

PURCHASE AGREEMENT WITH JOINT ESCROW INSTRUCTIONS

This Purchase Agreement with Joint Escrow Instructions (this "*Agreement*") is executed by and between the Buyer and Seller, who agree as follows:

LIMITATION OF SELLER'S LIABILITY AND BUYER'S WAIVER OF IMPORTANT RIGHTS:

BUYER UNDERSTANDS AND ACKNOWLEDGES THAT SELLER HAS OR MAY HAVE ACQUIRED THE PROPERTY THROUGH FORECLOSURE, DEED-IN-LIEU OF FORECLOSURE, OR SIMILAR PROCESS, SELLER HAS NEVER OCCUPIED THE PROPERTY, AND SELLER HAS LITTLE OR NO DIRECT KNOWLEDGE ABOUT THE CONDITION OF THE PROPERTY. BUYER FURTHER UNDERSTANDS AND ACKNOWLEDGES THAT THE SELLER MAY BE SELLING THE PROPERTY AS LAND ONLY, IN ITS PRESENT AND EXISTING PHYSICAL CONDITION AND MAKES NO REPRESENTATIONS OR WARRANTIES AS TO WHETHER THE PROPERTY CONTAINS ANY STRUCTURES OF ANY KIND. BUYER AGREES THAT BUYER IS BUYING THE PROPERTY "AS IS, WHERE IS, WITH ALL FAULTS AND LIMITATIONS" (AS MORE FULLY SET FORTH IN SECTION 9 OF THIS AGREEMENT).

NOTWITHSTANDING ANY PROVISION TO THE CONTRARY IN THIS AGREEMENT, SELLER'S LIABILITY AND BUYER'S SOLE AND EXCLUSIVE REMEDY IN ALL CIRCUMSTANCES AND FOR ALL CLAIMS (AS THE TERM IS DEFINED IN SECTION 9 OF THIS AGREEMENT, AND ALL REFERENCES IN THIS AGREEMENT TO "CLAIMS," "CLAIM," "Claims," or "Claim" SHALL HAVE SUCH MEANING) ARISING OUT OF OR RELATING IN ANY WAY TO THIS AGREEMENT OR THE SALE OF THE PROPERTY TO BUYER INCLUDING, BUT NOT LIMITED TO, SELLER'S BREACH OR TERMINATION OF THIS AGREEMENT, THE CONDITION OF THE PROPERTY, SELLER'S TITLE TO THE PROPERTY, THE OCCUPANCY STATUS OF THE PROPERTY, THE SIZE, SQUARE FOOTAGE, BOUNDARIES, OR LOCATION OF THE PROPERTY, ANY COST OR EXPENSE INCURRED BY BUYER IN SELLING A CURRENT OR PRIOR RESIDENCE OR TERMINATING A LEASE ON A CURRENT OR PRIOR RESIDENCE, OBTAINING OTHER LIVING ACCOMMODATIONS, MOVING, STORAGE OR RELOCATION EXPENSES, OR ANY OTHER COSTS OR EXPENSES INCURRED BY BUYER IN CONNECTION WITH THIS AGREEMENT SHALL BE LIMITED TO NO MORE THAN:

- (A) A RETURN OF BUYER'S EARNEST MONEY DEPOSIT IF THE SALE TO BUYER DOES NOT CLOSE AS FURTHER SET FORTH HEREIN; AND
- (B) THE LESSER OF BUYER'S ACTUAL DAMAGES OR \$5,000.00 IF THE SALE TO BUYER CLOSSES.

BUYER SHALL NOT BE ENTITLED TO A RETURN OF BUYER'S EARNEST MONEY DEPOSIT IF BUYER MATERIALLY BREACHES THIS AGREEMENT.

BUYER AGREES THAT SELLER SHALL NOT BE LIABLE TO BUYER UNDER ANY CIRCUMSTANCES FOR ANY SPECIAL, CONSEQUENTIAL, OR PUNITIVE DAMAGES WHATSOEVER, WHETHER IN CONTRACT, TORT (INCLUDING NEGLIGENCE AND STRICT LIABILITY), OR ANY OTHER LEGAL OR EQUITABLE PRINCIPLE, THEORY, OR CAUSE OF ACTION ARISING OUT OF OR RELATED IN ANY WAY TO ANY CLAIM, INCLUDING, BUT NOT LIMITED TO, THE AFOREMENTIONED CLAIMS.

ANY REFERENCE TO A RETURN OF THE BUYER'S EARNEST MONEY DEPOSIT CONTAINED IN THIS AGREEMENT SHALL MEAN A RETURN OF THE EARNEST MONEY DEPOSIT, LESS ANY ESCROW CANCELLATION FEES APPLICABLE TO THE BUYER UNDER THIS AGREEMENT AND LESS FEES AND COSTS PAYABLE FOR SERVICES AND PRODUCTS PROVIDED DURING ESCROW AT THE BUYER'S REQUEST. TO THE FULLEST EXTENT PERMITTED BY LAW THE BUYER WAIVES ANY CLAIMS THAT THE PROPERTY IS UNIQUE AND THE BUYER ACKNOWLEDGES THAT A RETURN OF ITS EARNEST MONEY DEPOSIT CAN ADEQUATELY AND FAIRLY COMPENSATE THE BUYER FOR ALL CLAIMS. UPON RETURN OF THE EARNEST MONEY DEPOSIT TO THE BUYER, THIS AGREEMENT SHALL BE TERMINATED, AND THE BUYER AND THE SELLER SHALL HAVE NO FURTHER LIABILITY, OBLIGATION, OR RESPONSIBILITY TO EACH OTHER IN CONNECTION WITH THIS AGREEMENT. IF THE SALE TO BUYER CLOSSES AND SELLER COMPENSATES BUYER AS PROVIDED ABOVE FOR BUYER'S ACTUAL DAMAGES, IF ANY, THEN

THE BUYER AND THE SELLER SHALL HAVE NO FURTHER LIABILITY, OBLIGATION, OR RESPONSIBILITY TO EACH OTHER IN CONNECTION WITH THIS AGREEMENT.

SELLER'S LIMITATION OF LIABILITY AND BUYER'S WAIVERS PROVIDED IN THIS AGREEMENT ARE A MATERIAL PART OF THE CONSIDERATION TO BE RECEIVED BY THE SELLER UNDER THIS AGREEMENT AS NEGOTIATED AND AGREED TO BY THE BUYER AND THE SELLER.

THE BUYER FURTHER WAIVES THE FOLLOWING, TO THE FULLEST EXTENT PERMITTED BY LAW:

- (A) ALL RIGHTS TO FILE AND MAINTAIN AN ACTION AGAINST THE SELLER FOR SPECIFIC PERFORMANCE;
- (B) RIGHT TO RECORD A LIS PENDENS AGAINST THE PROPERTY OR TO RECORD THIS AGREEMENT OR A MEMORANDUM THEREOF IN THE REAL PROPERTY RECORDS;
- (C) RIGHT TO INVOKE ANY EQUITABLE REMEDY THAT WOULD PREVENT THE SELLER FROM CONVEYING THE PROPERTY TO A THIRD PARTY BUYER;
- (D) ANY CLAIMS ARISING FROM THE ADJUSTMENTS OR PRORATIONS OR ERRORS IN CALCULATING THE ADJUSTMENTS OR PRORATIONS THAT ARE OR MAY BE DISCOVERED AFTER CLOSING UNLESS SUCH CLAIMS ARE MATERIAL AND BUYER NOTIFIES SELLER IN WRITING OF SUCH CLAIMS WITHIN THIRTY (30) DAYS OF THE CLOSING DATE;
- (E) ANY REMEDY OF ANY KIND THAT THE BUYER MIGHT OTHERWISE BE ENTITLED TO AT LAW OR EQUITY (INCLUDING, BUT NOT LIMITED TO, RESCISSION OF THIS AGREEMENT), EXCEPT AS EXPRESSLY PROVIDED IN THIS AGREEMENT;
- (F) ANY RIGHT TO A TRIAL BY JURY IN ANY LITIGATION ARISING FROM OR RELATED IN ANY WAY TO THIS AGREEMENT;
- (G) ANY RIGHT TO AVOID THE SALE OF THE PROPERTY OR REDUCE THE PRICE OR HOLD THE SELLER LIABLE FOR ANY CLAIMS ARISING OUT OF OR RELATED IN ANY WAY TO THE CONDITION, CONSTRUCTION, REPAIR, OR TREATMENT OF THE PROPERTY, OR ANY DEFECTS, APPARENT OR LATENT, THAT MAY NOW OR HEREAFTER EXIST WITH RESPECT TO THE PROPERTY, INCLUDING BUT NOT LIMITED TO ANY CLAIMS RELATING TO ANY ORDINANCES AND ANY REPAIR COSTS REQUIRED THEREUNDER;
- (H) ANY CLAIMS ARISING OUT OF OR RELATING IN ANY WAY TO ENCROACHMENTS, EASEMENTS, BOUNDARIES, SHORTAGES IN AREA OR ANY OTHER MATTER THAT WOULD BE DISCLOSED OR REVEALED BY A SURVEY OR INSPECTION OF THE PROPERTY OR SEARCH OF PUBLIC RECORDS;
- (I) ANY CLAIMS ARISING OUT OF OR RELATING IN ANY WAY TO THE SQUARE FOOTAGE, SIZE, OR LOCATION OF THE PROPERTY, OR ANY INFORMATION PROVIDED ON THE MULTIPLE LISTING SERVICE, OR BROCHURES OR WEB SITES OF SELLER OR SELLER'S AGENT OR BROKER OR ANY STATEMENTS, ACTIONS OR CONDUCT OF AUCTIONEER OR SELLER'S AGENT OR BROKER; AND
- (J) ANY CLAIMS ARISING OUT OF OR RELATING IN ANY WAY TO TENANTS OR OCCUPANTS OF THE PROPERTY OR ENVIRONMENTAL MATTERS (AS HEREINAFTER DEFINED).

THE ABOVE PROVISIONS SHALL SURVIVE THE CLOSING OF THE TRANSACTION CONTEMPLATED HEREBY, OR THE EARLIER TERMINATION OF THE AGREEMENT.

SELLER'S INITIALS _____

BUYER'S INITIALS _____

1. **KEY TERMS:**

A. **SELLER:**

B. **BUYER:**

BUYER PRINTED NAME

CO-BUYER PRINTED NAME, IF ANY

ADDRESS

CITY, STATE, ZIP

Home Phone No.:

Cell Phone No.:

Work Phone No.:

Fax Phone No.:

Email Address:

C. **PURCHASE PRICE:**

Total Purchase Price Calculation:

Winning Bid Amount: \$ _____

plus Buyer's Premium (greater of 5% or \$2,500): \$ _____

equals TOTAL PURCHASE PRICE: \$ _____

Earnest Money Deposit* from Buyer: \$ _____

*Earnest Money Deposit Components:

CHECK BOX if first property acquired at auction (*Earnest Money Deposit to be 5% of Total Purchase Price or \$2,500, whichever is greater. First \$2,500 of Earnest Money Deposit shall be in the form of a cashier's check or cash.)

CHECK BOX if NOT first property acquired at auction (*Earnest Money Deposit to be 15% of Total Purchase Price or \$5,000, whichever is greater. First \$5,000 of Earnest Money Deposit shall be in the form of a cashier's check or cash.)

D. **PROPERTY:**

Property Address: _____
_____, NY _____

Legal Description of Property: See Exhibit A, the title commitment or preliminary title report (if the legal description of the Property is not attached, is incomplete or is inaccurate, this Agreement shall not be invalid and the legal description shall be completed or corrected to meet the requirements of the title company issuing the owner's title policy prior to the closing of the transaction).

E. **CLOSING DATE:** _____ (Subject to **Section 6**)

F. **ESCROW/CLOSING AGENT:** _____

Telephone: _____

Facsimile: _____

G. **TITLE INSURANCE COMPANY:** _____

2. **PURCHASE AND SALE.** On and subject to the terms of this Agreement, Seller agrees to sell to Buyer and Buyer agrees to purchase from Seller the real property identified above in **Section 1** and a legal description of which is attached hereto as Exhibit A and incorporated by this reference (*the "Property"*) for the price identified above in **Section 1** as the Total Purchase Price (*the "Purchase Price"*). The Property includes the permanent improvements thereon, including those items which New York law provides is part of the Property, at the Closing Date. Seller makes no representation or warranty as to the existence or condition of such items. Seller makes no representation or warranty as to the existence, condition, ownership or right of possession of any personal property located on the Property.

3. **PAYMENT OF PURCHASE PRICE.** Buyer shall pay Seller the Total Purchase Price as follows:

A. Buyer will deposit with Escrow/Closing Agent identified in **Section 1** above (*the "Escrow/Closing Agent"*) (or cause to be deposited with Escrow/Closing Agent) the Earnest Money Deposit described above in **Section 1** (*the "Earnest Money Deposit"*) on the date Buyer signs this Agreement. The Earnest Money Deposit is to be comprised of (1) a cashier's check or cash in the amount of Two Thousand Five Hundred Dollars (\$2,500) (or Five Thousand Dollars (\$5,000) as may be required by Seller) plus (2) a cashier's check, cash or personal check equal to the difference between the total Earnest Money Deposit minus the value of the cashier's check or cash in **Section 3A(1)**.

B. Prior to the Closing Date as determined under **Section 6** below, Buyer shall deposit with the Escrow/Closing Agent in immediately available funds an amount equal to the balance of the Total Purchase Price, plus Buyer's share of closing costs and pro rations, plus Buyer's expenses provided herein.

4. **FINANCING.**

- A. Buyer understands and acknowledges that the purchase of the Property and this Agreement **IS NOT** contingent on the Buyer obtaining financing for the purchase of the Property. Notwithstanding that there is no financing contingency, the Seller may require Buyer to obtain pre-qualification at or prior to entering into this Agreement. If required, Buyer agrees to pre-qualify with Seller's lender at the auction of the Property and cooperate with such lender in the processing of this transaction.

BUYER'S INITIALS _____

- B. Buyer understands and acknowledges that Seller shall make no concessions or discount fees or costs for any financing programs such as VA, FHA, Bond assisted, City Assisted, or other loan programs, nor will escrow be extended for such purpose.
- C. Buyer hereby authorizes Seller and/or its agent to check and such lender to report to Seller or Seller's agent regarding Buyer's current credit and loan status. If Buyer is obtaining financing, Buyer acknowledges that Buyer is doing so at Buyer's sole cost and expense. Buyer understands and agrees that the obtaining of any financing is and shall remain Buyer's (and not Seller's) obligation. Buyer hereby authorizes any such lender to release copies of any written loan approval and commitment to Escrow/Closing Agent and/or Seller.
- D. Neither auctioneer nor Seller's broker is providing financial or lending services in this transaction. Neither auctioneer nor Seller is affiliated with any lender unless otherwise disclosed.

5. **OPENING OF ESCROW.** In consideration of Seller paying for and providing the Owner's Policy of Title Insurance as set forth in **Sections 6** and **11**, Seller and Buyer shall open an escrow account related to this Agreement for the sale of the Property with the Escrow/Closing Agent designated in **Section 1** above (this "**Escrow**") immediately upon execution of this Agreement by the Buyer by depositing a copy of this Agreement with the Escrow/Closing Agent. This Agreement shall constitute joint escrow instructions to the Escrow/Closing Agent who shall handle and close this transaction as set forth herein. Escrow shall be "open" upon the occurrence of the following: (A) Escrow/Closing Agent has received this Agreement executed by Buyer; and (B) Escrow/Closing Agent has received the Earnest Money Deposit from Buyer.

BUYER'S INITIALS _____

6. **CLOSE OF TITLE.**

- A. **CLOSING DATE.** Escrow/Closing Agent shall close the transaction contemplated by this Agreement (the "**Close of Title**") on the earlier of the date set forth in **Section 1** above or the date that is forty-five (45) days after the date this Agreement is executed by Buyer. If such date falls on a weekend or a state or federally recognized holiday, such Closing Date shall be the next business day. Escrow/Closing Agent is instructed to close Title on such date, subject to **Section 6B**, below.
- B. Escrow/Closing Agent is instructed to close Title on such dates set forth in **Section 1** and **Section 6A** above, subject to each of the following:
- (1) If Seller is unable to close Title on or before the original Closing Date, then such Closing Date shall be automatically extended for thirty (30) days; provided, however, that Seller, Seller's agent, or the Escrow/Closing Agent may give Buyer written notice during such thirty (30) day period that it is ready to close and such closing shall occur within five (5) days following such written notice. If Seller is unable to close Title on or before the first extended Closing Date, then such Closing Date shall be automatically extended for another thirty (30) days; provided, however, that Seller, Seller's agent, or the Closing Agent may give Buyer written notice during such thirty (30) day period that Seller is ready to close and such closing shall occur within five (5) days following such written notice. No further extensions by Seller may be given unless agreed to in writing by Buyer.

- (2) If Seller is unable to deliver insurable title to Buyer as required in this Agreement at or prior to the Close of Title, as may be extended herein, in which case such inability shall be deemed no fault of Seller, and Seller may cancel this Agreement and the provisions of **Section 6G(2)** below and **Section 10** shall apply.
 - (3) If this transaction has been cancelled or terminated as permitted elsewhere in this Agreement, then Escrow/Closing Agent will not close Title.
 - (4) If Buyer requests an extension of the Closing Date in writing at least five (5) calendar days prior to the scheduled Closing Date, and Seller, in its sole and absolute discretion (after consultation with Seller's broker) grants, in writing, an extension, Buyer agrees to pay to the Seller a non-refundable per diem of **\$150.00** (the "**Extension Fee**") through and including the Closing Date as specified in the written extension. Such extension shall specify the Closing Date. Any extension failing to specify the Closing Date shall be void. This fee will NOT be credited towards the Purchase Price. In the event the transaction fails to close, such accrued Extension Fee shall immediately be due and owing to Seller (See **Section 12**).
 - (5) If the Closing Date is extended pursuant to an Addendum to this Agreement or mutual escrow instructions executed by both Seller and Buyer, then Escrow/Closing Agent shall close Title on the Closing Date as so extended.
- C. **CONDITIONS PRECEDENT.** The Closing Date is further subject to each of the following conditions precedent (the failure of any of which shall not, in and of itself, relieve any party of its obligations set forth elsewhere in this Agreement): (1) Seller shall have delivered the Seller's Deliveries set forth in **Section 6F** below, (2) Buyer shall have delivered the Buyer's Deliveries set forth in **Section 6F** below, (3) Seller shall not have given written notice to Escrow/Closing Agent that Buyer is in default of this Agreement, and (4) the Title Insurance Company identified in **Section 1** above (the "**Title Company**") shall have irrevocably committed to issue to Buyer an owner's policy of title insurance covering the Property showing liability in the amount of the Purchase Price and showing insurable title to the Property vested as stated in **Section 1** above, subject to any and/or all of the following (the failure of which shall not be deemed a default of Seller):
- (1) Title Company's standard exceptions.
 - (2) The following encumbrances and other matters:
 - (i) Liens for all current general and special real property taxes and assessments not yet due and payable;
 - (ii) Covenants, conditions, restrictions, reservations, rights, rights of way, and easements of record, if any;
 - (iii) New First Mortgage deed (if any) to be recorded in the amount set forth above in **Section 1**;
 - (iv) The standard exceptions in the printed form of the ALTA Standard Coverage Owner's Title Insurance Policy or Lender's Title Insurance Policy and any other exceptions or other matters contained or disclosed in the preliminary title report with respect to the Property (the "**Title Report**");
 - (v) Any state of facts an accurate survey and/or a personal inspection of the Property may disclose;
 - (vi) Any laws, regulations, ordinances (including, but not limited to zoning, building and environmental) as to the use, occupancy, subdivision or improvement of the Property adopted or imposed by any governmental body, or the effect of any noncompliance with or any violation thereof, including but not limited to any disclosure and/or report required by ordinance;
 - (vii) Rights of existing tenants and/or occupants of the Property, if any; and,
 - (viii) Any other matter for which the Title Company agrees to provide insurance at no additional cost to the Buyer.
- D. **CLOSING INSTRUCTIONS TO ESCROW/CLOSING AGENT.** At the Closing Date, Escrow/Closing Agent is hereby irrevocably instructed to complete the following:

- (1) Record the Deed conveying title to the Property to Buyer. The term “*Deed*” shall mean a Special Warranty, Limited Warranty, Quitclaim or Bargain and Sale Deed without covenants or other form of deed acceptable to Seller in Seller’s sole and absolute discretion, in any case with the covenant required by subdivision 5 of Article 13 of the Lien Law. The Deed to be delivered at Closing shall be a deed that grants only whatever title that grantor may have and that grantor will only defend title against persons claiming by, through, or under the grantor, but not otherwise;
 - (2) Pay all fees, costs, deed and transfer taxes for the sale of the Property which are required to be paid by Seller under this Agreement, the portion of any fees charged by the Escrow/Closing Agent which are payable by Seller (if any) and other expenses relating to the sale of the Property which are required to be paid by Seller under this Agreement;
 - (3) Pay all fees, costs and transfer taxes for the sale of the Property which are required to be paid by Buyer under this Agreement, the portion of any fees charged by the Escrow/Closing Agent which are payable by Buyer (if any) and other expenses relating to the sale of the Property which are required to be paid by Buyer under this Agreement;
 - (4) Pay all property management and broker related fees and commissions to be paid by Seller including fees and commissions to the Seller’s broker and to the Buyer’s broker identified on the signature page of this Agreement as well as any such fees and commissions contemplated under any separate written agreement executed by Seller; and
 - (5) Pay to Seller the balance of the Purchase Price and any other funds remaining after the Closing Date.
- E. **PREVIOUS ESCROW/TRANSACTION.** If there was an escrow previously opened at any escrow company, title company or with any closing agent and/or a separate contract exists by and between Seller and any third party, covering the sale of the Property (“*Previous Transaction*”), the Closing Date under this Agreement is subject to and contingent upon Seller’s ability to successfully cancel the Previous Transaction, if any, prior to or concurrently with the Closing Date. This condition precedent shall be deemed satisfied when Escrow/Closing Agent is in possession of a copy of signed cancellation instructions from Seller and the buyer in the Previous Transaction. Failure to cancel such Previous Transaction shall not be deemed a default of Seller hereunder and the provisions of ***Section 6G(2)*** and ***Section 10*** shall apply.
- F. **DELIVERIES TO ESCROW/CLOSING AGENT.**
- (1) **BY SELLER.** Prior to the Closing Date, Seller shall deposit with the Escrow/Closing Agent (the “*Seller’s Deliveries*”): (i) a Deed transferring Seller’s interest in the Property to Buyer executed by Seller and acknowledged pursuant to law, (ii) a Non-Foreign Transferor Declaration executed by Seller or evidence reasonably acceptable to Escrow/Closing Agent that Seller is exempt from the withholding requirements of the Foreign Investment in Real Property Tax Act (FIRPTA), Internal Revenue Code Section 1445, (iii) a NYS Form TP-584 and a NYS Form RP-5217, as appropriate (and, if the Property is located in New York City, a New York City Real Property Transfer Tax Return), and (iv) affidavits in compliance with state or local law (if applicable) to the effect that there is or are installed in the Property a smoke detector device or devices.
 - (2) **BY BUYER.** Prior to Close of Title, Buyer shall deposit with the Escrow/Closing Agent (the “*Buyer’s Deliveries*”): (i) immediately available good funds, as defined in ***Section 6F(3)***, below, in an amount equal to the Purchase Price less the Earnest Money Deposit previously deposited into Escrow, plus Buyer’s share of closing costs and pro rations provided herein, plus Buyer’s expenses set forth in ***Section 11*** below, (ii) including a NYS Form TP-584 and a NYS Form RP-5217, as appropriate (and, if the Property is located in New York City, a New York City Real Property Transfer Tax Return), (iii) any and all other instruments required by Lender, Escrow/Closing Agent or otherwise to consummate Buyer’s acquisition of the Property, and (iv) any affidavit as to smoke detector devices required under clause (1)(iv) above.

(3) **FINAL FUNDS TO CLOSE TITLE.** All parties acknowledge that good funds are required to close Title. "Good funds" are defined by applicable law as cash or electronic transfer (wired funds) such that Escrow/Closing Agent can disburse the funds on the same business day as the business day of the deposit. In the case of deposit with the Escrow/Closing Agent in the form of funds other than cash or electronic transfer (wired funds), such as cashier's or certified checks, out of state checks and all drafts are subject to waiting periods that can delay Close of Title and do not constitute good funds until the money is actually transferred to the Escrow/Closing Agent's account.

G. CANCELLATION OF ESCROW.

(1) **DEFAULT.** If, due to a failure of a party to perform any of its obligations hereunder, the Close of Title does not occur by no later than the date provided above subject to **Section 6** for Closing Date, then the non-defaulting party may cancel the Escrow and this Agreement by written notice to the defaulting party and the Escrow/Closing Agent and the defaulting party shall pay all cancellation fees of the Escrow/Closing Agent and the Title Company. The parties shall be further subject to the provisions of **Section 12** below.

(2) **NO DEFAULT.** If any of the conditions precedent to the Closing Date are not satisfied or not waived by the date for Closing Date, and both parties have performed all of their respective obligations hereunder, then either party may cancel the Escrow and this Agreement by written notice to the other party and the Escrow/Closing Agent. In such event, Escrow/Closing Agent shall return to Buyer (as Buyer's sole and exclusive remedy) the Earnest Money Deposit less an amount equal to Buyer's expenses set forth in **Section 11** below, and Seller and Buyer shall each bear one-half (1/2) of the cancellation fees (including search charges) of the Escrow/Closing Agent and the Title Company. If the Earnest Money Deposit is held in an interest-bearing account (at Seller's option), then interest shall be paid to the party entitled to the Earnest Money Deposit. Upon return of the Earnest Money Deposit as provided in this Section, this Agreement shall be terminated, and Buyer and Seller shall be released from any further obligation, each to the other, in connection with this Agreement. Buyer grants Seller the unilateral right to execute cancellation instructions in the event that Seller elects to cancel Escrow.

H. **ADDITIONAL ESCROW INSTRUCTIONS.** Seller and Buyer have read and agreed to all of the additional escrow instructions, if any, which are attached hereto as Exhibit C and incorporated in this Agreement. In the event of a conflict between any additional escrow instructions set forth in Exhibit C or as a separate document and this Agreement, including all other Exhibits and Addenda hereto, the terms of this Agreement and its other Exhibits and Addenda shall control.

7. BUYER'S INSPECTION.

A. **REPRESENTATIONS/WARRANTIES.** Buyer represents and warrants to Seller that: (1) prior to the execution of this Agreement Buyer has had adequate time and access to the Property to conduct a complete and thorough inspection of the Property, examine all title matters and other matters concerning the Property and all agreements relating to the Property, including but not limited to the disclosures and reports required by any law, rule or ordinance, (2) prior to the execution of this Agreement, Buyer has conducted and completed such inspections, or has freely and voluntarily waived the right to conduct any such inspections, (3) Buyer is purchasing the Property based solely upon Buyer's own inspection and investigation of the Property, (4) prior to the execution of this Agreement, Buyer has satisfied himself/herself/itself in all respects as to the Property and the condition thereof, including, without limitation, the value of the Property, its location, its insurability, its physical condition, its environmental condition, the structural or environmental integrity of any and all improvements on the Property, all title matters concerning the Property, all applicable common interest community and unit owner's or homeowner's association documents, rules and regulations, and all other matters with respect to the Property, and (5) Buyer is aware of all laws, rules, ordinances and requirements affecting the use, condition and ownership of the Property, including, without limitation, all applicable zoning and land use regulations and local ordinances. Seller and its agents make no representation or warranty, and Buyer has investigated to Buyer's satisfaction, regarding whether the location of the Property is in an earthquake fault zone, seismic hazard zone, flood hazard

zone, state responsibility area (fire hazard area), very high fire hazard severity zone, or area of potential flooding, or whether the Property is subject to any flood disaster or other insurance requirements or whether the Property contains wetlands or other environmental constraints.

Buyer further understands and acknowledges that the Seller may be selling the Property as LAND ONLY, in its present and existing physical condition. Buyer acknowledges and agrees that prior to entering into the Purchase Agreement, Buyer had the opportunity to conduct his/her/its own due diligence, such due diligence and investigation having included investigations of the entire Property in order to determine its present condition and value since Seller may not be aware of all the defects affecting the Property or other factors that Buyer considered important. Neither Seller nor Seller's broker makes any representations or warranties regarding suitability to build or inhabit, the value of the Property, lot size, property lines, legal or physical access and boundaries including features of the Property shared in common with adjoining landowners, such as walls, fences, roads and driveways, whose use or responsibility for maintenance may have an effect on the Property and any encroachments, easements or similar matters that may affect the Property. Fences, hedges, walls and other natural or constructed barriers or markers do not necessarily identify true Property boundaries.

- B. **BUYER INDEMNITY AND SELLER PROTECTION FOR ENTRY UPON PROPERTY.** In connection with any due diligence, inspection, visit and/or investigation of the Property ("*Buyer's Inspection*") by Buyer or any person/entity on Buyer's behalf, Buyer shall (1) keep the Property free and clear of liens, (2) repair all damage arising from Buyer's Inspection, and (3) indemnify, defend and hold Seller and its agents harmless from all liability, claims, demands, damages and/or costs directly or indirectly arising therefrom. Buyer shall carry, or require anyone acting on Buyer's behalf to carry, policies of liability, workers' compensation and other applicable insurance, defending and protecting Seller from liability for any injuries to persons or property occurring during any Buyer Inspection prior to the Closing Date. Notwithstanding any other provisions of this Agreement, the obligations and agreements of Buyer under this *Section 7B* shall survive the Close of Title or the earlier termination of this Agreement.

8. **DISCLOSURES.**

- A. Buyer acknowledges that the purchase of the Property may have resulted from a transfer made by a mortgagee, or a beneficiary under a mortgage, or an affiliate or agent thereof, who has acquired the residential real property at a sale under a mortgage or who has acquired the residential real property by a deed in lieu of foreclosure, as described in Section 463(6) of Article 14 of the New York Real Property Law. Therefore, Seller is exempt from requirements regarding the making of certain disclosures, including without limitation disclosures under Sections 460 et seq. of the New York Real Property Law (the Property Condition Disclosure Act). As a result, any rights Buyer may have had in connection with such law under New York law shall not be available including without limitation any right to damages. Further, regardless of how Seller obtained title, Seller is not familiar with the condition of the Property, other than as may be disclosed in any inspection reports obtained by or on behalf of Seller, Seller's representatives or agents or that Seller may have received otherwise. Any such reports furnished by Seller or its agents in connection herewith shall be for informational purposes only, are not made part of this Agreement, and Seller makes no representations or warranties about their accuracy or completeness. Buyer acknowledges that in consideration of Seller's execution of this Agreement, Buyer, on behalf of itself and all other parties having any Claims, covenants that neither Buyer nor any such other party will sue, commence, prosecute or in any way participate in any judicial, administrative, or other regulatory proceedings for breach of contract based on any disclosures relating to any alleged breach or violation of any state law, rule or regulation by Seller, or any other party engaged on Seller's behalf, including, without limitation any real estate broker or agent representing Seller.
- B. **OTHER DISCLOSURES.**
- (1) **ASSESSMENTS.** If the Property is subject to a special assessment lien imposed by a public body payable in installments which continue beyond Closing, the Buyer shall be responsible for and pay any and all amounts which become due after Closing.

- (2) **RADON.** Radon is a naturally occurring radioactive gas that when accumulated in a building in sufficient quantities may present health risks to persons who are exposed to it over time. Levels of radon that exceed federal and state guidelines may have been found in buildings in New York. Additional information regarding radon or radon testing may be obtained from applicable governmental agencies. Additional information regarding radon and radon testing may be obtained from your county or state health unit. Buyer represents and warrants that he/she/it has not relied on the accuracy or completeness of any representations that have been made by the Seller and/or Seller's broker or auctioneer as to the presence of radon and that the Buyer has not relied on the Seller's or Seller's broker's failure to provide information regarding the presence or effects of any radon found on the Property. Real estate brokers and agents are not generally qualified to advise buyers on radon treatment or its health and safety risks.
- (3) **MOLD.** Mold is naturally occurring and may cause health risks or damage to property. If Buyer is concerned or desires additional information regarding mold, Buyer should contact an appropriate professional. Real property (including, but not limited to, the basement) is or may be affected by water or moisture damage, toxic mold, and/or other environmental hazards or conditions. Seller further advises Buyer that as a consequence of possible water damage and/or excessive moisture, the Property may be or has been irrevocably contaminated with mildew, mold, and/or other microscopic organisms. Buyer is being advised that exposure to certain species of mold may pose serious health risks, and those individuals with immune system deficiencies, infants and children, the elderly, individuals with allergies or respiratory problems, and pets are particularly susceptible to experiencing adverse health effects from mold exposure. Buyer acknowledges that Seller has advised Buyer to make his/her own evaluation of the Property and to have the Property thoroughly inspected. Buyer has been further advised by Seller that all areas contaminated with mold, and/or other environmental hazards or conditions, should be properly and thoroughly remediated. Additionally, Buyer has been advised by Seller that habitation of the Property without complete remediation may subject the inhabitants to potentially serious health risks and/or bodily injury. Buyer acknowledges that it is the sole responsibility of Buyer to conduct any remediation on the Property. Buyer also acknowledges that Buyer is buying the Property AS IS, WHERE IS, WITH ALL FAULTS AND LIMITATIONS. Buyer represents and warrants to Seller that Buyer has made his own inspection and evaluation of the Property to Buyer's complete satisfaction and Buyer accepts the Property AS IS, WHERE IS, WITH ALL FAULTS AND LIMITATIONS at the time of Closing. Buyer is electing to purchase the Property from Seller in an AS IS, WHERE IS, WITH ALL FAULTS AND LIMITATIONS condition with full knowledge of the potential condition of the Property, the potentially serious health risks, and the potential liability that Buyer could incur as the owner of the Property for claims, losses, and damages arising out of any toxic mold contamination, and/or other environmental hazards or conditions on the Property. Buyer agrees that the purchase price of the Property reflects the agreed upon value of the Property AS IS, WHERE IS, WITH ALL FAULTS AND LIMITATIONS taking into account the aforementioned disclosures.
- (4) **LEAD-BASED PAINT DISCLOSURE.** If the Property was built prior to 1978, the Seller shall (i) notify the Buyer of any known lead-based paint ("**LBP**") or LBP hazards in the Property; (ii) provide the Buyer with any LBP risk assessments or inspections of the Property in the Seller's possession; (iii) provide the Buyer with the Disclosure of Information on LBP and Lead-Based Paint Hazards, and any report, records, pamphlets, and/or other materials references therein, including the pamphlet "Protect Your Family From Lead In Your Home" (collectively "**LBP Information**"). Buyer shall return a signed copy of the Disclosure of Information on LBP and Lead-Based Paint Hazards to Seller prior to Closing of Title.

LBP Information was provided prior to Agreement Acceptance and Buyer acknowledges the opportunity to conduct LBP risk assessments or inspections during the Inspections. Buyer hereby waives the opportunity to conduct a risk assessment or inspection for the presence of lead-based paint or lead-based paint hazards.

BUYER'S INITIALS _____

- (5) **PROPERTY TAX DISCLOSURE SUMMARY.** Buyer should not rely on the Seller's current property taxes as the amount of property taxes that the Buyer may be obligated to pay in the year subsequent to purchase. A change of ownership, use or property improvements may trigger reassessments of the Property that could result in higher property taxes. If Buyer has any questions concerning valuation, Buyer is advised to contact the county property appraiser's office for information.
- (6) **PERMITS AND REPAIRS.** If the Property is located in a jurisdiction that requires a certificate of occupancy, smoke detector certification, septic certification or any similar certification or permit or any form of improvement or repair to the Property (collectively, "**Permits and Repairs**"), Buyer acknowledges and agrees that Buyer shall be responsible for obtaining any and all of the Permits and Repairs at Buyer's sole cost and expense, including but not limited to any certificate of use or other certification required by the ordinance. Buyer shall make application for all Permits and Repairs within ten (10) days of the Seller's Acceptance Date, such date to be the date of execution of this Agreement and any Exhibits and Addenda hereto. Seller makes no representations or warranties regarding compliance or conformity with any building codes, laws, rules or regulations.
- (7) **CONDOMINIUM/PUD/HOMEOWNERS ASSOCIATION.** If the Property is in a common interest community or planned community, unless otherwise required by law, Buyer acknowledges that Buyer, at Buyer's own expense, was and is responsible for (a) obtaining and (b) reviewing the declaration of covenants, conditions, restrictions and/or bylaws and other documentation regarding such common interest community or planned community and Buyer acknowledges that, prior to Buyer's execution of this Agreement, Buyer has reviewed such documentation to the fullest extent Buyer deems necessary and, upon execution of this Agreement, Buyer is deemed to have accepted the declaration of covenants, conditions, restrictions and/or bylaws of the common interest community or planned community.
- (8) **BUILDING AND ZONING CODES.** Buyer should consult the local jurisdiction for information on building and zoning codes or information about transportation beltways and/or planned or anticipated land use within proximity of the Property. Seller makes no representations or warranties regarding compliance or conformity with any building codes, laws, rules or regulations.
- (9) **SQUARE FOOTAGE.** Buyer acknowledges that the square footage of the Property has not been measured by Seller, Seller's broker or its auctioneer (including the square footage of the lot and home) and the square footage quoted on any marketing tools such as advertisements, brochures, MLS data, the auction website and any other information provided is based on information supplied to Seller and is deemed approximate and not guaranteed. Buyer further acknowledges that Buyer has not relied upon any such marketing tool and that such tools are not representations and/or warranties of Seller or its agent. Buyer is buying the Property "As Is, Where Is, With All Faults and Limitations" and acknowledges Buyer's responsibility to perform all due diligence and investigation regarding Buyer's acquisition of the Property, including the measurement of or confirmation of square footage of the Property
- C. **RECEIPT OF DISCLOSURES.** Buyer acknowledges and agrees that Buyer has received and/or had adequate opportunity to read and understand all disclosures and documents regarding the Property made available by Seller, Seller's broker or its auctioneer in print or electronic form (the "**Disclosures**"), prior to entering into this Agreement including without limitation:
- (1) The pamphlet "Protect Your Family From Lead in Your Home";
 - (2) The documents and information made available on the internet at www.auction.com;
 - (3) The written disclosures made available at the Property and at the location where the sale of the Property is conducted;

- (4) Any real estate brokerage relationship disclosures, such disclosures made available and provided to Buyer during the registration process, prior to bidding at auction and prior to entering into any Agreement for the purchase and sale of the Property; and,
- (5) The disclosures listed herein and on Exhibits attached to this Agreement, which Exhibits are incorporated into this Agreement by reference herein.

Buyer understands and acknowledges that any information provided by or on behalf of Seller with respect to the Property, including without limitation, all information in the Disclosures and the Brochure as defined in **Section 8** below was obtained from a variety of sources and that Seller and Seller's broker(s) and auctioneer have not made any independent investigation or verification of such information and make no representations as to the accuracy or completeness of such information. **Buyer shall not have the right to cancel this Agreement by reason of any information, facts, condition or other aspect of the Property discovered by Buyer subsequent to Buyer's execution of this Agreement.** Buyer further waives the right under 42 U.S.C. § 4852d and any other applicable law to conduct a risk assessment or inspection for the presence of lead-based paint hazards.

- D. **BROCHURE.** Buyer represents and warrants that Buyer has received, read and accepts the terms and conditions pertaining to the sale of the Property which are made available in an auction brochure, if any (the "**Brochure**"), advertising, or on the auction website, www.auction.com, which terms and conditions are incorporated herein by reference. In the event of any conflict or inconsistency between the terms and conditions of this Agreement and the terms and conditions of the auction, the terms and conditions of this Agreement shall control and prevail in all respects. Buyer acknowledges that neither Seller nor auctioneer makes any representation or warranty whatsoever in connection with any terms, conditions, warranties and/or representations contained in the Brochure, any advertising or on the auction website.
- E. **NO REPAIRS.** Buyer acknowledges and agrees that Seller is selling the Property "As Is, Where Is, With All Faults and Limitations" and Seller shall have no liability for or any obligation to make any repairs or improvements of any kind to the Property including but not limited to the inability of Buyer to obtain a certificate of occupancy, certificate of use or municipal code compliance certificate, if required, for the Property. Seller shall comply with laws and ordinances regarding the presence of smoke detector(s), carbon monoxide detectors and/or fire extinguishers required at the Property, if any. Any and all additional smoke detector(s), carbon monoxide detectors and/or fire extinguishers required by local ordinance shall be installed by Buyer at Buyer's cost and expense prior to the Closing Date. In some municipalities, a certificate of occupancy, certificate of use or municipal code compliance certificate may be required in order to transfer and/or occupy the Property. If a certificate of occupancy, certificate of use or municipal code compliance certificate is required to be obtained in order for the Property to be transferred to or occupied by Buyer, Buyer shall obtain such certificate of occupancy, certificate of use or municipal code compliance certificate at Buyer's sole cost and expense. If any violations at the Property shall be required to be corrected by the municipality or other work performed at the Property to obtain a certificate of occupancy, certificate of use or municipal code compliance certificate, Buyer shall correct and/or perform same at Buyer's sole cost and expense. Seller makes no representation as to whether a certificate of occupancy, certificate of use or municipal code compliance certificate is required or whether the Property may be occupied by Buyer. Buyer shall indemnify, defend and hold Seller harmless from and against all fines, penalties, costs, expenses, claims and liabilities arising out of or relating to Buyer's obtaining or its failure to obtain a certificate of occupancy, certificate of use or municipal code compliance certificate if one is required. This indemnification shall survive the Closing Date and shall not be deemed to have merged into any of the documents executed or delivered at Closing. Seller makes no representations or warranties regarding compliance or conformity with any building codes, laws, rules or regulations.
- F. **PRELIMINARY TITLE REPORT and CC&Rs.** Buyer represents and warrants that Buyer has read, received and approved copies of (1) a preliminary title report or commitment for the Property, (2) the recorded master deed, covenants, conditions, restrictions, reservations, rights, rights of way and easements of record, if any, affecting the Property, and (3) any and all other matters disclosed in the preliminary title report or commitment. If a survey is required to close, Buyer shall bear the cost, expense and sole responsibility of obtaining a survey acceptable to the Title Company and any lender.

- G. **EXECUTION OF DISCLOSURES BY BUYER.** Buyer shall execute, deliver and deposit with the Escrow/Closing Agent, at or prior to Closing Date all federal, state and local disclosures concerning the Property that Buyer is required to execute under applicable laws and regulations or required by the Escrow/Closing Agent.
- H. **OCCUPIED PROPERTY.** Seller makes no representations or warranties as to whether the Property is occupied as of the Closing Date.
- (1) If the Property is occupied, Seller will endeavor (but shall not be obligated) to evict or remove the occupants prior to the Closing Date. Buyer expressly waives any right to cancel this Agreement based on the status of occupancy of the Property.
 - (2) **Buyer acknowledges that Buyer may be subject to the Protecting Tenant's at Foreclosure Act of 2009, set forth as Division A, Title VII of the Helping Families Save Their Homes Act of 2009 [Pub.L. 111-22, 123 Stat. 1632, S. 896, enacted May 20, 2009] (the "Act") or state law, as applicable.**
 - (3) The Property may be subject to leasehold interests of various tenants. Seller has included in the Disclosures true copies of all leases and amendments, if any, in Seller's possession. Seller makes no warranties or representations as to whether or not other leases of the Property are or will be in force; whether or not anyone else has a right of possession; whether or not any rent concessions were given to any tenant; whether or not any other agreements were made with the tenants; whether the Property is subject to any rent control, rent stabilization or other similar ordinance, statute or law and, if so, whether the Property is properly registered under such ordinance, statute or law; whether or not any rent charged violates (or in the past has violated) any applicable rent control, or rent stabilization or other similar ordinance, statute, or law; whether or not any other violations of any applicable ordinance, statute or law exist; and whether or not Seller or any tenant is in default under any lease. Because the Property was acquired by Seller through foreclosure, trustee's sale pursuant to a power of sale under a deed of trust, power of sale under a mortgage, sheriff's sale or deed in lieu of foreclosure, Seller has no security deposits or last month's rent to surrender to Buyer. Buyer shall be solely responsible for notifying tenants of the transfer of ownership of the Property, and for the registration of the Property or notice of transfer of the Property (including notice of Buyer's ownership or that no registration is necessary) required under any multiple dwelling law or any such rent control, rent stabilization or other similar ordinance, statute or law, and shall be liable to any and all tenants for repayment of any rent charged in the past (plus interest and penalties in excess of the highest lawful rate, and any outstanding security deposit, plus interest accrued thereon, less lawful deductions or any prior rent overcharges pursuant to applicable law. This provision shall survive the Closing of Title and shall not be deemed to have merged into any of the documents executed or delivered at Closing. Buyer shall defend, indemnify and hold harmless Seller, its affiliates, parent companies, officers, directors, shareholders, auctioneer, broker, agents, attorneys and representatives from and against any claims, demands, actions or expenses, including reasonable attorney's fees, arising out of any and all actions concerning security deposits, and for any eviction or unlawful detainer or other litigation arising out of the tenancy, occupancy or lease of the Property after the Closing Date, including but not limited to, any violation of any state or federal law, rule or regulation regarding tenant's occupancy of the Property..
 - (4) Buyer shall be responsible for installing new locks on the Property immediately after the Closing, and Buyer shall hold Seller and Seller's representatives and agents harmless from and indemnify Seller and Seller's representatives and agents against any and all damages, claims, liens, liabilities, costs, injuries, attorney's fees and expenses of every kind and nature that may be made against Seller as a result of Buyer's failure to install new locks on the Property.
- I. **POSSESSION.** The Seller shall deliver possession of the Property to the Buyer at Close of Title and funding of the sale. Buyer shall have no further right to access or inspect the Property prior to Close of Title. The delivery of possession shall be subject to the rights of any tenants or parties in possession per **Section 8H**. If the Buyer alters the Property or causes the Property to be altered in any way and/or

occupies the Property or allows any other person to occupy the Property prior to Close of Title and funding without the prior written consent of the Seller, then: (A) Such event shall constitute a material breach by the Buyer under this Agreement; (B) The Seller may terminate the Agreement; (C) The Buyer shall be liable to the Seller for all Claims caused by any such alteration or occupation of the Property prior to Close of Title and funding; and (D) Buyer waives all Claims for improvements made by the Buyer to the Property including, but not limited to, any Claims for unjust enrichment.

- (1) **KEYS AND REMOTES.** At Close of Title, Seller shall provide Buyer with a key to the front door of the Property to the extent in Seller's possession. Any and all keys, including garage door keys, pool keys, security keys, and mail box keys, may not be provided by Seller and, if not provided, Buyer must obtain same at Buyer's own expense. All remote control devices must also be obtained by Buyer at Buyer's own expense.

9. **"AS IS, WHERE IS, WITH ALL FAULTS AND LIMITATIONS" SALE.** BUYER IS ACQUIRING THE PROPERTY "AS IS, WHERE IS, WITH ALL FAULTS AND LIMITATIONS", IN ITS PRESENT STATE AND CONDITION, WITH ALL DEFECTS, BOTH PATENT AND LATENT, AND WITH ALL FAULTS OF THE PROPERTY WHETHER KNOWN OR UNKNOWN, PRESENTLY EXISTING OR THAT MAY HEREAFTER ARISE INCLUDING, WITHOUT LIMITATION, ALL EXISTING CONDITIONS, IF ANY, OF LEAD PAINT, MOLD OR OTHER ENVIRONMENTAL OR HEALTH HAZARDS ("ENVIRONMENTAL MATTERS"). SELLER MAKES NO REPRESENTATIONS OR WARRANTIES OF ANY KIND WHATSOEVER, EITHER EXPRESS OR IMPLIED, ORAL OR WRITTEN, WITH RESPECT TO THE PROPERTY, INCLUDING WITHOUT LIMITATION: (A) THE VALUE, ANY APPRAISED VALUE, NATURE, QUALITY OR CONDITION OF THE PROPERTY, INCLUDING, WITHOUT LIMITATION, THE WATER, SOIL AND GEOLOGY; (B) THE INCOME TO BE DERIVED FROM THE PROPERTY; (C) THE SUITABILITY OF THE PROPERTY FOR ANY AND ALL PURPOSES, ACTIVITIES AND USES WHICH BUYER MAY CONDUCT THEREON; (D) THE COMPLIANCE OF OR BY THE PROPERTY OR ITS OPERATION WITH ANY LAWS, RULES, ORDINANCES OR REGULATIONS OF ANY APPLICABLE GOVERNMENTAL AUTHORITY OR BODY; (E) THE HABITABILITY, MERCHANTABILITY, MARKETABILITY, PROFITABILITY, TENANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE OF THE PROPERTY; (F) THE MANNER OR QUALITY OF THE CONSTRUCTION OR MATERIALS, IF ANY, INCORPORATED INTO THE PROPERTY; (G) THE MANNER, QUALITY, STATE OF REPAIR OR LACK OF REPAIR OF THE PROPERTY; (H) THE EXISTENCE OF ANY VIEW FROM THE PROPERTY OR THAT ANY EXISTING VIEW WILL NOT BE OBSTRUCTED IN THE FUTURE; (I) ANY OTHER MATTER WITH RESPECT TO THE PROPERTY, (J) THE STRUCTURAL INTEGRITY OF ANY IMPROVEMENTS ON THE PROPERTY, (K) THE CONFORMITY OF ANY IMPROVEMENTS TO ANY PLANS OR SPECIFICATIONS FOR THE PROPERTY THAT MAY BE PROVIDED TO BUYER, (L) THE CONFORMITY OF THE PROPERTY TO APPLICABLE ZONING OR BUILDING CODE REQUIREMENTS, (M) THE EXISTENCE OF SOIL INSTABILITY, PAST SOIL REPAIRS, SUSCEPTIBILITY TO LANDSLIDES, SUFFICIENCY OF UNDER-SHORING, SUFFICIENCY OF DRAINAGE, OR ANY OTHER MATTER AFFECTING THE STABILITY OR INTEGRITY OF THE LAND OR ANY BUILDINGS OR IMPROVEMENTS SITUATED THEREON, (N) WHETHER THE PROPERTY IS LOCATED IN A HISTORIC PRESERVATION DISTRICT OR SUBJECT TO SPECIAL REGULATIONS RELATED TO HISTORIC PRESERVATION, OR (O) WHETHER THE PROPERTY IS LOCATED IN A SPECIAL STUDIES ZONE UNDER THE PUBLIC RESOURCES CODE OR A SEISMIC HAZARDS ZONE OR A STATE FIRE RESPONSIBILITY AREA, OR A SPECIAL FLOOD HAZARD ZONE OR FLOOD PLAIN, OR IN THE PRESENCE OF WETLANDS OR SHORELAND. BUYER ACKNOWLEDGES THAT THE PROPERTY MAY NOT BE IN COMPLIANCE WITH APPLICABLE ZONING, BUILDING, HEALTH OR OTHER LAW OR CODES, AND NEITHER SELLER NOR ANY PERSON ACTING AS SELLER'S REPRESENTATIVE OR AGENT HAS OCCUPIED THE PROPERTY AND THAT THE PROPERTY MAY NOT BE IN HABITABLE CONDITION.

BUYER FURTHER ACKNOWLEDGES AND AGREES THAT, WITHOUT LIMITATION, SELLER HAS NOT MADE, DOES NOT MAKE, AND SPECIFICALLY DISCLAIMS ANY REPRESENTATIONS REGARDING THE VALUE OF THE PROPERTY, COMPLIANCE WITH THE AMERICANS WITH DISABILITIES ACT OR WITH ANY ENVIRONMENTAL PROTECTION, POLLUTION OR LAND USE LAWS, RULES, REGULATIONS, ORDERS OR REQUIREMENTS, AS DEFINED BY THE U.S. ENVIRONMENTAL PROTECTION AGENCY REGULATIONS AND ANY OTHER STATE, FEDERAL OR LOCAL ENVIRONMENTAL LAWS AND REGULATIONS APPLICABLE TO THE PROPERTY, OR THE DISPOSAL OR EXISTENCE, IN OR ON THE PROPERTY OR ANY ADJACENT OR NEARBY PROPERTY, OF ANY HAZARDOUS SUBSTANCE, AS DEFINED BY THE COMPREHENSIVE ENVIRONMENTAL RESPONSE COMPENSATION AND LIABILITY ACT OF 1980, AS AMENDED, AND REGULATIONS PROMULGATED THEREUNDER AND ANY OTHER STATE, FEDERAL OR LOCAL ENVIRONMENTAL LAWS AND REGULATIONS APPLICABLE TO THE PROPERTY.

UPON CLOSE OF TITLE AND THE CONSUMMATION OF THIS TRANSACTION, BUYER ACKNOWLEDGES AND AGREES THAT SELLER AND ITS AGENTS AND ASSIGNS HAVE NO FURTHER RESPONSIBILITY, OBLIGATION OR LIABILITY TO BUYER. BUYER AGREES THAT SELLER AND ITS AGENTS AND ASSIGNS SHALL HAVE NO LIABILITY FOR ANY CLAIM OR LOSSES BUYER OR BUYER'S HEIRS, SUCCESSORS AND ASSIGNS MAY INCUR AS A RESULT OF DEFECTS THAT MAY NOW OR MAY HEREAFTER EXIST WITH RESPECT TO THE PROPERTY, AND BUYER SHALL HOLD HARMLESS, INDEMNIFY AND DEFEND SELLER AND ITS EMPLOYEES, OFFICERS, DIRECTORS, REPRESENTATIVES, ATTORNEYS, AUCTIONEER, BROKERS AND AGENTS FROM ANY SUCH CLAIM. THE OBLIGATIONS AND AGREEMENTS OF BUYER UNDER THIS PARAGRAPH SHALL SURVIVE THE CLOSE OF TITLE OR THE EARLIER TERMINATION OF THIS AGREEMENT.

BUYER AND ANYONE CLAIMING BY, THROUGH OR UNDER THE SAME HEREBY FULLY AND IRREVOCABLY RELEASES SELLER AND ITS EMPLOYEES, OFFICERS, DIRECTORS, REPRESENTATIVES, ATTORNEYS, AUCTIONEER, BROKERS AND AGENTS FROM ANY AND ALL CLAIMS THAT HE/SHE/IT OR THEY MAY NOW HAVE OR HEREAFTER ACQUIRE AGAINST SELLER AND ITS EMPLOYEES, OFFICERS, DIRECTORS, REPRESENTATIVES, ATTORNEYS, AUCTIONEER, BROKERS AND AGENTS FROM ANY AND ALL CLAIMS, CAUSES OF ACTION, WHETHER ADMINISTRATIVE OR JUDICIAL, LOSSES, COSTS (INCLUDING ANY AND ALL REASONABLE ATTORNEYS' FEES, COURT COSTS, AND REASONABLE COSTS OF INVESTIGATION, LITIGATION, AND SETTLEMENT), EXPENSES, SANCTIONS, CURTAILMENTS, INTEREST, LIABILITIES, PENALTIES, FINES, DEMANDS, EXPENSES, LIENS, JUDGMENTS, COMPENSATION, FEES, LOSS OF PROFITS, INJURIES, DEATH, AND/OR DAMAGES, OF ANY KIND WHATSOEVER, WHETHER KNOWN OR UNKNOWN, FIXED OR CONTINGENT, JOINT OR SEVERAL, CRIMINAL OR CIVIL, OR IN LAW OR IN EQUITY ("CLAIMS") ARISING FROM OR RELATING TO THE PROPERTY, THE BUYER'S BREACH OF OR FAILURE TO COMPLY FULLY WITH ANY PROVISION IN THIS AGREEMENT, INSPECTIONS OR REPAIRS MADE BY THE BUYER OR HIS/HER/ITS AGENTS, REPRESENTATIVES, BROKERS, EMPLOYEES, CONTRACTORS, SUCCESSORS OR ASSIGNS, THE IMPOSITION OF ANY FINE OR PENALTY IMPOSED BY ANY GOVERNMENTAL ENTITY RESULTING FROM THE BUYER'S FAILURE TO TIMELY OBTAIN ANY CERTIFICATE OF OCCUPANCY OR TO COMPLY WITH EQUIVALENT LAWS AND REGULATIONS, ANY CONSTRUCTION DEFECTS, ERRORS, OMISSIONS OR OTHER CONDITIONS, INCLUDING, WITHOUT LIMITATION, THE VALUE OF THE PROPERTY, ENVIRONMENTAL MATTERS AFFECTING THE PROPERTY, OR ANY PORTION THEREOF, OR THE USE, RELEASE OR DISPOSAL ON, IN OR UNDER THE PROPERTY OF ANY HAZARDOUS SUBSTANCE AND THE ENVIRONMENTAL CONDITION OF THE PROPERTY. THIS PROVISION SHALL SURVIVE THE CLOSING. THIS RELEASE INCLUDES CLAIMS OF WHICH BUYER IS PRESENTLY UNAWARE OR DOES NOT PRESENTLY SUSPECT TO EXIST IN HIS/HER/ITS FAVOR WHICH, IF KNOWN BY BUYER, WOULD MATERIALLY AFFECT BUYER'S RELEASE OF SELLER.

10. CONVEYANCE OF TITLE. Insurable title shall be delivered to Buyer by Deed on a form acceptable to Seller in Seller's sole and absolute discretion. Seller shall be under no obligation to (A) remove any title exception (B) bring any action or proceeding or bear any expense in order to enable Seller to convey title to the Property in accordance with this Agreement or (C) otherwise make the title to the Property insurable. Any attempt by the Seller to remove such title exceptions shall not impose an obligation upon the Seller to remove such exceptions. The Buyer acknowledges that the Seller's title to the Property may be subject to court approval of foreclosure or to a mortgagor's right of redemption. **IF, FOR ANY REASON, SELLER (A) IS UNABLE TO MAKE THE TITLE INSURABLE OR CORRECT TITLE PROBLEMS OR (B) IS UNABLE TO OBTAIN TITLE INSURANCE FOR THE PROPERTY FROM A REPUTABLE TITLE INSURANCE COMPANY AT REGULAR RATES OR (C) DETERMINES IN ITS SOLE DISCRETION THAT IT IS UNABLE OR IT IS ECONOMICALLY NOT FEASIBLE TO CONVEY GOOD AND MARKETABLE TITLE TO THE PROPERTY INSURABLE BY A REPUTABLE TITLE INSURANCE COMPANY AT REGULAR RATES, AT THE CLOSING DATE, AND SUCH TITLE CLOSING DATE IS NOT EXTENDED OR OTHERWISE AMENDED IN THE SOLE AND ABSOLUTE DISCRETION OF SELLER AS SET FORTH ELSEWHERE IN THIS AGREEMENT, OR (D) DETERMINES, IN ITS SOLE DISCRETION TO DEEM THE AGREEMENT NULL AND VOID IF REQUIRED BY APPLICABLE LAW, AND/OR REQUIRED BY ANY EXISTING CONTRACT OR AGREEMENT BINDING UPON SELLER AND/OR THE PROPERTY, INCLUDING, WITHOUT LIMITATION, ANY AGREEMENTS WITH THE PRIOR OWNER OF THE PROPERTY, ANY MORTGAGE INSURER OR ANY MORTGAGE BROKER, THEN SELLER MAY CANCEL THE TRANSACTION CONTEMPLATED BY THIS AGREEMENT BY WRITTEN NOTICE TO THE OTHER PARTY AND THE ESCROW/CLOSING AGENT. SUCH RIGHT TO CANCEL SHALL BE AN UNLIMITED RIGHT TO CANCEL. IN SUCH EVENT, ESCROW/CLOSING AGENT SHALL RETURN TO BUYER (AS BUYER'S SOLE AND EXCLUSIVE REMEDY) THE EARNEST MONEY DEPOSIT. UPON RETURN OF THE EARNEST MONEY DEPOSIT AS PROVIDED IN THIS SECTION, THE TRANSACTION CONTEMPLATED BY THIS AGREEMENT SHALL BE TERMINATED, AND BUYER AND SELLER SHALL BE RELEASED FROM ANY FURTHER OBLIGATION, EACH TO THE OTHER, IN CONNECTION WITH THIS AGREEMENT, EXCEPT AS OTHERWISE EXPRESSLY PROVIDED HEREIN. BUYER GRANTS SELLER THE**

UNILATERAL RIGHT TO EXECUTE CANCELLATION INSTRUCTIONS IN THE EVENT THAT SELLER ELECTS TO CANCEL THE CLOSING AND THE TRANSACTION CONTEMPLATED BY THIS AGREEMENT.

BUYER'S INITIALS _____

11. COSTS AND PRORATIONS.

- A. **PRORATIONS.** The Escrow/Closing Agent shall prorate the following expenses as of the Closing Date, regardless of state or local custom: all real property taxes and assessments, municipal water and sewer charges, rents, condominium or planned unit development or similar community assessments, cooperative fees, maintenance fees, homeowner association regular, special and emergency dues and assessments imposed prior to the Closing Date, payments on bonds, and other special assessment district bonds and assessments imposed prior to the Closing Date. Payment of special assessment district bonds and assessments, and payments of homeowner's, condominium or planned unit development associations special assessments shall be paid current with payments not yet due and owing to be assumed by Buyer without credit toward the Purchase Price. Seller shall provide Escrow/Closing Agent with any rent rolls in Seller's possession that would assist Escrow/Closing Agent in prorating rents. If the regular homeowner association or condominium dues were paid prior to the Closing Date for a period of time subsequent to such date, then Buyer shall pay to Seller that portion of the assessment attributable to the period of time after the date of the Closing Date. Any homeowners' association or condominium transfer fees or document fees payable in connection with the sale of the Property from Seller to Buyer shall be paid by Buyer. Insurance premiums will not be prorated. Seller cannot endorse or assign existing insurance policies (if any) to Buyer, and Seller may cancel any existing insurance on the Property as of the Closing Date.
- B. **SELLER'S EXPENSES.** Seller shall pay the premium for the owner's title insurance policy identified in **Section 6** above when the Buyer agrees to use the services of the Escrow/Closing Agent as set forth in this Agreement, as well as a title search fee and a Seller's closing fee, Seller's share of prorations under **Section 11A** above, any documentary transfer tax or real property transfer taxes that may be imposed upon the Seller by the State, County and/or City in which the property is located, except as provided in clause (C) below that Seller is required to pay pursuant to New York law.. Seller shall not be responsible for any amounts due, paid or to be paid after Closing. In the event Seller has paid any taxes, special assessments or other fees and there is a refund of any such taxes, assessments or fees after the Closing, and Buyer as current owner of the Property receives the payment, Buyer will immediately submit the refund to Seller. Escrow/Closing Agent is hereby authorized to pay from Seller's proceeds Seller's expenses set forth in this Section.
- C. **BUYER'S EXPENSES.** Buyer shall pay, notwithstanding state or local custom, all costs of credit reports, loan fees, loan points and other costs of obtaining the New First Mortgage Loan, lender's title insurance charges for the policy of the lender of the New First Mortgage Loan, escrow fees and charges unless otherwise required by law or agreed to in writing by Seller, tax service fees, mortgage recording taxes and recordation fees for the deed, and any mortgage or deed of trust, any documentary transfer tax, real property transfer taxes or deed tax that may be imposed by the State, County and/or City in which the Property is located that is not otherwise imposed upon the Seller, Buyer's share of prorations and charges under **Section 11A** above, and first month's condominium/homeowner's association membership fees and assessments, if any, and other closing costs of Buyer. Buyer shall pay any tax imposed by Article 31, Section 1402-a of the Tax Law (the "**Mansion Tax**"). Any and all termite clearances and reports and any inspections required by any lender, and/or repairs recommended or required by any termite and/or property inspection report including, but not limited to, any roof certifications shall all be at the sole cost and expense of Buyer. Buyer authorizes Escrow/Closing Agent to debit the Buyer's account in the amount of Twenty Dollar (\$20.00) fee at the Closing Date in the event Buyer fails to deposit with Escrow/Closing Agent a change of ownership statement. The foregoing costs and expenses shall be paid by Escrow/Closing Agent on Buyer's behalf from funds deposited into Escrow by Buyer.
- D. **PRE-CLOSING EXPENSES.** Buyer and Seller are aware that the Escrow/Closing Agent may incur certain expenses during the course of processing this transaction which must be paid prior to the Closing

Date. Such costs may include, but are not limited to, demand request fees, homeowner association or condominium document fees, courier fees, overnight mail service and City building and/or inspection reports, if applicable. Escrow/Closing Agent is authorized and instructed to release funds for payment of such costs prior to the Closing Date from funds deposited into Escrow by Buyer. The parties acknowledge that the funds are not refundable and Escrow/Closing Agent is specifically released from all responsibility and/or liability for payment of any funds pre-released through the Escrow. At Close of Title, Escrow/Closing Agent is authorized to charge the appropriate party for costs incurred or credit either one if necessary.

- E. **POST-CLOSING AND SUBSEQUENT NOTICE OF COSTS, LIENS, OR ASSESSMENTS.** The acceptance of the deed of conveyance by Buyer will be deemed to constitute full compliance by Seller with all of the terms and conditions of this Agreement. Seller shall NOT be responsible for any unpaid real estate taxes and/or assessments, levies, fees, fines, penalties, homeowner association fees, dues and charges, utility charges or any other charges not readily obtainable from a title search prior to Closing. IF AT ANY TIME AFTER THE CLOSING, BUYER OR HIS/HER/ITS ASSIGNS OBTAINS ACTUAL OR CONSTRUCTIVE NOTICE OF ANY COSTS, LIENS, ASSESSMENTS, OR JUDGMENTS ASSOCIATED WITH THE PROPERTY THAT WERE NOT OF RECORD AT THE TIME OF THE CLOSING INCLUDING, WITHOUT LIMITATION, CODE VIOLATIONS, TAXES, FEES, CHARGES, UTILITY LIENS, OR HOMEOWNER ASSOCIATION OR CONDOMINIUM ASSESSMENTS, BUYER SHALL SOLELY BE RESPONSIBLE FOR THEIR PAYMENT AND SATISFACTION AND BUYER HEREBY RELEASES SELLER, ITS EMPLOYEES, OFFICERS, DIRECTORS, AUCTIONEER, BROKER AND AGENTS OF ANY AND ALL LIABILITY IN CONNECTION THERETO, REGARDLESS OF WHETHER (I) SELLER OWNED THE PROPERTY AT THE TIME SUCH COSTS WERE ASSESSED OR INCURRED OR (II) SELLER HAD ACTUAL OR CONSTRUCTIVE NOTICE OF THE EXISTENCE OF SUCH COSTS, LIENS, ASSESSMENTS, OR JUDGMENTS. Buyer is responsible for verifying any possible liens, judgments, or assessments that may not be of record and hereby releases Seller from any and all liability related to any such liens, judgments or assessments. Notwithstanding anything to the contrary in this Agreement, any provision which contemplates performance or observance subsequent to any termination or expiration of this Agreement, including paragraphs A, B, C and D under this Section 11, shall survive the Closing, funding and the delivery of the deed and/or termination of this Agreement by any party and continue in full force and effect.

12. **DEFAULT AND REMEDIES.** By initialing below, Buyer and Seller elect for this entire Section to apply:

- A. **BUYER DEFAULT.** BUYER AND SELLER AGREE THAT IF BUYER FAILS TO COMPLETE THIS PURCHASE BY REASON OF ANY DEFAULT OF BUYER, AS DETERMINED BY SELLER IN ITS SOLE DISCRETION: (1) SELLER SHALL BE RELEASED FROM ANY OBLIGATION TO SELL THE PROPERTY TO THE BUYER, AND (2) SELLER RETAINS THE RIGHT TO PROCEED AGAINST BUYER FOR ENFORCEMENT OF BUYER'S INDEMNIFICATION/DEFENSE/HOLD HARMLESS OBLIGATIONS UNDER THIS AGREEMENT. IN NO EVENT SHALL BUYER HAVE THE RIGHT TO SEEK OR OBTAIN SPECIFIC ENFORCEMENT OF THIS AGREEMENT.
- B. **SELLER DEFAULT.** BUYER AND SELLER AGREE THAT IF SELLER IS UNABLE TO PERFORM AS REQUIRED BY THIS AGREEMENT, THEN THIS AGREEMENT MAY BE CANCELLED UPON SELLER'S WRITTEN NOTICE TO BUYER. IN SUCH EVENT, BUYER'S EARNEST MONEY DEPOSIT SHALL BE RETURNED TO BUYER; SUCH RETURN OF BUYER'S EARNEST MONEY DEPOSIT SHALL BE BUYER'S SOLE AND EXCLUSIVE REMEDY IN SUCH EVENT. IN NO EVENT SHALL BUYER HAVE THE RIGHT TO SEEK OR OBTAIN SPECIFIC ENFORCEMENT OF THIS AGREEMENT.
- C. **WAIVER OF SPECIFIC PERFORMANCE REMEDY.** AS A MATERIAL PART OF THE CONSIDERATION TO BE PAID OR RECEIVED BY SELLER AND BUYER UNDER THIS AGREEMENT, BUYER WAIVES ALL RIGHTS TO FILE AND MAINTAIN AN ACTION AGAINST SELLER FOR SPECIFIC PERFORMANCE AND TO RECORD A LIS PENDENS OR NOTICE OF PENDENCY OF ACTION AS AGAINST THE PROPERTY IF A DISPUTE ARISES CONCERNING THIS AGREEMENT. BUYER AGREES THAT THE PROPERTY IS NOT UNIQUE AND THAT IN THE EVENT OF SELLER'S DEFAULT OR MATERIAL BREACH OF THE AGREEMENT, BUYER CAN BE ADEQUATELY AND FAIRLY COMPENSATED SOLELY BY RECEIVING A RETURN OF BUYER'S EARNEST MONEY DEPOSIT. UPON RETURN OF BUYER'S EARNEST MONEY DEPOSIT, THE AGREEMENT SHALL BE TERMINATED, AND BUYER AND SELLER HEREBY IRREVOCABLY INSTRUCT ESCROW/CLOSING AGENT

TO RETURN ALL FUNDS AND DOCUMENTS TO THE PARTY THAT DEPOSITED THEM WITHOUT FURTHER DIRECTION.

SELLER'S INITIALS _____

BUYER'S INITIALS _____

13. **INTENTIONALLY OMITTED.**

14. **RISK OF LOSS.** If any material portion of the Property is damaged or destroyed prior to the Closing Date, Seller shall give Buyer written notice thereof. Buyer shall have the option, exercisable within ten (10) business days after receipt of such written notice, to either (a) terminate this Agreement, or (b) consummate this Agreement in accordance with its terms. In any event, Seller shall not be deemed in default under this Agreement as a result of such damage or destruction. Buyer shall be deemed to have waived its right to terminate this Agreement if Buyer does not notify Seller in writing of its election to terminate this Agreement within ten (10) business days after receipt of Seller's written notice of material damage. Notwithstanding the foregoing, any termination notice given by Buyer under this Section shall be rendered ineffective if, within five (5) calendar days after Seller's receipt of such written notice, Seller delivers to Buyer Seller's written agreement to repair at its sole cost and expense all such damage. In such event the Closing Date shall be deemed automatically extended to the third (3rd) business day following Seller's completion of such repair. Buyer shall not be entitled to any insurance proceeds or obtain any rights with respect to any claims Seller may have with regard to insurance maintained by Seller with respect to the Property. This paragraph 14 is expressly in lieu of Section 5-1311 of the General Obligations Law

15. **JOINT CLOSING INSTRUCTIONS TO ESCROW/CLOSING AGENT.** The applicable portions of this Agreement constitute the joint closing instructions of Buyer and Seller to Escrow/Closing Agent, which Escrow/Closing Agent is to use along with any related additional closing instructions as referred to in ***Section 6***, general provisions and/or mutual instructions to close the transaction contemplated by this Agreement.

16. **MISCELLANEOUS MATTERS.**

- A. **ASSIGNMENT OF BUYER'S INTEREST.** Buyer may not assign or record his, her, their and/or its right, title or interest in this transaction without the express prior written consent of the Seller which consent may be withheld in the sole and absolute discretion of Seller.
- B. **MULTIPLE LISTING SERVICE.** If broker is a participant of an Association/Board multiple listing service ("***MLS***"), the broker is authorized to report the sale, its price, terms, and financing for the publication, dissemination, information and use of the MLS, its parent entity, authorized members, participants and subscribers.
- C. **TITLES, HEADINGS, AND CAPTIONS.** All titles, headings, and captions used in this Agreement have been included for administrative convenience only and do not constitute matters to be construed in interpreting this Agreement.
- D. **OTHER AGREEMENTS.** This Agreement constitutes the entire agreement between Buyer and Seller concerning the subject matter hereof and there are no oral or other written agreements between Buyer and Seller. All negotiations are merged into this Agreement. This Agreement shall not be modified or amended except by an instrument in writing signed by Buyer and Seller. No oral promises, representations (express or implied), warranties or agreements made by the Seller, broker or auctioneer shall be deemed valid or binding upon the Seller unless expressly included in this Agreement.
- E. **INTENTIONALLY OMITTED.**
- F. **SEVERABILITY/INTERPRETATION.** In the event that any portion of this Agreement shall be judicially determined to be invalid or unenforceable, the same shall, to that extent, be deemed severable from this Agreement and the invalidity or unenforceability thereof shall not affect the validity and enforceability of the remaining portion of this Agreement. The remainder of this Agreement shall remain in full force and effect and shall be construed to fulfill the intention of the parties hereto.

Buyer and Seller acknowledge that each party has reviewed this Agreement and has had adequate opportunity to consult legal counsel with respect thereto and that the rule of construction to the effect that any ambiguities are to be resolved against the drafting party shall not be employed in the interpretation of this Agreement or any amendments hereto.

- G. **TIME IS OF THE ESSENCE.** Time is of the essence for the performance of each and every covenant of Buyer under this Agreement and the satisfaction of each and every condition imposed upon Buyer under this Agreement.
- H. **GOVERNING LAW AND VENUE.** All questions with respect to the construction of this Agreement, and the rights and liabilities of the parties hereto, shall be governed by the laws of the State of New York in the courts of New York County, New York. The state and federal courts located in New York County, New York shall be proper forums for any legal controversy between the parties arising in connection with this Agreement, which courts shall be the exclusive forums for all such suits, actions or proceedings. The parties further irrevocably consent to the service of process in connection with any such controversy by the mailing by registered or certified mail, postage prepaid, at the respective addresses set forth in, or designated pursuant to, this Agreement.
- I. **COUNTERPARTS AND ELECTRONIC SIGNATURES.** This Agreement may be executed in multiple counterparts by the parties hereto. All counterparts so executed shall constitute one agreement binding upon all parties, notwithstanding that all parties are not signatories to the original or the same counterpart. Each counterpart shall be deemed an original Agreement all of which shall constitute one agreement to be valid as of the date of this Agreement. Facsimile documents executed, scanned and transmitted electronically and electronic signatures shall be deemed original signatures for purposes of this Agreement and all matters related thereto, with such facsimile, scanned and electronic signatures having the same legal effect as original signatures. Seller and Buyer agree that this Agreement, any Addendum thereto or any other document necessary for the consummation of the transaction contemplated by this Agreement may be accepted, executed or agreed to through the use of an electronic signature in accordance with the Electronic Signatures in Global and National Commerce Act ("E-Sign Act"), Title 15, United States Code, Sections 7001 et seq., the Uniform Electronic Transaction Act ("UETA") and any applicable state law. Any document accepted, executed or agreed to in conformity with such laws will be binding on both Seller and Buyer the same as if it were physically executed and Buyer hereby consents to the use of any third party electronic signature capture service providers as may be chosen by Seller or auctioneer.
- J. **FURTHER ASSURANCES.** The parties hereto hereby agree to execute such other documents, and to take such other actions as may reasonably be necessary, to further the purposes of this Agreement.
- K. **GENDER/NUMBER/REFERENCES TO SELLER.** Whenever the context indicates that such is the intent, words in the singular number shall include the plural and vice versa, and the masculine shall include the feminine and vice versa. Pronouns shall be deemed to refer to all genders. All provisions herein for the benefit of Seller shall be deemed to be for the benefit of Seller and all of Seller's agents and sub-agents (including without limitation, auctioneer(s) and any Seller's broker(s)) and each of their respective officers, directors, shareholders, employees, attorneys, representatives, affiliates, subsidiaries.
- L. **SURVIVAL OF INDEMNIFICATION/DEFENSE/HOLD HARMLESS.** Any indemnification, defense or hold harmless obligation of Buyer for the benefit of Seller in this Agreement shall survive the Closing Date and/or termination of this Agreement.
- M. **FULL PERFORMANCE.** Seller's delivery of the Deed to the Property to Escrow/Closing Agent shall be deemed to be full performance and discharge of all of Seller's obligations under this Agreement.
- N. **EMINENT DOMAIN.** In the event that the Seller's interest in the Property, or any part thereof, shall have been taken by eminent domain, or shall be in the process of being taken on or before the Closing Date, either Party may terminate this Agreement and the Earnest Money Deposit shall be returned to the Buyer and neither Party shall have any further rights or liabilities hereunder, except as otherwise specifically provided in this Agreement.

- O. **FORCE MAJEURE.** No Party shall be responsible for delays or failure of performance resulting from acts of God, riots, acts of war, epidemics, power failures, earthquakes or other disasters, providing such delay or failure of performance could not have been prevented by reasonable precautions and cannot reasonably be circumvented by such Party through use of alternate sources, workaround plans, or other means except as provided in **Section 14** of this Agreement.
- P. **ADDITIONAL DOCUMENTS.** All parties signing this Agreement hereby acknowledge receipt of a copy of this Agreement.
- Q. **NOTICE.** This Agreement shall bind and inure to the benefit of the parties and their successors in interest. All notices, approvals, and other communications contemplated, given, or required under this Agreement shall be in writing and shall be deemed given and received upon receipt if: (a) delivered personally; or (b) mailed by registered or certified mail return receipt requested, postage prepaid; (c) sent by a nationally recognized overnight courier; and/or (d) delivered via facsimile transmission, provided receipt is confirmed by telephone or by a statement generated by the transmitting machine, in any case to the Parties at the following addresses or facsimile numbers (or at such address or facsimile number for a Party as will be specified by like notice). Notice to the Buyer shall be given as set forth in **Section 1B** herein and to the Seller with a copy to: Seller, c/o Auction.com, One Mauchly, Irvine, CA 92618, facsimile number (949) 454-7456 or to such other address or addresses as may from time to time be designated by either party by written notice to the other.
- R. **AUCTION/SALE PROCESS.** Neither Seller, Seller's broker nor auctioneer is making any representation or warranty as to the manner in which the sale process will be managed. Seller may select the winning bid in its sole and absolute discretion. No obligation to sell shall be binding on Seller unless and until a written contract of sale or purchase agreement is signed and delivered by Seller. Seller may rescind any oral acceptance of a winning bid prior to the execution and delivery of this Purchase Agreement for any reason, including, but not limited to the receipt of a subsequent higher bid or offer to purchase whether such higher bid or offer to purchase was received pursuant to the Auction Terms and Conditions or otherwise.
- S. **PROHIBITED PERSONS AND TRANSACTIONS.** Each party represents and warrants to the other that neither it, nor any of its affiliates, nor any of their members, directors or other equity owners (excluding holders of publicly traded shares), and none of their principal officers and employees: (i) is listed as a "specifically designated national and blocked person" on the most current list published by the U.S. Treasury Department Office of Foreign Asset Control ("OFAC"); (ii) is a person or entity with whom U.S. persons or entities are restricted from doing business under OFAC regulations or any other statute or executive order (including the September 24, 2001 "Executive Order Blocking Property and Prohibiting Transactions with Persons Who Commit, Threaten to Commit, or Support Terrorism"); and (iii) is engaged in prohibited dealings or transactions with any such persons or entities.
- T. **AUTHORITY TO EXECUTE.** If Buyer is a partnership, association, corporation, limited liability company or trust, the signatory hereto represents and warrants that he/she/it is duly authorized under applicable law to enter into this Agreement on behalf of such entity and that such entity is duly formed and in good standing, having unabated powers to conduct its activities, including the power to contract.
- U. **LEGALLY BINDING CONTRACT. THIS IS A LEGALLY BINDING CONTRACT. IF YOU DO NOT UNDERSTAND THE TERMS AND CONDITIONS, CONSULT LEGAL OR OTHER COUNSEL BEFORE SIGNING. BUYER HAS BEEN ADVISED BY SELLER, SELLER'S BROKER AND AUCTIONEER TO SEEK LEGAL, FINANCIAL, CONSTRUCTION, AIR QUALITY, ENVIRONMENTAL AND/OR PROFESSIONAL INSPECTIONS BY QUALIFIED PROFESSIONALS REGARDING BUYER'S PURCHASE OF THE PROPERTY AND THE TERMS OF THIS AGREEMENT. BY SIGNING THIS AGREEMENT, BUYER REPRESENTS AND WARRANTS THAT HE/SHE/IT HAS CONSULTED WITH, HAD THE OPPORTUNITY TO CONSULT WITH OR WAIVED THE RIGHT TO CONSULT WITH LEGAL OR OTHER PROFESSIONALS BUYER DEEMS NECESSARY.**
- V. **LANGUAGE IN BOLD OR CAPITALIZED. FOR EMPHASIS AND BUYER'S BENEFIT, SOME PROVISIONS HAVE BEEN BOLDED AND/OR CAPITALIZED (LIKE THIS SECTION), BUT EACH AND EVERY PROVISION IN**

THIS AGREEMENT IS SIGNIFICANT AND SHOULD BE REVIEWED AND UNDERSTOOD. NO PROVISION SHOULD BE IGNORED OR DISREGARDED BECAUSE IT IS NOT IN BOLD OR EMPHASIZED IN SOME MANNER, AND THE FAILURE TO BOLD, CAPITALIZE, OR EMPHASIZE IN SOME MANNER ANY TERMS OR PROVISIONS IN THIS AGREEMENT SHALL NOT AFFECT THE ENFORCEABILITY OF ANY TERMS OR PROVISIONS.

Dated: _____

Dated: _____

SELLER:

BUYER(S):

SELLER PRINTED NAME

SIGNATURE

SIGNATURE

PRINTED NAME

By: _____

Title: _____

SIGNATURE

PRINTED NAME

BUYER'S AGENT/BROKER (if any):

Buyer's Agent/Broker hereby represents that he/she has registered prior to the Auction pursuant to the Auction Terms and Conditions as a Registered Agent/Broker, that he/she accepts the Auction Terms and Conditions in their entirety and specifically as to the compensation due to the cooperating Agent/Broker set forth below, if any, and that this is the only compensation Agent/Broker shall receive or is entitled to for this transaction from Seller, Seller's broker or auctioneer. Agent/Broker further represents that he/she is not a principal in the transaction (as such terms are defined in the Auction Terms and Conditions):

PRINTED NAME

BROKERAGE NAME

By: _____

License Number: _____

ESCROW/CLOSING AGENT ACKNOWLEDGEMENT:

Escrow/Closing Agent acknowledges receipt of a copy of this Agreement and earnest money deposit in the amount of \$_____ and agrees to act as Escrow/Closing Agent subject to the terms and conditions of this Agreement, the terms of Escrow/Closing Agent's general provisions set forth in Exhibit C, if any, and any supplemental escrow instructions agreed upon by the parties.

By: _____

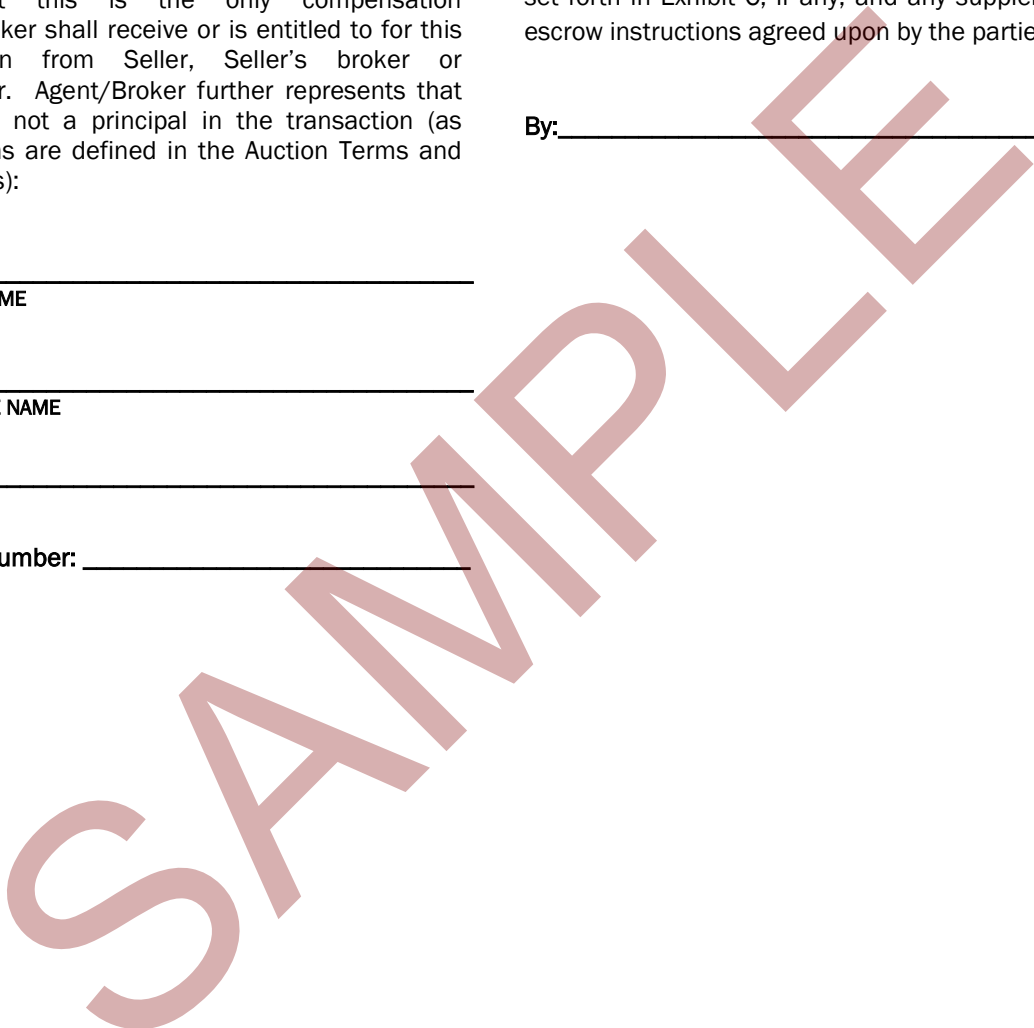


EXHIBIT A

LEGAL DESCRIPTION OF THE PROPERTY

SAMPLE

EXHIBIT B

ADDITIONAL DISCLOSURES

New York State Disclosure Form for Buyer and Seller
Federal Lead Based Paint Disclosure (if pre-1978)
Pamphlet: "Protect Your Family From Lead in Your Home"
Fair Housing Disclosure (SEE BELOW)
Smoke Detector Statement of Compliance (SEE BELOW)
Sex Offender Registration Act (SORA) Information (SEE BELOW)
Condominium Rider (if applicable) (SEE BELOW)

FAIR HOUSING ACT DISCLOSURE. Under the Federal Fair Housing Act, it is illegal to discriminate in the rental or sale of housing on the basis of race, color, national origin, religion, sex, handicap, or familial status.

SMOKE DETECTOR STATEMENT OF COMPLIANCE. Whenever a sale (or exchange) of a one or two family dwelling occurs, the seller must provide the buyer with a written statement (which the buyer will sign) representing that the property is in compliance with New York law regarding smoke detectors.

Seller hereby represents that the property sold pursuant to this Agreement is in compliance with New York law regarding smoke detectors.

SEX OFFENDER REGISTRATION ACT (SORA). Pursuant to the Sex Offender Registration Act (SORA), information about specified registered sex offenders is made available to the public at New York State's Sex Offender Registry public website at <http://criminaljustice.state.ny.us/nsor/index.htm>. The Registry helps protect families and communities by requiring sex offenders to register, and providing this information to law enforcement and the public. The Sex Offender Registration Act (SORA) requires anyone found guilty of sex crimes (such as rape, sexual abuse) to register with the Division of Criminal Justice Services (DCJS). Information may also be obtained by calling the Sex Offender Registry Information Line 1-800-262-3257. You may also contact the local law enforcement agencies if you are concerned about any sex offenders who live in the area.

PLAIN LANGUAGE. No representation is made that this Agreement complies with Section 5-702 of the General Obligations Law ("Plain Language").

AIRPORT NOISE. Buyers should investigate the impact of airport flight paths and the noise levels at different times of the day over that property. For more information on airport noise, visit the New York Department of Transportation, Aviation Bureau.

ENVIRONMENTAL HAZARDS. Seller is not aware of a defect or hazard however this does not mean that it does not exist. **It is the buyer's responsibility to be informed and take additional steps to further investigate.**

Some potential hazards that may be found in the state include:

- Radon (www.epa.gov/radon)
- Floods (www.epa.gov/ebtpages/emernaturaldisastefloods.html)
- Methamphetamine Labs
- Wood-Burning Devices (www.epa.gov/iaq/pubs/combust.html)
- Underground Storage Tanks (www.epa.gov)
- Well & Septic Systems (www.epa.gov/ebtpages/wategroundwaterwells.html)
- Contaminated Soils (www.epa.gov/ebtpages/pollsoilcontaminants.html)
- Groundwater (www.epa.gov/safewater/protect/citguide.html)

For more information on environmental hazards, visit www.epa.gov.

CONDOMINIUM RIDER

[To be included if the Property is a unit or units in a condominium.]

In the event that the Property is a unit or units (a "Unit(s)") in a condominium (the Condominium"), notwithstanding anything in this Agreement to the contrary:

1. Supplementing Article 11A, at Closing of Title, all Condominium common charges for the Property shall be prorated.
2. Supplementing Article 11C, Buyer shall pay at the Closing of Title all fees and charges payable to the Condominium (and/or its managing agent) in connection with this sale, including, without limitation, any processing fee, the legal fees, if any, of the Condominium's attorney in connection with this sale and, unless otherwise agreed to by Seller and Buyer in writing, all "flip taxes," transfer or entrance fees or similar charges, if any, payable to or for the Condominium or otherwise for the benefit of the Condominium unit owners, which arise by reason of this sale. Buyer shall, at the Closing, pay any required security deposit to the Condominium to cover damages from Buyer's move-in to the Property.
3. Supplementing Article 6E, if required by the Condominium Declaration and By-Laws, at the Close of Title: (i) Buyer shall execute, acknowledge and deliver the form of Power of Attorney required by the Condominium, (ii) Seller shall deliver a statement by the Condominium or its managing agent that the common charges then due and payable to the Condominium have been paid to the Closing Date, and (iii) if required, Seller shall deliver a waiver of any right of first refusal (or similar right of the board of managers or other governing board of the Condominium (the "Board"), in accordance with Section 4 of this Condominium Rider.
4. If so provided in the declaration or by-laws of the Condominium, this sale is subject to and conditioned upon the waiver of a right of first refusal (or similar right) to purchase the Unit(s) included in the Property 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(s) included in the Property to Buyer, which notice shall be given in accordance with the terms of the declaration and by-laws, and Buyer agrees to provide promptly all applications, information and references reasonably requested by the Board. If the Board shall exercise such right of first refusal for any Unit constituting part of the Property, Seller shall promptly refund to Buyer the Earnest Money Deposit and interest thereon (which term, for all purposes of this Agreement, shall be deemed to include interest, if any, earned thereon) and upon the making of such refund this Escrow and Agreement 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 Agreement. 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 Buyer promptly following receipt thereof), the parties hereto shall proceed with this transaction in accordance with the provisions of this Agreement.
5. Supplementing Article 7A and Article 9 of this Agreement, Buyer has examined and is satisfied with the declaration, by-laws and rules and regulations of the Condominium, or has waived the examination thereof. Buyer has inspected the Property, its fixtures, appliances and equipment and the personal property, if any, included in this sale, as well as the common elements of the Condominium, and knows the condition thereof and 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 the Closing Date. Buyer has examined or waived examination of the last audited financial statements of the Condominium, and has considered or waived consideration of all other matters pertaining to the Condominium and the land and building in which the Property is situated.

EXHIBIT C
ADDITIONAL ESCROW INSTRUCTIONS

SAMPLE