before said adjourned date for Closing, or if the Board fails to fulfill its obligations to repair or restore any Common Element that materially affects the Unit, Purchaser shall have the following options:
- 16.1.1 To declare this Contract cancelled and of no further force or effect and receive a refund of the Contract Deposit in which event neither of the Parties shall thereafter have any further rights against, or obligations or liabilities to, the other by reason of the Contract, or
- 16.1.2 To complete the purchase in accordance with this Contract without 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 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 attributable to the loss of or damage to the Unit or Personal Property.
- 16.2 If Seller does not elect to make such repairs and restorations, Purchaser may exercise the resulting option under ¶16.1.1 or 16.1.2 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.
- 16.3 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 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:
- 16.3.1 To complete the purchase in accordance with this Contract without reduction in the Purchase Price; or
- 16.3.2 To adjourn 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 60th day after the date of the giving of Seller's aforesaid Notice. In the event Purchaser elects to adjourn 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 Contract Deposit, in which latter event

neither of the Parties shall thereafter have any further rights against, or obligations or liabilities to, the other by reason of this Contract.

16.4 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.

17. Internal Revenue Service Reporting Requirement: Each of the Parties 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 ¶17 shall survive Closing. The Parties designate Purchaser's lending institution, if applicable, or Purchaser's attorney or such other Party as shall be jointly designated by Seller and Purchaser as the person responsible for reporting this information as required by law.

18. Broker: Seller and Purchaser represent and warrant to each other that the only real estate broker(s) with whom they have dealt in connection with this Contract and the transaction set forth herein is/are Broker(s) 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 Broker(s) shall be paid a commission by Seller pursuant to separate agreement. If no Broker is specified in ¶1.5 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. The Parties shall indemnify and defend each other against any costs, claims or expenses (including reasonable attorneys' fees) arising out of the breach on their respective parts of any representation, warranty or agreement contained in this ¶18. The provisions of this ¶18 shall survive Closing or, if Closing does not occur, the termination of this Contract.

19. Mortgage Commitment Contingency: The provisions of this paragraph are applicable only if ¶1.21.1 applies:

19.1 Definitions:

19.1.1 an "Institutional Lender" is any of the following that is authorized under Federal or New York State law to make mortgage loans and is currently extending mortgages in the county in which the Unit is located: a bank, savings bank, private banker, trust company, savings and loan association, insurance company, governmental entity, credit union or similar banking institution whether organized under the laws of this State, the United States or any other state;

19.1.2 a "Loan Commitment Letter" is a written offer from an Institutional Lender to make a loan on the Financing Terms (see ¶1.22) at prevailing fixed or adjustable interest rates and on other customary terms generally being offered by Institutional Lenders. 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 home, payment of 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.

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

- 19.2.1 apply only to an Institutional Lender for a loan on the Financing Terms (see ¶1.22) 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 five (5) business days after the Delivery Date;
 - 19.2.2 promptly submit to the Institutional Lender such further references, data and documents requested by the Institutional Lender;
 - 19.2.3 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;
 - 19.2.4 furnish Seller with a copy of the Loan Commitment Letter promptly after Purchaser's receipt thereof;
 - 19.2.5 Purchaser is not required to apply to more than one Institutional Lender.
- 19.3 Provided Purchaser has complied with all applicable provisions of this Article 19 and Article 20, Purchaser may cancel this Contract as set forth below, unless Purchaser has received a Loan Commitment Letter from another Institutional Lender prior to the Loan Commitment Date, if:
- 19.3.1 the Institutional Lender denies Purchaser's application in writing prior to the Loan Commitment Date (see ¶1.22); or
 - 19.3.2 a Loan Commitment Letter is not issued by the Institutional Lender on or before the Loan Commitment Date; or
 - 19.3.3 any requirement of the Loan Commitment Letter other than one concerning Purchaser is not met (e.g., financial condition of the Condominium, failure of the Board to provide a written common charge letter or Waiver Confirmation); or
 - 19.3.4 (a) Closing is adjourned by Seller for more than 30 business days from the Scheduled Closing Date; and (b) 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 (c) 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.
- 19.4 Purchaser shall deliver Notice of cancellation to Seller within 5 business days after the Loan Commitment Date if cancellation is pursuant to ¶19.3.1 or 19.3.2 and on or prior to the Scheduled Closing Date (as same may be adjourned) if cancellation is pursuant to ¶19.3.3 or 19.3.4.
- 19.5 If cancellation is pursuant to ¶19.3.1, 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 ¶19.3.3, then Purchaser shall deliver to Seller together with Purchaser's Notice evidence that a requirement of the Institutional Lender or Title Company was not met.

19.6 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 (a) Purchaser's Notice of cancellation or (b) 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 or Purchaser's written waiver of the Mortgage Commitment Contingency to Seller within 15 business days after the Loan Commitment Date.

19.7 Failure by either of the Parties to deliver Notice of cancellation as required by this ¶19 shall constitute a waiver of the right to cancel under this ¶19.

19.8 If this Contract is canceled by Purchaser pursuant to this ¶19, 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 for provisions of this Contract which by their terms survive termination. In addition, if this Contract is canceled by Purchaser pursuant to ¶19.3.4, then Seller shall reimburse Purchaser for any non-refundable financing, title and inspection expenses actually incurred by Purchaser.

19.9 Purchaser cannot cancel this Contract pursuant to ¶19.3.4 and cannot obtain a refund of the Contract Deposit if the Institutional Lender fails to fund the loan:

19.9.1 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 home, etc.); or

19.9.2 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.

20. Requests By Purchaser's Lender: In the event Purchaser's lender makes written requests(s) for financial, insurance or other business information about the Condominium, Purchaser may supply a copy of each such written request to Seller and upon receiving such a copy, Seller shall make a good faith effort to encourage the Condominium or its managing agent to supply such information. Purchaser shall prepay any fees required by the Condominium or its managing agent for this service. In no event shall the failure to obtain such information affect Purchaser's obligations hereunder.

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

22. Entire Contract: All prior understandings and agreements between the Parties are merged in this 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.

23. 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 thereof.

24. No Assignment by Purchaser/Death of Purchaser: Purchaser may not assign this Contract or any of Purchaser's rights hereunder. This Contract shall terminate upon the death of all persons comprising Purchaser and the Contract Deposit shall be refunded to Purchaser's Attorney in escrow. Upon making such refund and reimbursement, neither Party shall have any further liability or claim against the other Party hereunder.

25. Successors and/or Assigns: Subject to the provisions of ¶23, the provisions of this Contract shall bind and inure to the benefit of the Parties and their respective distributees, executors, administrators, heirs, legal representatives, successors and permitted assigns.

26. No Oral Changes: This Contract cannot be changed or terminated orally. 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 changed.

27. Contract Not Binding Until Signed:

27.1 This Contract shall not be binding or effective until fully executed by both Parties and delivered by Seller to Purchaser or Purchaser's Attorney.

27.2 Digital, electronic or scanned copies of original handwritten signatures shall be considered valid.

27.3 This Agreement may be executed in counterparts, each of which shall be deemed to be an original, but all of which, taken together, shall constitute one and the same agreement.

27.4 Escrowee shall be deemed to have accepted the escrow provisions of this Contract even in the absence of its signature on the Contract by depositing the Contract Deposit in its designated bank account.

28. Lead-Based 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.

This Contract is continued on attached rider(s).

IN WITNESS WHEREOF, the parties hereto have duly executed this Contract on the day and year first above written.

SELLER:

PURCHASER:

Agreed as to Par. 13:

Escrowee

Escrow Depository:

Address:

SCHEDULE A-1 – Material Alterations to the Unit made by Seller:

SCHEDULE A-2 – Alteration agreement(s) with the managing agent or Board of Managers signed by Seller and affecting the Unit:

SCHEDULE A-3 – Alteration agreement(s) with the managing agent or Board of Manager signed by a prior owner of the Unit and affecting the Unit:

SCHEDULE A-4 – Written complaint(s) made by Seller or occupants of the Unit regarding the Unit, the Building or any other unit owners(s):

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.

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

The terms, burdens, covenants, restrictions, 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.

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.

Encroachments of stoops, 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.

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. 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.

The survey referred to in No. 6 above was prepared by
dated _____ and last revised _____ .

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.

The lien of any unpaid assessments to the extent of installments thereof payable after the Closing.

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.

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.

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

