

EIGHTEENTH AMENDMENT TO OFFERING PLAN
For
445 GRAMATAN AVENUE
MOUNT VERNON, NEW YORK

The purpose of this Eighteenth Amendment is to modify and supplement the Offering Plan -- A Plan to Convert to Co-operative Ownership premises located 1 at 445 Gramatan Avenue, Mount Vernon, New York, dated July 26, 1988, as amended by the filing of seventeen prior amendments.

The Plan is hereby amended as follows:

1. **Extension of Offering.** The term of the offering made by the Plan is hereby extended for an additional twelve (12) month period commencing on the date this Eighteenth Amendment is accepted for filing by the Department of Law.

2. **Financial Disclosure.** The following information is provided in accordance with the regulations of the Attorney General of the State of New York:

(a) The identity of shares owned by sponsor or its designees, including holders of unsold shares, and the apartment to which such shares are allocated, are set forth in the Schedule of Unsold Shares annexed hereto as Exhibit A.

(b) The aggregate monthly maintenance payments for all shares owned by the sponsor or holders of unsold shares is \$24,024.65.

(c) The aggregate monthly rents received from tenants of all units owned by the sponsor or holders of unsold shares is \$26,764.46.

(d) The sponsor or holders of unsold shares have no financial obligations to the Apartment Corporation which will become due within twelve months from the date of this amendment, other than payment of maintenance.

(e) None of the unsold shares has been pledged as collateral for any loan or otherwise represents security for financing arrangements.

(f) The maintenance payments due from sponsor or holders of unsold shares are funded by the monthly rents received from tenants of units owned by sponsor or holders of unsold shares or if insufficient, from sales of units or other assets of Sponsor or holders of unsold shares or by capital calls on each of the holders of Unsold Shares to cover any shortfalls between rental income received and maintenance owed to the Corporation, or other costs associated with the

units owned by the holders of Unsold Shares.

(g) The sponsor and holders of unsold shares are current on all financial obligations under the Plan. Sponsor and holders of unsold shares were current on all such obligations during the year prior to the filing of this amendment.

(h) Sponsor or principals of sponsor, as individual holders of unsold shares or as general partner or principal of sponsor, own more than ten (10%) per cent of the shares of the following buildings which have been converted to cooperative or condominium ownership:

31 Pondfield Road, Bronxville, New York
445 Gramatan Avenue, Mt. Vernon, New York
27-47 North Central Avenue, Hartsdale, New York
17 North Chatsworth Avenue, Larchmont, New York
10 Franklin Avenue, White Plains, New York
3601 Johnson Avenue, Bronx, New York
3635 Johnson Avenue, Bronx, New York
Sadore Lane Gardens, Yonkers, New York

The offering plans for these buildings are on file with the Department of Law and are available for public inspection.

(i) The sponsor, principals of sponsor and holders of unsold shares, as individual holders of unsold shares or as general partner or principal of the sponsor, are current in their financial obligations in other cooperatives, condominiums or homeowners associations in which they own shares or units as an individual, general partner or principal.

(j) The Sponsor relinquished control of the Board of Directors on May 23, 1990. As of January 1, 2014, the total of unsold shares held by the Sponsor aggregates 22.80% of the outstanding shares of the Corporation.

3. **Maintenance.** By resolution of the Board of Directors of the Corporation adopted at a meeting duly held October 23, 2013, after reviewing a projected budget of building operations for the calendar year 2014, the per share monthly maintenance was fixed at \$1.9456 representing a 2% increase above the prior year.

4. **Election of Officers and Directors.** At the annual meeting of the shareholders of the Corporation, followed by a meeting of the Directors, both duly held on November 18, 2013, the following were elected as Directors and Officers of the Corporation:

Lou Cirillo, President and Director
*Robert Orlofsky, Vice President and Director
*Jeffrey B. Sommers, Vice President and Director
Carl Grant, Vice President and Director
Kim A. Derbin, Vice President and Director
Michael Hughes, Secretary and Director
Carol Mahabir, Treasurer and Director

*Sponsor Designee

5. **Financial Statements.** The financial statements for Westchester Gardens Owners, Inc. for the year ended December 31, 2012, prepared by Bloom and Streit, LLP, Certified Public Accountants, are attached hereto as Exhibit B.

6. **Budget.** Attached hereto as Exhibit C is the budget for the fiscal year ending December 31, 2014 prepared by the Apartment Corporation's accountant and adopted by the Board of Directors. This budget is contained herein for informational purposes only, and the sponsor, principals of sponsor or holders of unsold shares do not in any way adopt such budget as their own or make any representation as to the adequacy, accuracy or completeness of same or any item shown therein and none should be implied. Robert Orlofsky as agent for the sponsor, principals of sponsor and holders of unsold shares has reviewed the budget and has no knowledge of any matter which would render the budget materially incorrect; however, Robert Orlofsky as such agent has not prepared the budget and has not independently verified the information or estimates contained therein.

7. **Mortgage Refinancing.** As disclosed in the financial statements annexed to the Sixteenth Amendment to the Plan, on September 1, 2006, the Apartment Corporation refinanced its mortgage with National Consumer Cooperative Bank ("NCB") and entered into a new first mortgage in the principal amount of \$3,200,000. At the same time the Apartment Corporation secured a stand-by Line of Credit in the amount of \$500,000. The present principal balance on the first mortgage is \$2,890,073. From each monthly installment in the amount of \$19,620 there is applied interest at the fixed rate of 6.21% per annum and the balance in reduction of principal based on a 30-year amortization schedule. The first mortgage matures on September 1, 2016, at which time the principal balance due will be approximately \$2,731,000. There is no assurance that refinancing will be available on the same or better terms at the time of maturity. The mortgage may not be repaid prior to April 15, 2015, at which time there is a prepayment penalty of two (2%) percent. There is no penalty for prepayment within ninety days of maturity. In 2011 and 2010, the Apartment Corporation accessed its Line of Credit. The most recent monthly payment on this loan was \$457.28, of which \$357.28 was applied to interest at the variable rate of 4.25% and \$100.00 in reduction of principal to bring the loan balance to \$97,600. Interest is based on a rate per annum of 1% over the prime rate. The Line of Credit loan also matures on September 1, 2016.

8. **Revised Escrow Trust Fund Regulations.** The Department of Law has revised its regulations to eliminate the Attorney General's authority to adjudicate disputes regarding the disposition of deposits, down payments, or advances ("Deposits") received by Sponsor pursuant to New York General Business Law ("GBL") §§ 352-e(2-b) and 352-h. The changes only impact Purchasers who have not received a fully executed Contract of Sale prior to the date of service of this Amendment. For all other Purchasers, the disclosures set forth in the Procedure to Purchase Section of the Plan, as amended, shall continue to govern.

9. **Revised Procedure to Purchase Section of the Plan.** The Procedure to Purchase Section of the Plan regarding escrow trust fund requirements is hereby replaced with the following disclosures set forth herein. The revised Contract of Sale referenced in Paragraph 7 of the Fourteenth Amendment to the Plan dated June 23, 2005 and annexed as an exhibit to said Amendment, is hereby replaced with the further revised Contract of Sale (the "Contract of Sale") attached hereto as Exhibit D to which an Escrow Rider is annexed as Exhibit A (the "Escrow Rider"). The Escrow Rider hereby replaces the Escrow Agreement, as set forth as an exhibit to the Seventh Amendment to the Plan dated April 27, 1992. The Contract of Sale is conditioned upon, and is not deemed valid and binding until, execution and delivery of the Escrow Rider by Seller, Purchaser and Escrow Agent. The Escrow Rider includes the provisions set forth below (among others):

- A. The Escrow Agent. Laura B. March, Esq., with an address c/o Peck & Heller at 805 Third Avenue, New York, New York 10022, telephone number 212-758-5230, shall serve as escrow agent ("Escrow Agent") for Sponsor and Purchaser. Laura B. March, Esq. is the only designated signatory for withdrawal of monies from the "Escrow Account" (identified below) and is admitted to practice law in the State of New York. Neither the Escrow Agent nor any authorized signatories on the account are the Sponsor, Selling Agent (if any), Managing Agent, or any principal thereof, or have any beneficial interest in any of the foregoing.

- B. The Escrow Account. The Escrow Agent has established the escrow account at JP Morgan Chase Bank, N.A., located at its branch office located at 360 Park Avenue, in the City and State of New York ("Bank"), a bank authorized to do business in the State of New York. The escrow account is entitled Laura B. March Attorney Trust Account IOLA" ("Escrow Account") which is an "Interest-on-Lawyer's Account" (commonly called "IOLA" or "IOLTA") established pursuant to Judiciary Law Section 497. **SPECIAL RISK:** The Escrow Account is federally insured by the FDIC at the maximum amount of \$250,000 per deposit. Any deposit in excess of \$250,000 will not be insured. Escrow Agent and Sponsor will not be liable for the amount collected on checks given in payment of the Deposit or any other purchase monies, or for any losses resulting from the failure of the depository.

All Deposits received from Purchaser shall be in the form of unendorsed good personal checks, money orders, wire transfers, and shall be made directly payable to the order of Laura B. March, Esq., as Escrow Agent.

Any Deposits made for upgrades, extras, or custom work shall be initially deposited into the Escrow Account, and released in accordance to the terms of the Escrow Rider annexed to the Contract of Sale.

The Escrow Account is an IOLA established pursuant to Judiciary Law Section 497. Accordingly Escrow Agent will arrange for interest earned on monies deposited in the Escrow Account to be paid to the statewide IOLA fund.

- C. Deposit for Special Work. Any Deposits made for upgrades, extras of other custom or special work shall initially be deposited into the Escrow Account and thereafter may be released in accordance with the terms of the Contract of Sale (if any)
- D. Notification to Purchaser. Within five (5) business days after the Contract of Sale has been tendered to Escrow Agent along with the Deposit, the Escrow Agent shall sign the Escrow Rider and place the Deposit into the Escrow Account. Within ten (10) business days of placing the deposit in the Escrow Account, Escrow Agent shall provide written notice to Purchaser and Sponsor, confirming the Deposit. The notice shall provide the account number and the initial interest rate to be earned on the Deposit. Any Deposits made for upgrades, extras, or custom work shall be initially deposited into the Escrow Account, and released in accordance to the terms of the Escrow Rider.

The Escrow Agent is obligated to send notice to the Purchaser once the Deposit is placed in the Escrow Account. If the Purchaser does not receive notice of such deposit within fifteen (15) business days after tender of the Deposit, he or she may cancel the Contract of Sale within ninety (90) days after tender of the Contract of Sale and Deposit to Escrow Agent. Complaints concerning the failure to honor such cancellation requests may be referred to the New York State Department of Law, Real Estate Finance Bureau, 120 Broadway, 23rd Floor, New York, N.Y. 10271. Rescission shall not be afforded where proof satisfactory to the Attorney General is submitted establishing that the Deposit was timely placed in the Escrow Account in accordance with the New York State Department of Law's regulations concerning Deposits and requisite notice was timely mailed to the Purchaser.

- E. Release of Funds. All Deposits, except for advances made for upgrades, extras, or custom work received in connection with the Contract of Sale, are and shall continue to be the Purchaser's money, and may not be comingled with any other money or pledged or hypothecated by Sponsor, as per GBL § 352-h.

Consummation of the Plan, as evidenced by the acceptance of a post-closing amendment by the New York State Department of Law, does not relieve the Sponsor of its obligations pursuant to GBL §§ 352-e(2-b) and 352-h.

The Escrow Agent shall release the Deposit if so directed:

(a) pursuant to the terms and conditions set forth in the Escrow Rider upon closing of title to the Shares; or

(b) in a subsequent writing signed by both Sponsor and Purchaser; or

(c) by a final, non-appealable order or judgment of a court

whichever is applicable.

If the Escrow Agent is not directed to release the Deposit pursuant to paragraphs (a) through (c) above, and the Escrow Agent receives a request by either party (the "Requesting Party") to release the Deposit, then the Escrow Agent must give both the Purchaser and Sponsor prior written notice ("30-Day Release Notice") of not fewer than thirty (30) days before releasing the Deposit. If the Requesting Party is Sponsor and is based on a purchaser's default, Sponsor must give such purchaser written notice of the default and a thirty (30)-day period to cure such default. Such thirty (30)-day cure period shall run concurrently with the 30-Day Notice. If the Escrow Agent has not received notice from the non-Requesting Party objecting to the release of the Deposit prior to the expiration of the thirty (30)-day period, the Deposit shall be released to the Requesting Party, and the Escrow Agent shall provide further written notice to both parties informing them of said release.

If the Escrow Agent receives a written notice from either party objecting to the release of the Deposit within said thirty (30)-day period, the Escrow Agent shall continue to hold the Deposit until otherwise directed pursuant to paragraphs (a) through (c) above. Notwithstanding the foregoing, the Escrow Agent shall have the right at any time to deposit the Deposit contained in the Escrow Account with the clerk of the county where the building is located and shall give written notice to both parties of the Deposit.

If the Escrow Agent is uncertain as to Escrow Agent's duties or doubts the genuineness of any document or signature, Escrow Agent also may refrain from taking any action and continue to hold the Deposit until the uncertainty or genuineness is resolved. Escrow Agent may represent Sponsor in any lawsuit, whether or not related to the Contract of Sale and irrespective of Escrow Agent being in possession of the Deposit.

The Sponsor shall not object to the release of the Deposit to a Purchaser who timely rescinds in accordance with an offer of rescission contained in the Plan or an Amendment to the Plan

The Department of Law may perform random reviews and audits of any records involving the Escrow Account to determine compliance with all applicable statutes and regulations.

- F. Waiver Void. Any provision in the Escrow Rider or separate agreement, whether oral or in writing, by which a Purchaser purports to waive or indemnify any obligation of the Escrow Agent holding any Deposit in trust is absolutely void. The provisions of the Attorney General's regulations and GBL §§ 352-e(2-b) and 352-h concerning escrow trust funds shall prevail over any conflicting or inconsistent provisions in the Contract of Sale, Plan or any Amendment thereto.

10. **Revised Contract of Sale.** As noted above, the revised form of Contract of Sale is annexed hereto as Exhibit D. Provisions set forth in the annexed form are negotiable and subject to change in accordance with the Plan.

11. **Amendments to House Rules.** The Board of Directors of the Corporation has amended the House Rules. Annexed hereto as Exhibit E is a copy of the House Rules as revised.

12. **Changes in Principals of Sponsor.** Effective January 1, 2014, the interests of the Trustees of the Trust u/w/o Jacob Heller are held by Alan Heller, 930 Fifth Avenue, New York, New York 10021, Richard Heller, 37 Bradley Road, Weston, Connecticut 06883, Suzanne Heller as Trustee of the 2002 Suzanne Heller Revocable Trust, 28 Chestnut Street, Vinalhaven, Maine 04863, Erica Newman, 12 N Astor St., Unit C, Irvington, New York 10533 and Faith Willinger, Via Della Chiesa 7, 50125, Firenze, Italy. The interests of the Trustees of the Trust u/w/o Frank Heller are now held by Carol H. Corbin, 31 Hathaway Lane, White Plains, New York 10605 and Nancy R. Heller, 15 Charles Street, New York, New York 10014. The interests of Stuart Robinowitz are now held by Maggie Partners, L.P., c/o Stuart Robinowitz, 6 Hillair Circle, White Plains, New York 10605. The interests of the Estate of Andrew Orlofsky are now held by Sharyn Orlofsky, One City Place, White Plains, New York 10601. The Trustees of the Trust u/w/o Myron Orlofsky are Patsy Orlofsky, Louis R. Taffera and Sam Orlofsky. The address of Lenroz Associates is c/o Kramer, 80 Old Middletown Road, New City 10956

13. **Change of Addresses for Sponsor and Sponsor's Attorney.** The offices of Sponsor and of Sponsor's attorney, Peck & Heller, are now located at 805 Third Avenue, 9th floor, New York, New York 10022. Sponsor also maintains an office with the Selling Agent, Robert Orlofsky Realty, Inc., 7 Bryant Crescent, #1-C, White Plains, New York 10605

14. **No Other Material Changes in Plan.** There have been no material changes in the Plan, except as set forth in this Eighteenth Amendment. The Plan, as amended hereby, does not

10. Amendments to House Rules. The Board of Directors of the Corporation has amended the House Rules. Annexed hereto as Exhibit E is a copy of the House Rules as revised.

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13. No Other Material Changes in Plan. There have been no material changes in the Plan, except as set forth in this Eighteenth Amendment. The Plan, as amended hereby, does not knowingly omit any material fact or knowingly contain any untrue statement of any material fact.

Dated: **FEBRUARY 26**, 2014

SUTTON ESTATES, LLC
Sponsor and Holder of Unsold Shares



STATE OF NEW YORK
OFFICE OF THE ATTORNEY GENERAL

ERIC T. SCHNEIDERMAN
Attorney General

DIVISION OF ECONOMIC JUSTICE
Real Estate Finance Bureau

(212) 416-6384

Sutton Estates, LLC
c/o Peck & Heller
Attention: Nancy Heller
805 Third Avenue
New York, NY 10022

March 18, 2014

RE: 445 Gramatan Avenue (Westchester Gardens)
File Number: C 870246 Amendment No: 18
Date Amendment Filed: 02/26/2014 Filing Fee: \$225.00
Receipt Number: 124658

Dear Sponsor:

The referenced amendment to the offering plan for the subject premises is hereby accepted and filed. Since this amendment is submitted after the post closing amendment has been filed, this filing is effective for twelve months from the date of filing of this amendment. However, any material change of fact or circumstance affecting the property or offering requires an immediate amendment.

Any misstatement or concealment of material fact in the material submitted as part of this amendment renders this filing void ab initio. This office has relied on the truth of the certifications of sponsor, sponsor's principals, and sponsor's experts, as well as the transmittal letter of sponsor's attorney.

Filing this amendment shall not be construed as approval of the contents or terms thereof by the Attorney General of the State of New York, or any waiver of or limitation on the Attorney General's authority to take enforcement action for violation of Article 23-A of the General Business Law or other applicable law. The issuance of this letter is conditioned upon the collection of all fees imposed by law. This letter is your receipt for the filing fee.

Very truly yours,

Lisa Wallace
Assistant Attorney General

SCHEDULE OF UNSOLD SHARES

<u># APT.</u>	<u>NUMBER OF SHARES</u>
AB2	415
AC2	410
AD3	405
BD1	405
CD1	480
DC2	410
DD1	480
EA2	300
EB1	455
EB2	295
ED1	445
FD2	480
GA2	300
GA3	460
GB2	295
HA1	420
HD2	480
IA1	420
IA2	460
IA3	495
IB1	490
IB3	490
IC2	450
ID3	480
JB2	415
JC2	410
KC3	540
Total Building Units	27
Total Unsold Shares	11,585

EXHIBIT B

WESTCHESTER GARDENS OWNERS INC.

FINANCIAL STATEMENTS

DECEMBER 31, 2012 AND 2011

WESTCHESTER GARDENS OWNERS INC.

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BLOOM AND STREIT LLP
CERTIFIED PUBLIC ACCOUNTANTS

ROGER BERMAN, CPA
WILLIAM J. RANK, CPA, CFP
MARK COHEN, CPA

INDEPENDENT AUDITORS' REPORT

To the Board

WESTCHESTER GARDENS OWNERS INC.

We have audited the accompanying financial statements of Westchester Gardens Owners Inc., which comprise the balance sheets as of December 31, 2012 and 2011, and the related statements of income (loss), retained earnings (deficit), and cash flows for the years then ended, and the related notes to the financial statements.

Management's Responsibility for the Financial Statements

Management is responsible for the preparation and fair presentation of these financial statements in accordance with accounting principles generally accepted in the United States of America; this includes the design, implementation, and maintenance of internal control relevant to the preparation and fair presentation of financial statements that are free from material misstatement, whether due to fraud or error.

Auditors' Responsibility

Our responsibility is to express an opinion on these financial statements based on our audits. We conducted our audits in accordance with auditing standards generally accepted in the United States of America. Those standards require that we plan and perform the audits to obtain reasonable assurance about whether the financial statements are free of material misstatement.

An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the financial statements. The procedures selected depend on the auditors' judgement, including the assessment of the risks of material misstatement of the financial statements, whether due to fraud or error. In making those risk assessments, the auditors consider internal control relevant to the entity's preparation and fair presentation of the financial statements in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the entity's internal control. Accordingly, we express no such opinion. An audit also includes evaluating the appropriateness of accounting policies used and the reasonableness of significant accounting estimates made by management, as well as evaluating the overall presentation of the financial statements.

We believe that the audit evidence we have obtained is sufficient and appropriate to provide a basis for our audit opinion.

Opinion

In our opinion, the financial statements referred to above present fairly, in all material respects, the financial position of Westchester Gardens Owners Inc., as of December 31, 2012 and 2011, and the results of their operations and their cash flows for the years then ended in accordance with accounting principles generally accepted in the United States of America.

Emphasis of Matter

As discussed in Note 11, the entity has not estimated the remaining lives and replacement costs of the common property and, therefore, has not presented information about the estimates of future costs of major repairs and replacements that will be required in the future that accounting principles generally accepted in the United States of America has determined is required to supplement, although not required to be a part of, the basic financial statements.

Bloom and Streit LLP

BLOOM AND STREIT LLP
Certified Public Accountants
February 19, 2013

WESTCHESTER GARDENS OWNERS INC.

Balance Sheets

As of December 31,

	<u>2012</u>	<u>2011</u>
ASSETS		
CURRENT ASSETS		
Cash in Operating Account	9,495	19,238
Cash in Bank - Money Market Account	68,720	46,624
Cash in Bank - Investment Account	60,967	60,960
Tenants' Accounts Receivable	20,590	13,397
Prepaid Expenses	<u>15,268</u>	<u>18,786</u>
Total	175,040	159,005
Less: Allocated to Funds (see below)	<u>(130,000)</u>	<u>(108,000)</u>
Total Current Assets	<u>45,040</u>	<u>51,005</u>
FUNDS		
Contingency Reserve:		
Allocated from Current Assets (see above)	<u>130,000</u>	<u>108,000</u>
PROPERTY AND EQUIPMENT -		
Net Book Value	<u>5,588,180</u>	<u>5,715,228</u>
OTHER ASSETS		
Investment in National Cooperative Bank	4,660	4,660
Deferred Mortgage Financing Expenses	<u>16,965</u>	<u>21,592</u>
Total Other Assets	<u>21,625</u>	<u>26,252</u>
 TOTAL ASSETS	 <u>5,784,845</u>	 <u>5,900,485</u>

	<u>2012</u>	<u>2011</u>
LIABILITIES AND STOCKHOLDERS' EQUITY		
CURRENT LIABILITES		
Accounts Payable	34,639	66,374
Accrued Interest	15,910	15,803
Star Credit Due to Stockholders	65,081	61,318
Rents Received in Advance	1,230	4,047
Security Deposits	7,414	8,914
Mortgages Payable - Amortization Payments due within one year	<u>55,683</u>	<u>51,211</u>
Total Current Liabilities	<u>179,956</u>	<u>207,666</u>
LONG-TERM LIABILITIES		
First Mortgage Payable - Net of Payments due within one year	2,887,290	2,938,609
Line of Credit Payable	<u>47,600</u>	<u>50,000</u>
Total Long-Term Liabilities	<u>2,934,890</u>	<u>2,988,609</u>
STOCKHOLDERS' EQUITY		
Common Stock \$1.00 par value; 50,815 shares authorized issued and outstanding	50,815	50,815
Paid-in Capital	4,864,060	4,864,060
Retained Earnings (Deficit)	<u>(2,244,876)</u>	<u>(2,210,666)</u>
Total Stockholders' Equity	<u>2,669,999</u>	<u>2,704,209</u>
TOTAL LIABILITES AND STOCKHOLDERS' EQUITY	<u>5,784,845</u>	<u>5,900,485</u>

See accompanying notes and auditors' report

WESTCHESTER GARDENS OWNERS INC.

Statements of Income (Loss)

For the Year Ended December 31,

	<u>2012</u>	<u>2011</u>
INCOME		
Carrying Charges	1,140,315	1,086,016
Surcharge Income	0	63,519
Parking Income	73,920	60,480
Laundry Room Income	8,700	8,700
Storage Units	4,695	4,381
Interest/Dividend Income	104	227
Miscellaneous Income	985	1,047
Total Income	<u>1,228,719</u>	<u>1,224,369</u>
EXPENSES		
Administrative Expenses	52,629	55,938
Maintenance Expenses	225,369	278,765
Utilities Expenses	217,048	229,943
Taxes and Insurance	446,524	429,075
Financial Expenses	189,683	189,379
Total Expenses Before Depreciation and Amortization	<u>1,131,254</u>	<u>1,183,101</u>
NET INCOME (LOSS) BEFORE DEPRECIATION AND AMORTIZATION	97,465	41,268
Depreciation and Amortization of Mortgage Financing Expenses and Lease Commissions	<u>(131,675)</u>	<u>(131,060)</u>
NET INCOME (LOSS) FOR THE YEAR	<u>(34,210)</u>	<u>(89,791)</u>

See accompanying notes and auditors' report

WESTCHESTER GARDENS OWNERS INC.

Statements of Retained Earnings (Deficit)

For the Year Ended December 31,

	<u>2012</u>	<u>2011</u>
RETAINED EARNINGS (DEFICIT) - Beginning of Year	(2,210,666)	(2,120,875)
Net Income (Loss) for the Year	<u>(34,210)</u>	<u>(89,791)</u>
RETAINED EARNINGS (DEFICIT) - End of Year	<u>(2,244,876)</u>	<u>(2,210,666)</u>

See accompanying notes and auditors' report

WESTCHESTER GARDENS OWNERS INC.

Statements of Cash Flows

For the Year Ended December 31,

	2012	2011
Cash Flows From Operating Activities		
Net Income (loss)	(34,210)	(89,791)
Adjustments to reconcile net income (loss) to net cash provided (used) by operating activities:		
Depreciation and Amortization	131,675	131,060
Revenue allocated to financing activities	(49,246)	(45,629)
Decrease (Increase) in operating assets:		
Tenants' Accounts Receivable	(7,193)	(1,637)
Prepaid Expenses	3,518	(1,126)
Increase (Decrease) in operating liabilities:		
Accounts Payable	(20,381)	(32,633)
Accrued Interest	107	(430)
Rents Received in Advance	(2,818)	3,356
Star Credit Due to Stockholders	2,263	(973)
Net cash provided (used) by operating activities	23,714	(37,802)
Cash Flows From Investing Activities		
Purchase of Property and Equipment	(11,354)	(15,732)
Net cash provided (used) by investing activities	(11,354)	(15,732)
Cash Flows From Financing Activities		
Portion of Carrying Charges applied to Amortization of Mortgage & Line of Credit	49,246	45,629
Line of Credit - Net Proceeds	0	50,000
Amortization Payments on Mortgage	(48,046)	(45,629)
Amortization Payments on Line of Credit	(1,200)	0
Net cash provided (used) by financing activities	0	50,000
Increase (Decrease) in Cash and Cash Equivalents (carryforward)	12,360	(3,534)

See accompanying notes and auditors' report

WESTCHESTER GARDENS OWNERS INC.

Statements of Cash Flows

For the Year Ended December 31,

	<u>2012</u>	<u>2011</u>
Increase (Decrease) in Cash and Cash Equivalents (brought forward)	12,360	(3,534)
Cash and Cash Equivalents at Beginning of Year	<u>126,822</u>	<u>130,356</u>
Cash and Cash Equivalents at End of Year (see below)	<u><u>139,182</u></u>	<u><u>126,822</u></u>
Represented by:		
Cash in Operating Account	9,495	19,238
Cash in Bank - Money Market Account	68,720	46,624
Cash in Bank - Investment Account	<u>60,967</u>	<u>60,960</u>
Cash and Cash Equivalents (as above)	<u><u>139,182</u></u>	<u><u>126,822</u></u>
Supplemental Disclosure:		
Interest Paid	<u>189,790</u>	<u>188,950</u>

See accompanying notes and auditors' report

WESTCHESTER GARDENS OWNERS INC.

Notes to Financial Statements

December 31, 2012 and 2011

Note 1

Organization

Westchester Gardens Owners, Inc. is a cooperative housing corporation incorporated in the State of New York in January 1986. The cooperative owns and operates an apartment building located at 445 Gramatan Avenue, Mount Vernon, New York, consisting of 112 residential units. The primary purpose of the cooperative is to manage the operations of the building and maintain the common elements.

Note 2

Summary of Significant Accounting Policies

The financial statements have been presented in accordance with the accounting principles prescribed by the audit and accounting guide for common interest realty associations issued by the American Institute of Certified Public Accountants. The guide describes conditions and procedures unique to the industry (including cooperative housing corporations and condominium associations) and illustrates the form and content of the financial statements of common interest realty associations as well as informative disclosures relating to such statements. In addition, the guide requires that all revenues from tenant-stockholders, including maintenance charges and special assessments, be recognized as revenue in the statements of income (loss).

Property and equipment is being carried at cost. Depreciation of the building is being computed by the straight line method over an estimated useful life of 35 years. Building improvements are depreciated on the straight line method over an estimated useful life of 27.5 years.

The cooperative accounts for certain revenue items differently for financial reporting and income tax purposes. The principal differences are permanent in nature and relate to any portion of maintenance charges and special assessments allocated for mortgage amortization and capital improvements which are being accounted for as contributions to additional paid-in capital for income tax purposes whereas such items are recognized as revenue for financial reporting.

For purposes of the statements of cash flows, the cooperative considers all highly liquid debt instruments purchased with a maturity of three months or less to be cash equivalents.

WESTCHESTER GARDENS OWNERS INC.

Notes to Financial Statements

December 31, 2012 and 2011

Note 2

Summary of Significant Accounting Policies - continued

The cooperative classifies its marketable debt securities as "held to maturity" since it has the positive intent and ability to hold the securities to maturity. Securities classified as "held to maturity" are carried at amortized cost.

Mortgage acquisition costs are being amortized over the life of the related mortgage using the straight line method.

The preparation of financial statements in conformity with generally accepted accounting principles requires management to make estimates and assumptions that affect the reported amounts of assets and liabilities and disclosure of contingent assets and liabilities at the date of the financial statements and the reported amounts of revenues and expenses during the reporting period. Actual results could differ from those estimates.

Tenant-stockholders are subject to monthly charges to provide funds for the cooperative's operating expenses, future capital acquisitions, and major repairs and replacements. Tenants' Accounts Receivable at the balance sheets date represent various fees due from tenant-stockholders. The cooperative's policy is to retain legal counsel and place liens on the shares of stock of tenant-stockholders whose assessments are delinquent. Any excess charges at year end are retained by the cooperative for use in the succeeding year.

Note 3

Concentrations of Credit Risk

The cooperative maintains various bank and money market accounts that at times may exceed insured credit limits. The cooperative has not experienced any losses in such accounts and believes it is not exposed to any significant credit risk with respect to such balances. However, should any of these institutions fail, the cooperative could suffer a loss.

WESTCHESTER GARDENS OWNERS INC.

Notes to Financial Statements

December 31, 2012 and 2011

Note 4

Property and Equipment

Property and Equipment consists of the following:

	<u>2012</u>	<u>2011</u>
Land	3,824,018	3,824,018
Building	3,086,857	3,086,857
Building improvements	<u>1,127,614</u>	<u>1,127,614</u>
	8,038,489	8,038,489
Less: accumulated depreciation	<u>2,450,309</u>	<u>2,323,261</u>
Total Property and Equipment	<u>5,588,180</u>	<u>5,715,228</u>

Depreciation expense of \$127,048 and \$126,433 were recognized for the year ended December 31, 2012 and 2011, respectively.

Note 5

Mortgage Payable

During 2006, the cooperative refinanced its mortgage with NCB (National Cooperative Bank) in the amount of \$3,200,000. The mortgage, which is secured by the property, is payable in monthly installments of \$19,620, including interest at the rate of 6.21% per annum, based on a 30 year amortization period. The note matures on September 1, 2016, at which time a balloon payment of approximately \$2,731,000 is due.

In conjunction with the refinancing, the cooperative was required to purchase shares of NCB's Class B1 and B2 stock. Class B1 shares earn a patronage dividend payable in cash and in Class B2 stock, as determined by NCB. Class B1 shares are redeemable by NCB upon satisfactory repayment of all loans made to or guaranteed by eligible customers. Class B2 shares are non-redeemable, non-transferable, and pay no dividends.

During the year ended December 31, 2012 and 2011, the cooperative received dividends of \$0 and \$177, respectively. At December 31, 2012 and 2011, the cooperative owned approximately 47 Class B1 shares. At December 31, 2012 and 2011, the cooperative owned 307 Class B2 shares.

The loan agreements also provide for a \$500,000 available line of credit. The interest rate is 1% over the lender's base rate. During the year ended December 31, 2011, the line of credit was accessed in the amount of \$50,000.

WESTCHESTER GARDENS OWNERS INC.

Notes to Financial Statements

December 31, 2012 and 2011

Note 5 Mortgage Payable - continued

Principal maturities of the mortgage are as follows:

2013	54,483
2014	57,965
2015	61,668
2016 (Including Payoff)	2,767,657

As part of the aforementioned refinancings, the cooperative has paid closing costs of approximately \$46,000, which are being amortized over the life of the new mortgage.

Note 6 Sponsor Ownership

At both December 31, 2012 and December 31, 2011, the Sponsor owned twenty seven residential units, or approximately 24% of the total residential units, respectively. Carrying charges received from the Sponsor's residential units aggregated approximately \$260,000 and \$248,000 for the year ended December 31, 2012 and December 31, 2011, respectively. As of that date, the Sponsor was current in the payment of carrying charges.

Note 7 Charges

In November 2010, the cooperative approved a 5% increase in maintenance and a \$10 increase in the monthly parking charge effective January 1, 2011. Effective August 1, 2011, the cooperative approved a fuel surcharge of \$1.25 per share payable over five months and ending December 31, 2011. In November 2011, the cooperative approved a 5% increase in maintenance and a \$10 increase in the monthly parking effective January 1, 2012. In November 2012, the cooperative approved a 2% increase in maintenance effective January 1, 2013.

Note 8 Real Estate Taxes - Tax Abatements

The cooperative is entitled to and has received tax abatements on behalf of its stockholders from the State of New York during 2012 and 2011. The abatements, which include Star, Veterans, SCRJE and cooperative abatements (where applicable) are passed on to the stockholders by direct payment or as a credit against carrying charges.

WESTCHESTER GARDENS OWNERS INC.

Notes to Financial Statements

December 31, 2012 and 2011

Note 8

Real Estate Taxes - Tax Abatements - continued

Any undistributed abatements as of the fiscal year end have been included on the Balance Sheets in Current Liabilities as Star Credit Due to Stockholders. As the abatements benefit the stockholders, the real estate tax expense reflected in these financial statements is gross of all the aforementioned tax abatements.

Note 9

Benefits

The cooperative participated in the 32BJ North Pension Fund, Employer Identification Number 13-1819138, Plan 001, for the years ended December 31, 2012 and 2011. The cooperative participated in this multi-employer plan, for the years ended December 31, 2012 and 2011 under the terms of collective-bargaining agreements that cover its union represented employees. This collective bargaining agreement expires September 30, 2014 and the cooperative has no intention of withdrawing from the plan.

The risks of participating in multi-employer plans are different from single-employer plans for the following reasons: 1) assets contributed to the multi-employer plan by one employer may be used to provide benefits to employees of other participating employers, 2) if a participating employer stops contributing to the plan, the unfunded obligations of the plan may be borne by the remaining participating employers and 3) if the cooperative chooses to stop participating in its multi-employer pension plan, the cooperative may be required to pay the plan an amount based on the underfunded status of the plan, which is referred to as a withdrawal liability.

The zone status is based on information that the cooperative received from the plan and is certified by the plan's actuary. Plans in the red zone are generally less than 65 percent funded, plans in the yellow zone are less than 80 percent funded and plans in the green zone are at least 80 percent funded. The most recent Pension Protect Act (PPA) zone status available is for the plan's year-end at December 31, 2012 and 2011. The certified zone status for the plan for each of these years was red and a rehabilitation plan has been implemented. It is possible that this rehabilitation plan may involve a surcharge to the cooperative.

WESTCHESTER GARDENS OWNERS INC.

Notes to Financial Statements

December 31, 2012 and 2011

Note 9

Benefits - continued

In addition to the Pension Fund, the cooperative also participated in a Health Fund for the years ended December 31, 2012 and 2011. The fund provides health benefits (medical, surgical, hospital, prescription drugs, behavioral health, optical, dental) and life insurance coverage for eligible participants and their covered dependents. Retired employees are eligible for health benefits if they retire before age 65, but after age 62; accumulated 15 combined years of pension service credit; worked both 90 days immediately before retirement and at least 36 months of the 60 months before retiring; and are receiving an early or regular retirement pension from the 32BJ North Pension Fund. These benefits continue for the retired employee and eligible dependents until they become eligible for Medicare, until age 65, or until the retiree's pension is suspended, whichever occurs first.

The condominium made the following contributions to the plans:

	<u>2012</u>	<u>2011</u>
Total Pension Contributions	7,776	7,406
Total Health Contributions	37,188	35,604

The condominium's contributions to the plan were not greater than 5% of the plan's total contributions.

Note 10

Income Taxes

Federal income tax is computed pursuant to Subchapter T of the Internal Revenue Code. Under Subchapter T, income from non-patronage sources, such as interest and commercial rents, in excess of expenses properly attributable thereto may be subject to tax. The cooperative believes that all of its income is patronage sourced. Accordingly, no provisions for taxes, if any, that could result from the application of Subchapter T to the cooperative's income has been reflected in the accompanying financial statements. New York State Franchise tax is calculated by utilizing special tax rates available to cooperative housing corporations based on the cooperative's capital base.

WESTCHESTER GARDENS OWNERS INC.

Notes to Financial Statements

December 31, 2012 and 2011

Note 10

Income Taxes - continued

As of December 31, 2012, the cooperative has available net operating loss carryforwards to apply to future taxable income in the approximate amount of \$895,000. Unless used, these net operating losses are set to expire beginning in 2021 and continuing through 2032.

In accordance with accounting rules for uncertainty in income tax guidance, which clarifies the accounting and recognition for tax positions taken or expected to be taken in its income tax returns, the cooperative's tax filings are subject to audit by various taxing authorities. The cooperative's federal and state income tax returns for the last three years remain open to examination. In evaluating its tax provisions and accruals, the cooperative believes that its estimates are appropriate based on current facts and circumstances.

Note 11

Future Major Repairs and Replacements

The cooperative has not conducted a study to determine the remaining useful lives of the components of common property and current estimates of costs of major repairs and replacements that may be required in the future. When replacement funds are needed to meet future needs for major repairs and replacements, the cooperative may borrow, utilize available cash, increase carrying charges, pass special assessments or delay repairs and replacements until the funds are available. The effect on future assessments has not been determined at this time.

Note 12

Commitments and Contingencies

On February 23, 2012, Westchester Gardens Owners, Inc. was served with a Supreme Court action in the County of Westchester that seeks damages for an alleged mold condition in a shareholder occupied basement apartment. The matter is being defended by the insurance company for the cooperative.

Note 13

Subsequent Events

Management has evaluated subsequent events through February 19, 2013, the date at which the financial statements became available for issuance. No events have occurred that would require adjustments to, or disclosure in, the financial statements.

**INDEPENDENT AUDITORS' REPORT
ON SUPPLEMENTARY INFORMATION**

**To the Board
WESTCHESTER GARDENS OWNERS INC.**

We have audited the financial statements of Westchester Gardens Owners Inc. as of and for the years ended December 31, 2012 and 2011, and our report thereon dated February 19, 2013, which expressed an unqualified opinion on those financial statements, appears on Page 1. Our audits were performed for the purpose of forming an opinion on the financial statements as a whole. The schedule of budget with actual operating amounts and detailed schedule of repairs, which are the responsibility of the entity's management, are presented for purposes of additional analysis and are not a required part of the financial statements. Such information, except for the portion marked "unaudited" was derived from and relates directly to the underlying accounting and other records used to prepare the financial statements. That information has been subjected to the auditing procedures applied in the audit of the financial statements and certain additional procedures, including comparing and reconciling such information directly to the underlying accounting and other records used to prepare the financial statements or to the financial statements themselves, and other additional procedures in accordance with auditing standards generally accepted in the United States of America. In our opinion, that information is fairly stated in all material respects in relation to the financial statements as a whole. The information marked "unaudited" has not been subjected to the auditing procedures applied in the audit of the financial statements and, accordingly, we do not express an opinion or provide any assurance on it.



**BLOOM AND STREIT LLP
Certified Public Accountants
February 19, 2013**

WESTCHESTER GARDENS OWNERS INC.

Schedule of Budget with Actual Operating Amounts

	<u>Budget</u> <u>Year Ended</u> <u>Dec. 31, 2012</u> <u>(Unaudited)</u>	<u>Actual</u> <u>Year Ended</u> <u>Dec. 31, 2012</u>	<u>Actual</u> <u>Year Ended</u> <u>Dec. 31, 2011</u>
RECEIPTS			
Carrying Charges	1,140,316	1,140,315	1,086,016
Surcharge Income	0	0	63,519
Parking Income	74,000	73,920	60,480
Laundry Room Income	8,700	8,700	8,700
Storage Units	4,500	4,695	4,381
Interest/Dividend Income	100	104	227
Miscellaneous Income	800	985	1,047
Total Receipts	<u>1,228,416</u>	<u>1,228,719</u>	<u>1,224,369</u>
EXPENDITURES			
ADMINISTRATIVE EXPENSES			
Management Fee	31,500	31,500	31,500
Legal Expense	4,000	2,946	6,575
Auditing	8,400	8,400	8,400
Telephone and Beeper	3,700	4,076	4,001
Office and Administrative Expenses	5,480	5,707	5,463
Total Administrative Expenses	<u>53,080</u>	<u>52,629</u>	<u>55,938</u>
MAINTENANCE EXPENSES			
Super and Maintenance Payroll	133,000	134,292	131,801
Supplies	15,000	13,803	13,318
Repairs and Maintenance(see schedule)	70,000	45,076	88,146
Exterminating/Bed Bugs	2,800	5,843	2,017
Landscaping and Grounds	16,000	17,553	16,483
Tree Services	6,000	3,073	6,013
Snow Removal	16,000	5,730	20,986
Total Maintenance Expenses	<u>258,800</u>	<u>225,369</u>	<u>278,765</u>
UTILITIES EXPENSES			
Fuel	199,000	179,291	192,336
Electricity and Gas	21,000	20,062	21,351
Water	16,000	17,695	16,256
Total Utilities Expenses	<u>236,000</u>	<u>217,048</u>	<u>229,943</u>

See auditors' report on supplementary information

WESTCHESTER GARDENS OWNERS INC.

Schedule of Budget with Actual Operating Amounts

	<u>Budget</u> <u>Year Ended</u> <u>Dec. 31, 2012</u> <u>(Unaudited)</u>	<u>Actual</u> <u>Year Ended</u> <u>Dec. 31, 2012</u>	<u>Actual</u> <u>Year Ended</u> <u>Dec. 31, 2011</u>
TAXES AND INSURANCE			
Real Estate Taxes	325,000	327,671	313,791
Payroll Taxes	12,000	10,924	11,213
Licenses and Permits	500	0	617
Insurance	54,000	58,272	55,195
Union Welfare and Pension Fund	48,500	47,824	46,503
NYS Franchise Taxes	2,600	1,833	1,756
Total Taxes and Insurance	<u>442,600</u>	<u>446,524</u>	<u>429,075</u>
FINANCIAL EXPENSES			
Interest on Mortgage	187,226	187,650	189,049
Interest on Line of Credit	2,500	2,033	330
Total Financial Expenses	<u>189,726</u>	<u>189,683</u>	<u>189,379</u>
CONTRIBUTIONS TO EQUITY			
Amortization of Mortgage	48,210	48,046	45,629
Amortization of Credit Line	0	1,200	0
Total Contributions to Equity	<u>48,210</u>	<u>49,246</u>	<u>45,629</u>
Total Expenditures	<u>1,228,416</u>	<u>1,180,501</u>	<u>1,228,729</u>
NET SURPLUS (DEFICIT)			
FOR THE YEAR	<u>0</u>	<u>48,218</u>	<u>(4,360)</u>

See auditors' report on supplementary information

WESTCHESTER GARDENS OWNERS INC.

Detailed Schedule of Repairs

For the Year Ended December 31,

	<u>2012</u>	<u>2011</u>
REPAIRS		
Boiler and Burners	4,640	8,453
Plumbing and Pipes	5,552	28,253
Electrical	440	2,959
Painting, Plastering and Carpentry Work	10,988	12,958
Roofing and Waterproofing	3,035	0
Paving and Excavation	4,167	9,680
Masonry and Tile Work	3,904	7,794
Fencing and Gates	3,200	0
Window Repairs	1,387	4,497
Locks	779	0
Intercom	780	2,495
Engineers and Architects	0	4,035
Uniforms	1,133	289
Rubbish Removal	620	37
Truck Expenses	1,863	4,232
General	<u>2,590</u>	<u>2,464</u>
Total Repairs	<u>45,076</u>	<u>88,146</u>

See auditors' report on supplementary information

WESTCHESTER GARDENS OWNERS INC
APPROVED OPERATING BUDGET
FOR THE YEAR ENDED DECEMBER 31, 2014

RECEIPTS

CARRYING CHARGES	1,186,384	
PARKING	74,000	
LAUNDRY ROOM INCOME	8,700	
STORAGE UNITS	4,400	
INTEREST INCOME	100	
MISCELLANEOUS INCOME	<u>1,200</u>	
TOTAL RECEIPTS		1,274,784

EXPENDITURES

ADMINISTRATIVE EXPENSES		
MANAGEMENT FEE	36,000	
LEGAL	5,000	
AUDITING	8,700	
TELECOMMUNICATIONS	3,900	
OFFICE AND ADMIN EXPENSES	<u>5,741</u>	
TOTAL ADMINISTRATIVE EXPENSES		59,341

MAINTENANCE EXPENSES

PAYROLL	137,500	
SUPPLIES	13,000	
REPAIRS AND MAINTENANCE	45,000	
EXTERMINATING EXPENSES	6,000	
LANDSCAPING AND GROUNDS	20,000	
TREE SERVICES	3,000	
SNOW REMOVAL AND SUPPLIES	<u>12,000</u>	
TOTAL MAINTENANCE EXPENSES		236,500

UTILITIES EXPENSES

FUEL	197,000	
ELECTRICITY AND GAS	21,000	
WATER	<u>19,500</u>	
TOTAL UTILITIES EXPENSES		237,500

WESTCHESTER GARDENS OWNERS INC

TAXES AND INSURANCE		
REAL ESTATE TAXES	343,000	
PAYROLL TAXES	11,500	
LICENSES AND PERMITS	500	
INSURANCE	63,000	
UNION WELFARE AND PENSION FUND	51,000	
FRANCHISE TAXES	1,900	
TOTAL TAXES AND INSURANCE	<u>470,900</u>	470,900
FINANCIAL EXPENSES		
INTEREST ON MORTGAGE	180,092	
INTEREST ON CREDIT LINE	4,200	
TOTAL FINANCIAL EXPENSES	<u>184,292</u>	184,292
CONTRIBUTIONS TO EQUITY/RESERVES		
AMORTIZATION OF MORTGAGE	55,051	
AMORTIZATION OF CREDIT LINE	1,200	
PAYBACK OF CREDIT LINE	30,000	
TOTAL CONTRIBUTIONS TO EQUITY/RESERVES	<u>86,251</u>	86,251
TOTAL EXPENDITURES		<u>1,274,784</u>
NET SURPLUS		<u><u>0</u></u>

NOTES

1. CARRYING CHARGES - INCREASE 2% JAN 2014
3. FUEL - 62,000 GALLONS @ \$3.05/GALLON PLUS TAX

CONSULT YOUR LAWYER BEFORE SIGNING THIS AGREEMENT
Contract of Sale - Cooperative Apartment

This Contract is made as of between the "Seller" and the "Purchaser" identified below.

1 CERTAIN DEFINITIONS AND INFORMATION

1.1 The "Parties" are: 1.1.1 "Seller": SUTTON ESTATES, LLC

Prior names used by Seller: Address: c/o Robert Orlofsky Realty, Inc. 7 Bryant Crescent, #1C White Plains, New York 10605

S.S. No.: 13-3873041 1.1.2 "Purchaser":

Address:

S.S. No.: 1.2 The "Attorneys" are: 1.2.1 "Seller's Attorney"

Nancy R. Heller Peck & Heller Address: 805 Third Avenue New York, New York 10022

Telephone: (212) 758-5230 Fax: (212) 758-5945

1.2.2 "Purchaser's Attorney"

Address:

Telephone: Fax:

1.3 The "Escrowee" is the [Seller's] [Purchaser's] Attorney. 1.4 The Managing Agent is: Robert Orlofsky Realty, Inc.

Address: 7 Bryant Crescent, #1C White Plains, New York 10605

Telephone: (914) 328-6962 Fax: (914) 328-6993

1.5 The real estate "Broker(s)" (see ¶12) is/are: Company Name:

1.6 The name of the cooperative housing corporation ("Corporation") is: Westchester Gardens Owners, Inc.

1.7 The "Unit" number is:

1.8 The Unit is located in "Premises" known as: 445 Gramatan Avenue Mount Vernon, New York 10552

, 20 1.9 The "Shares" are the shares of the Corporation allocated to the Unit.

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

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

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

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

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

1.15 The date scheduled for Closing is ("Scheduled Closing Date") at a.m., at Managing Agent (See ¶¶ 9 and 10)

1.16 The "Purchase Price" is: \$

1.16.1 The "Contract Deposit" is: \$

1.16.2 The "Balance" of the Purchase Price due at Closing is: \$ 0.00 (See ¶2.2.2)

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

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

1.19 [Seller] [Purchaser] shall pay the Corporation's flip tax, transfer fee (apart from the transfer agent fee) and/or waiver of option fee ("Flip Tax"), if any. None

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

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

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

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

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

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

1.23 All "Proposed Occupants" of the Unit are:

1.23.1 persons and relationship to Purchaser:

1.23.2 pets:

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

(See ¶27)

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

2 AGREEMENT TO SELL AND PURCHASE; PURCHASE PRICE; ESCROW

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

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

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

2.2.2 the Balance at Closing, only by cashier's or official bank check or certified check of Purchaser payable to the direct order of Seller. The check(s) shall be drawn on and payable by a branch of a commercial or savings bank, savings and loan association or trust company located in the same City or County as the Unit. Seller may direct, on reasonable Notice (defined in ¶17) prior to Closing, that all or a portion of the Balance shall be made payable to persons other than Seller (see ¶17.7).

3 PERSONALTY

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

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

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

4 REPRESENTATIONS AND COVENANTS

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

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

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

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

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

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

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

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

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

4.1.9 at Closing in accordance with ¶15.2:

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

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

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

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

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

4.2 Purchaser represents and covenants that:

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

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

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

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

4.2.5 Purchaser shall not make any representations to the

Corporation contrary to the foregoing and shall provide all documents in support thereof required by the Corporation in connection with Purchaser's application for approval of this transaction; and

- 4.2.6 there are not now and shall not be at Closing any unpaid tax liens or monetary judgments against Purchaser.
- 4.3 Each Party covenants that its representations and covenants contained in ¶4 shall be true and complete at Closing and, except for ¶4.1.6, shall survive Closing but any action based thereon must be instituted within one year after Closing.

5 CORPORATE DOCUMENTS

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

6 REQUIRED CONSENT AND REFERENCES

- ~~6.1 This sale is subject to the unconditional consent of the Corporation.~~
- ~~6.2 Purchaser shall in good faith:~~
- ~~6.2.1 submit to the Corporation or the Managing Agent an application with respect to this sale on the form required by the Corporation, containing such data and together with such documents as the Corporation requires, and pay the applicable fees and charges that the Corporation imposes upon Purchaser. All of the foregoing shall be submitted within 10 business days after the Delivery Date, or, if ¶¶ 1.20.1 or 1.20.2 applies and the Loan Commitment Letter is required by the Corporation, within 3 business days after the earlier of (i) the Loan Commitment Date (defined in ¶1.21) or (ii) the date of receipt of the Loan Commitment Letter (defined in ¶18.1.2);~~
- ~~6.2.2 attend (and cause any Proposed Occupant to attend) one or more personal interviews, as requested by the Corporation; and~~
- ~~6.2.3 promptly submit to the Corporation such further references, data and documents reasonably requested by the Corporation.~~
- ~~6.3 Either Party, after learning of the Corporation's decision, shall promptly advise the other Party thereof. If the Corporation has not made a decision on or before the Scheduled Closing Date, the Closing shall be adjourned for 30 business days for the purpose of obtaining such consent. If such consent is not given by such adjourned date, either Party may cancel this Contract by Notice, provided that the Corporation's consent is not issued before such Notice of cancellation is given. If such consent is refused at any time, either Party may cancel this Contract by Notice. In the event of cancellation pursuant to this ¶6.3, the Escrowee shall refund the Contract Deposit to Purchaser.~~
- ~~6.4 If such consent is refused, or not given, due to Purchaser's bad faith conduct, Purchaser shall be in default and ¶13.1 shall govern.~~

7 CONDITION OF UNIT AND PERSONALTY;

POSSESSION

- 7.1 Seller makes no representation as to the physical condition or state of repair of the Unit, the Personalty, the Included Interests or the Premises. Purchaser has inspected or waived inspection of the Unit, the Personalty and the Included Interests and shall take the same "as is", as of the date of this Contract, except for reasonable wear and tear. However, at the time of Closing, the appliances shall be in working order and required smoke detector(s) shall be installed and operable.
- 7.2 At Closing, Seller shall deliver possession of the Unit, Personalty and Included Interests in the condition required by ¶7.1, broom-clean, vacant and free of all occupants and rights of possession.

8 RISK OF LOSS

- 8.1 The provisions of General Obligations Law Section 5-1311, as modified herein, shall apply to this transaction as if it were a sale of realty. For purposes of this paragraph, the term "Unit" includes built-in Personalty.
- 8.2 Destruction shall be deemed "material" under GOL 5-1311, if the reasonably estimated cost to restore the Unit shall exceed 5% of the Purchase Price.
- 8.3 In the event of any destruction of the Unit or the Premises, when neither legal title nor the possession of the Unit has been transferred to Purchaser, Seller shall give Notice of the loss to Purchaser ("Loss Notice") by the earlier of the date of Closing or 7 business days after the date of the loss.
- 8.4 If there is material destruction of the Unit without fault of Purchaser, this Contract shall be deemed canceled in accordance with ¶16.3, unless Purchaser elects by Notice to Seller to complete the purchase with an abatement of the Purchase Price; or
- 8.5 Whether or not there is any destruction of the Unit, if, without fault of Purchaser, more than 10% of the units in the Premises are rendered uninhabitable, or reasonable access to the Unit is not available, then Purchaser shall have the right to cancel this Contract in accordance with ¶16.3 by Notice to Seller.
- 8.6 Purchaser's Notice pursuant to ¶8.4 or ¶8.5 shall be given within 7 business days following the giving of the Loss Notice except that if Seller does not give a Loss Notice, Purchaser's Notice may be given at any time at or prior to Closing
- 8.7 In the event of any destruction of the Unit, Purchaser shall not be entitled to an abatement of the Purchase Price (i) that exceeds the reasonably estimated cost of repair and restoration or (ii) for any loss that the Corporation is obliged to repair or restore; but Seller shall assign to Purchaser, without recourse, Seller's claim, if any, against the Corporation with respect to such loss.

9 CLOSING LOCATION

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

10 CLOSING

- 10.1 At Closing, Seller shall deliver or cause to be delivered:
- 10.1.1 Seller's certificate for the Shares duly endorsed for transfer to Purchaser or accompanied by a separate duly executed stock power to Purchaser, and in either case, with any guarantee of Seller's signature required by the Corporation;
- 10.1.2 Seller's counterpart original of the Lease, all assignments and assumptions in the chain of title and a

duly executed assignment thereof to Purchaser in the form required by the Corporation;

- 10.1.3 FIRPTA documents required by ¶25;
- 10.1.4 keys to the Unit, building entrance(s), and, if applicable, garage, mailbox, storage unit and any locks in the Unit;
- 10.1.5 if requested, an assignment to Purchaser of Seller's interest in the Personalty and Included Interests;
- 10.1.6 any documents and payments to comply with ¶15.2
- 10.1.7 If Seller is unable to deliver the documents required in ¶¶10.1.1 or 10.1.2 then Seller shall deliver or cause to be delivered all documents and payments required by the Corporation for the issuance of a new certificate for the Shares or a new Lease.
- 10.2 At Closing, Purchaser shall:
 - 10.2.1 pay the Balance in accordance with ¶2.2.2;
 - 10.2.2 execute and deliver to Seller and the Corporation an agreement assuming the Lease, in the form required by the Corporation; and
 - 10.2.3 if requested by the Corporation, execute and deliver counterparts of a new lease substantially the same as the Lease, for the balance of the Lease term, in which case the Lease shall be canceled and surrendered to the Corporation together with Seller's assignment thereof to Purchaser.
- 10.3 At Closing, the Parties shall complete and execute all documents necessary:
 - 10.3.1 for Internal Revenue Service ("IRS") form 1099-S or other similar requirements;
 - 10.3.2 to comply with smoke detector requirements and any applicable transfer tax filings; and
 - 10.3.3 to transfer Seller's interest, if any, in and to the Personalty and Included Interests.
- 10.4 Purchaser shall not be obligated to close unless, at Closing, the Corporation delivers:
 - 10.4.1 to Purchaser a new certificate for the Shares in the name of Purchaser; and
 - 10.4.2 a written statement by an officer or authorized agent of the Corporation consenting to the transfer of the Shares and Lease to Purchaser and setting forth the amounts of and payment status of all sums owed by Seller to the Corporation, including Maintenance and any Assessments, and the dates to which each has been paid.

11 CLOSING FEES, TAXES AND APPORTIONMENTS

- 11.1 At or prior to Closing,
 - 11.1.1 Seller shall pay, if applicable:
 - 11.1.1.1 the cost of stock transfer stamps; and
 - 11.1.1.2 transfer taxes, except as set forth in ¶11.1.2.2
 - 11.1.2 Purchaser shall pay, if applicable:
 - 11.1.2.1 any fee imposed by the Corporation relating to Purchaser's financing; and
 - 11.1.2.2 transfer taxes imposed by statute primarily on Purchaser (e.g., the "mansion tax").
- 11.2 The Flip Tax, if any, shall be paid by the Party specified in ¶ 1.19.
- 11.3 Any fee imposed by the Corporation and not specified in this Contract shall be paid by the Party upon whom such fee is expressly imposed by the Corporation, and if no Party is specified by the Corporation, then such fee shall be paid by Seller.
- 11.4 The Parties shall appportion as of 11:59 P.M. of the

day preceding the Closing, the Maintenance, any other periodic charges due the Corporation (other than Assessments) and STAR Tax Exemption (if the Unit is the beneficiary of same), based on the number of the days in the month of Closing.

- 11.5 Assessments, whether payable in a lump sum or installments, shall not be apportioned, but shall be paid by the Party who is the owner of the Shares on the date specified by the Corporation for payment. Purchaser shall pay any installments payable after Closing provided Seller had the right and elected to pay the Assessment in installments.
- 11.6 Each Party shall timely pay any transfer taxes for which it is primarily liable pursuant to law by cashier's, official bank, certified, or attorney's escrow check. This ¶11.6 shall survive Closing.
- 11.7 Any computational errors or omissions shall be corrected within 6 months after Closing. This ¶11.7 shall survive Closing.

12 BROKER

- 12.1 Each Party represents that such Party has not dealt with any person acting as a broker, whether licensed or unlicensed, in connection with this transaction other than the Broker(s) named in ¶1.5.
 - 12.2 Seller shall pay the Broker's commission pursuant to a separate agreement. The Broker(s) shall not be deemed to be a third-party beneficiary of this Contract.
 - 12.3 This ¶12 shall survive Closing, cancellation or termination of this Contract.
- ## 13 DEFAULTS, REMEDIES AND INDEMNITIES
- 13.1 In the event of a default or misrepresentation by Purchaser, Seller's sole and exclusive remedies shall be to cancel this Contract, retain the Contract Deposit as liquidated damages and, if applicable, Seller may enforce the indemnity in ¶13.3 as to brokerage commission or sue under ¶13.4. Purchaser prefers to limit Purchaser's exposure for actual damages to the amount of the Contract Deposit, which Purchaser agrees constitutes a fair and reasonable amount of compensation for Seller's damages under the circumstances and is not a penalty. The principles of real property law shall apply to this liquidated damages provision.
 - 13.2 In the event of a default or misrepresentation by Seller, Purchaser shall have such remedies as Purchaser is entitled to at law or in equity, including specific performance, because the Unit and possession thereof cannot be duplicated.
 - 13.3 Subject to the provisions of ¶4.3, each Party indemnifies and holds harmless the other against and from any claim, judgment, loss, liability, cost or expense resulting from the indemnitor's breach of any of its representations or covenants stated to survive Closing, cancellation or termination of this Contract. Purchaser indemnifies and holds harmless Seller against and from any claim, judgment, loss, liability, cost or expense resulting from the Lease obligations accruing from and after the Closing. Each indemnity includes, without limitation, reasonable attorneys' fees and disbursements, court costs and litigation expenses arising from the defense of any claim and enforcement or collection of a judgment under this indemnity, provided the indemnitee is given Notice and opportunity to defend the claim. This ¶13.3 shall survive Closing, cancellation or termination of this Contract.

- 13.4 In the event any instrument for the payment of the

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

14 ENTIRE AGREEMENT; MODIFICATION

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

15 REMOVAL OF LIENS AND JUDGMENTS

- 15.1 Purchaser shall deliver or cause to be delivered to Seller or Seller's Attorney, not less than 10 calendar days prior to the Scheduled Closing Date a Lien and Judgment search, except that Liens or Judgments first disclosed in a continuation search shall be reported to Seller within 2 business days after receipt thereof, but not later than the Closing. Seller shall have the right to adjourn the Closing pursuant to ¶16 to remove any such Liens and Judgments. Failure by Purchaser to timely deliver such search or continuation search shall not constitute a waiver of Seller's covenants in ¶4 as to Liens and Judgments. However, if the Closing is adjourned solely by reason of untimely delivery of the Lien and Judgment search, the apportionments under ¶11.3 shall be made as of 11:59 P.M. of the day preceding the Scheduled Closing Date in ¶1.15
- 15.2 Seller, at Seller's expense, shall obtain and deliver to the Purchaser the documents and payments necessary to secure the release, satisfaction, termination and discharge or removal of record of any Liens and Judgments. Seller may use any portion of the Purchase Price for such purposes.

15.3 This ¶15 shall survive Closing.

16 SELLER'S INABILITY

- 16.1 If Seller shall be unable to transfer the items set forth in ¶2.1 in accordance with this Contract for any reason other than Seller's failure to make a required payment or other willful act or omission, then Seller shall have the right to adjourn the Closing for periods not exceeding 60 calendar days in the aggregate, but not extending beyond the expiration of Purchaser's Loan Commitment Letter, if ¶¶1.20.1 or 1.20.2 applies.
- 16.2 If Seller does not elect to adjourn the Closing or (if adjourned) on the adjourned date of Closing Seller is still unable to perform, then unless Purchaser elects to proceed with the Closing without abatement of the

Purchase Price, either Party may cancel this Contract on Notice to the other Party given at any time thereafter.

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

17 NOTICES AND CONTRACT DELIVERY

- 17.1 Any notice or demand ("Notice") shall be in writing and delivered either by hand, overnight delivery or certified or registered mail, return receipt requested, to the Party and simultaneously, in like manner, to such Party's Attorney, if any, and to Escrowee at their respective addresses or to such other address as shall hereafter be designated by Notice given pursuant to this ¶17.
- 17.2 The Contract may be delivered as provided in ¶17.1 or by ordinary mail.
- 17.3 The Contract or each Notice shall be deemed given and received:
- 17.3.1 on the day delivered by hand;
- 17.3.2 on the business day following the date sent by overnight delivery;
- 17.3.3 on the 5th business day following the date sent by certified or registered mail; or
- 17.3.4 as to the Contract only, 3 business days following the date of ordinary mailing.
- 17.4 A Notice to Escrowee shall be deemed given only upon actual receipt by Escrowee.
- 17.5 The Attorneys are authorized to give and receive any Notice on behalf of their respective clients.
- 17.6 Failure or refusal to accept a Notice shall not invalidate the Notice.
- 17.7 Notice pursuant to ¶¶2.2.2 and 13.4 may be delivered by confirmed facsimile to the Party's Attorney and shall be deemed given when transmission is confirmed by sender's facsimile machine.

18 FINANCING PROVISIONS

- 18.1 The provisions of ¶¶18.1 and 18.2 are applicable only if ¶¶1.20.1 or 1.20.2 applies.
- 18.1.1 An "Institutional Lender" is any of the following that is authorized under Federal or New York State law to issue a loan secured by the Shares and Lease and is currently extending similarly secured loan commitments in the county in which the Unit is located: a bank, savings bank, savings and loan association, trust company, credit union of which Purchaser is a member, mortgage banker, insurance company or governmental entity.
- 18.1.2 A "Loan Commitment Letter" is a written offer from an Institutional Lender to make a loan on the Financing Terms (see ¶1.21) at prevailing fixed or adjustable interest rates and on other customary terms generally being offered by Institutional Lenders making cooperative share loans. An offer to make a loan conditional upon obtaining an appraisal satisfactory to the Institutional Lender shall not become a Loan Commitment Letter unless and until such condition is met. An offer conditional upon any factor concerning Purchaser (e.g. sale of current home, payment of outstanding debt, no material adverse change in Purchaser's financial condition, etc.) is a Loan Commitment Letter whether or not such condition is met. Purchaser accepts the risk that, and cannot cancel this Contract if, any condition concerning Purchaser is not met.

- 18.2 Purchaser, directly or through a mortgage broker registered pursuant to Article 12-D of the Banking Law, shall diligently and in good faith:
- 18.2.1 apply only to an Institutional Lender for a loan on the Financing Terms (see ¶1.21) on the form required by the Institutional Lender containing truthful and complete information, and submit such application together with such documents as the Institutional Lender requires, and pay the applicable fees and charges of the Institutional Lender, all of which shall be performed within 5 business days after the Delivery Date;
- 18.2.2 promptly submit to the Institutional Lender such further references, data and documents requested by the Institutional Lender; and
- 18.2.3 accept a Loan Commitment Letter meeting the Financing Terms and comply with all requirements of such Loan Commitment Letter (or any other loan commitment letter accepted by Purchaser) and of the Institutional Lender in order to close the loan; and
- 18.2.4 furnish Seller with a copy of the Loan Commitment Letter promptly after Purchaser's receipt thereof.
- 18.2.5 Purchaser is not required to apply to more than one Institutional Lender.
- 18.3 If ¶1.20.1 applies, then
- 18.3.1 provided Purchaser has complied with all applicable provisions of ¶18.2 and this ¶18.3, Purchaser may cancel this Contract as set forth below, if:
- 18.3.1.1 any Institutional Lender denies Purchaser's application in writing prior to the Loan Commitment Date (see ¶1.21); or
- 18.3.1.2 a Loan Commitment Letter is not issued by the Institutional Lender on or before the Loan Commitment Date; or
- 18.3.1.3 any requirement of the Loan Commitment Letter other than one concerning Purchaser is not met (e.g. failure of the Corporation to execute and deliver the Institutional Lender's recognition agreement or other document, financial condition of the Corporation, owner occupancy quota, etc.); or
- 18.3.1.4 (i) the Closing is adjourned by Seller or the Corporation for more than 30 business days from the Scheduled Closing Date and (ii) the Loan Commitment Letter expires on a date more than 30 business days after the Scheduled Closing Date and before the new date set for Closing pursuant to this paragraph and (iii) Purchaser is unable in good faith to obtain from the Institutional Lender an extension of the Loan Commitment Letter or a new Loan Commitment Letter on the Financing Terms without paying additional fees to the Institutional Lender, unless Seller agrees, by Notice to Purchaser within 5 business days after receipt of Purchaser's Notice of cancellation on such ground, that Seller will pay such additional fees and Seller pays such fees when due. Purchaser may not object to an adjournment by Seller for up to 30 business days solely because the Loan Commitment Letter would expire before such adjourned Closing date.
- 18.3.2 Purchaser shall deliver Notice of cancellation to Seller within 5 business days after the Loan Commitment Date if cancellation is pursuant to ¶18.3.1.1 or 18.3.1.2 and on or prior to the Scheduled Closing Date if cancellation is pursuant to ¶18.3.1.3 or 18.3.1.4.
- 18.3.3 If cancellation is pursuant to ¶18.3.1.1, then Purchaser shall deliver to Seller, together with Purchaser's Notice, a copy of the Institutional Lender's written denial of Purchaser's loan application. If cancellation is pursuant to ¶18.3.1.3, then Purchaser shall deliver to Seller together with Purchaser's Notice evidence that a requirement of the Institutional Lender was not met.
- 18.3.4 Seller may cancel this Contract by Notice to Purchaser, sent within 5 days after the Loan Commitment Date, if Purchaser shall not have sent by then either (i) Purchaser's Notice of cancellation or (ii) a copy of the Loan Commitment Letter to Seller, which cancellation shall become effective if Purchaser does not deliver a copy of such Loan Commitment Letter to Seller within 10 business days after the Loan Commitment Date.
- 18.3.5 Failure by either Purchaser or Seller to deliver Notice of cancellation as required by this ¶18.3 shall constitute a waiver of the right to cancel under this ¶18.3.
- 18.3.6 If this Contract is canceled by Purchaser pursuant to this ¶18.3, then thereafter neither Party shall have any further rights against, or obligations or liabilities to, the other by reason of this Contract, except that the Contract Deposit shall be promptly refunded to Purchaser and except as set forth in ¶12. If this Contract is canceled by Purchaser pursuant to ¶18.3.1.4, then Seller shall reimburse Purchaser for any non-refundable financing and inspection expenses and other sums reimbursable pursuant to ¶16
- 18.3.7 Purchaser cannot cancel this Contract pursuant to ¶18.3.1.4 and cannot obtain a refund of the Contract Deposit if the Institutional Lender fails to fund the loan:
- 18.3.7.1 because a requirement of the Loan Commitment Letter concerning Purchaser is not met (e.g., Purchaser's financial condition or employment status suffers an adverse change; Purchaser fails to satisfy a condition relating to the sale of an existing residence, etc.) or
- 18.3.7.2 due to the expiration of a Loan Commitment Letter issued with an expiration date that is not more than 30 business days after the Scheduled Closing Date.
- 19 SINGULAR/PLURAL AND JOINT/SEVERAL**
The use of the singular shall be deemed to include the plural and vice versa, whenever the context so requires. If more than one person constitutes Seller or Purchaser, their obligations as such Party shall be joint and several.
- 20 NO SURVIVAL**
No representation and/or covenant contained herein shall survive Closing except as expressly provided. Payment of the Balance shall constitute a discharge and release by Purchaser of all of Seller's obligations hereunder except those expressly stated to survive Closing.
- 21 INSPECTIONS**
Purchaser and Purchaser's representatives shall have the right to inspect the Unit within 48 hours prior to Closing, and at other reasonable times upon reasonable request to Seller.
- 22 GOVERNING LAW AND VENUE**
This Contract shall be governed by the laws of the State of New York without regard to principles of conflict of laws. Any action or proceeding arising out of this Contract shall be

brought in the county or Federal district where the Unit is located and the Parties hereby consent to said venue.

23 NO ASSIGNMENT BY PURCHASER; DEATH OF PURCHASER

- 23.1 Purchaser may not assign this Contract or any of Purchaser's rights hereunder. Any such purported assignment shall be null and void.
- 23.2 This Contract shall terminate upon the death of all persons comprising Purchaser and the Contract Deposit shall be refunded to the Purchaser. Upon making such refund and reimbursement, neither Party shall have any further liability or claim against the other hereunder, except as set forth in Par. 12.

24 COOPERATION OF PARTIES

- 24.1 The Parties shall each cooperate with the other, the Corporation and Purchaser's Institutional Lender and title company, if any, and obtain; execute and deliver such documents as are reasonably necessary to consummate this sale.
- 24.2 The Parties shall timely file all required documents in connection with all governmental filings that are required by law. Each Party represents to the other that its statements in such filings shall be true and complete. This ¶24.2 shall survive Closing.

25 FIRPTA

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

26 ADDITIONAL REQUIREMENTS

- 26.1 Purchaser shall not be obligated to close unless all of the following requirements are satisfied at the time of the Closing:
- 26.1.1 the Corporation is in good standing;
- 26.1.2 the Corporation has fee or leasehold title to the Premises, whether or not marketable or insurable; and
- 26.1.3 there is no pending *in rem* action, tax certificate/lien sale or foreclosure action of any underlying mortgage affecting the Premises.
- 26.2 If any requirement in ¶26.1 is not satisfied at the time of the Closing, Purchaser shall give Seller Notice and if the same is not satisfied within a reasonable period of time thereafter, then either Party may cancel this Contract (pursuant to ¶16.3) by Notice.

27 ESCROW TERMS

- 27.1 The Contract Deposit shall be deposited by Escrowee in an escrow account as set forth [in ¶] 1.24 and the proceeds held and disbursed in accordance with the terms of this Contract. At Closing, the Contract Deposit shall be paid by Escrowee to Seller. If the Closing does not occur and either Party gives Notice to Escrowee demanding payment of the Contract Deposit, Escrowee shall give prompt Notice to the other Party of such demand. If Escrowee does not receive a Notice of objection to the proposed payment from such other Party within 10 business days after

the giving of Escrowee's Notice, Escrowee is hereby authorized and directed to make such payment to the demanding party. If Escrowee does receive such a Notice of objection within said period, or if for any reason Escrowee in good faith elects not to make such payment, Escrowee may continue to hold the Contract Deposit until otherwise directed by a joint Notice by the Parties or a final, non-appealable judgment, order or decree of a court of competent jurisdiction. However, Escrowee shall have the right at any time to deposit the Contract Deposit and the interest thereon, if any, with the clerk of a court in the county as set forth in ¶22 and shall give Notice of such deposit to each Party. Upon disposition of the Contract Deposit and interest thereon, if any, in accordance with this ¶27, Escrowee shall be released and discharged of all escrow obligations and liabilities.

- 27.2 The Party whose Attorney is Escrowee shall be liable for loss of the Contract Deposit. If the Escrowee is Seller's attorney, then Purchaser shall be credited with the amount of the contract Deposit at Closing.
- 27.3 Escrowee will serve without compensation. Escrowee is acting solely as a stakeholder at the Parties' request and for their convenience. Escrowee shall not be liable to either Party for any act or omission unless it involves bad faith, willful disregard of this Contract or gross negligence. In the event of any dispute, Seller and Purchaser shall jointly and severally (with right of contribution) defend (by attorneys selected by Escrowee), indemnify and hold harmless Escrowee from and against any claim, judgment, loss, liability, cost and expenses incurred in connection with the performance of Escrowee's acts or omissions not involving bad faith, willful disregard of this Contract or gross negligence. This indemnity includes, without limitation, reasonable attorneys' fees either paid to retain attorneys or representing the fair value of legal services rendered by Escrowee to itself and disbursements, court costs and litigation expenses.
- 27.4 Escrowee acknowledges receipt of the Contract Deposit, by check subject to collection.
- 27.5 Escrowee agrees to the provisions of this ¶27.
- 27.6 If Escrowee is the Attorney for a Party, Escrowee shall be permitted to represent such Party in any dispute or lawsuit.
- 27.7 This ¶27 shall survive Closing, cancellation or termination of this Contract.

28 MARGIN HEADINGS

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

29 MISCELLANEOUS

This Contract shall not be binding unless and until Seller delivers a fully executed counterpart of this Contract to Purchaser (or Purchaser's Attorney) pursuant to ¶17.2 and 17.3. This Contract shall bind and inure to the benefit of the Parties hereto and their respective heirs, personal and legal representatives and successors in interest.

30 LEAD PAINT

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

IN WITNESS WHEREOF, the Parties hereto have duly executed this Contract as of the date first above written.

SELLER: SUTTON ESTATES, LLC

PURCHASER:

ESCROW TERMS AGREED TO: Laura B. March, Esq.

By: _____

ESCROWEE

Continued on addendum or rider attached hereto.

RIDER ANNEXED TO CONTRACT

Dated: _____, 20____

Seller: SUTTON ESTATES, LLC

Purchaser:

Premises: 445 Gramatan Avenue, Mount Vernon, New York

Unit No.:

Apartment Corporation: Westchester Gardens Owners, Inc.

31. In the event of any inconsistency between the provisions of this Rider and those contained in the Contract to which this Rider is annexed, the provisions of this Rider shall govern and be binding.

32. In the event of any inconsistency between the provisions of this Contract and the terms of the Plan, the terms of the Plan shall govern and control.

33. Supplementing Paragraph 10.4.2, a letter from the Corporation or the Managing Agent as to the status of the maintenance, utility charges and assessments shall be sufficient for determining the apportionments.

34. The Contract Deposit shall be held by Laura B. March, Esq. ("Escrow Agent"), in accordance with the provisions set forth in the Eighteenth Amendment to the Plan to be submitted to the Attorney General of the State of New York and is subject to the Escrow Rider annexed hereto as Exhibit A and made a part hereof. This Contract is conditioned upon, and shall not be deemed valid and binding until, execution and delivery of the annexed Escrow Rider by Seller, Purchaser and Escrow Agent.

35. Purchaser acknowledges having received and read the Plan to convert the Building to cooperative ownership, together with the Amendments thereto, at least three (3) full business days prior to signing this Contract. The Plan, including all documents set forth in Part II thereof and any amendments, is incorporated herein by reference and made a part hereof with the same force and effect as if set forth fully herein. Purchaser agrees that the sale of shares hereunder are subject to any additional amendments to the Plan filed after the date of this Contract.

36. Purchaser acknowledges having entered into this Contract without relying upon any promises, statements, estimates, representations, warranties, conditions or other inducements, expressed or implied, and/or written not set forth herein or in the Offering Plan, as amended.

37. The amount of the loan set forth in Paragraph 1.21.1 shall be the lesser of (i) the

amount set forth in the printed form of this Contract, (ii) 80.0% per cent of the value of the Unit as appraised by Purchaser's Institutional Lender or (iii) the maximum financing permitted by the Corporation.

38. The use of the masculine gender shall be deemed to refer to the feminine or neuter gender and the use of the singular shall be deemed to refer to the plural and vice versa, whenever the context so requires.

39. Purchaser represents to Seller and to the Corporation that Purchaser is not less than 18 years of age and is purchasing the Unit for his or her own account (beneficial and of record) and no corporation, partnership, association, estate or trust other than any interest held by Purchaser's institutional lender, if any, has or will have any equity interest, direct or indirect, in the Shares and Lease on the date of transfer to Purchaser. Purchaser agrees to indemnify and hold harmless the Seller and the Corporation from all claims, judgments, liabilities, losses, damages, costs and expenses (including, without limitation, reasonable attorneys' fees and disbursements) that Seller and/or the Corporation may suffer or incur as a result of the breach, inaccuracy or untruthfulness of any of the foregoing representations. The provisions of this Paragraph shall inure to the benefit of both Seller and the Corporation and shall survive the closing.

40. Purchaser understands that the Corporation is not a party to this Contract or the sale contemplated hereby and that no representations, warranties or promises of any kind have been made to Purchaser by the Corporation. Purchaser agrees that no claim will be made against the Corporation by Purchaser in respect of, or arising out of, the purchase of the Shares and appurtenant Lease.

41. The acceptance of the Shares and the assumption of the Lease by the Purchaser shall be deemed to be a full performance and discharge of every agreement and obligation on the part of the Seller to be performed pursuant to the provisions of this Contract, except those expressly provided to survive the closing. Notwithstanding the foregoing, however, Sponsor and holders of Unsold Shares shall not be relieved from liability for representations made under the Offering Plan, and nothing contained herein shall be in derogation of the rights of Purchasers under Article 23-A of the General Business Law, the Plan, or 13 NYCRR Part 18.

42. [Intentionally Deleted.]

43. The parties agree that the Unit is being sold in its present "as is" condition. Any work to be performed by Purchaser in the Unit is subject to the following terms and conditions in conformity with the rules and regulations of the Corporation:

(a) Purchaser must submit to the Corporation or its designated representative a copy of the plans for all work intended to be performed by Purchaser.

(b) Submission of plans must be accompanied by a completed Co-op Apartment Renovation and Remodeling Request, together with such security deposit as may be required by

the Corporation.

(c) The work to be performed by Purchaser is subject to the approval of the Managing Agent and the Corporation.

(d) Purchaser shall have the right prior to closing, at reasonable times and upon reasonable notice, to enter the Unit to obtain estimates and prepare plans for the work to be performed by Purchaser, but not to do any work therein.

(e) Purchaser may not commence work in the Unit unless and until it has delivered to the Managing Agent a Certificate of Insurance from its general contractor which names the Corporation and the Managing Agent and their employees as additional insured parties.

(f) Upon completion of any electrical work performed by Purchaser, Purchaser will deliver to the Managing Agent a New York Board of Fire Underwriters Certificate confirming that such electrical work has been completed in accordance with the National Electric Code.

(g) The provisions of this Paragraph shall survive the closing and shall also be for the benefit of the Corporation and may be relied upon and enforced by it.

44. Purchaser represents and warrants that s/he has read and understand the House Rules of the Westchester Gardens Owners, Inc., including without limitation the express prohibitions against dogs and the requirement with respect to carpeting of Units and agree to be bound by them. Purchaser further agrees to sign any documents requested by the Corporation to confirm Purchaser's agreement to comply with the foregoing rules. The representations set forth in this Paragraph 44 shall survive the closing and shall also be for the benefit of the Corporation and may be relied upon and enforced by it.

45. This contract is contingent upon a risk assessment or inspection of the property for the presence of lead-based paint and/or lead-based paint hazards at the Purchaser's expense until 9 p.m. on the tenth calendar-day after the date of this Contract. This contingency will terminate at the above predetermined deadline unless the Purchaser (or the Purchaser's agent) delivers to the Seller (or Seller's agent) a written contract addendum listing the specific existing deficiencies and corrections needed, together with a copy of the inspection and/or risk assessment report. The Seller may, at the Seller's option, within seven (7) days after Delivery of the addendum, elect in writing whether to correct the condition(s) prior to settlement. If the Seller will correct the condition, the Seller shall furnish the Purchaser with certification from a risk assessor or inspector demonstrating that the condition has been remedied before the date of settlement. If the Seller does not elect to make the repairs, or if the Seller makes a counter-offer, the Purchaser shall have seven (7) days to respond to the counter-offer or remove this contingency and take the property in "as is" condition or this contract shall become void. The Purchaser may remove this contingency at any time without cause.

46. On or before Closing, Seller and Purchaser agree to sign the Disclosure of Information on Lead-Based Paint and/or Lead-Based Paint Hazards annexed as Exhibit B.

47. The balance of the Purchase Price payable pursuant to Paragraphs 1.12.2 and 2.2.2 shall be by check as specified made payable to the order of Estates Supervision.

48. Purchaser represents that, as of the date hereof he has, and as of the closing date will have, available cash and cash equivalents (including publicly traded securities) in a sum at least equal to (and having a then current value of) the Balance, together with any and all closing costs; and shall have, following the Closing, a positive net worth. Purchaser further represents that the Maintenance, and the monthly amount of the Assessment or fuel oil surcharge (if any) and parking charges (if any) do not aggregate more than 25% of the current total gross monthly income of Purchaser. Purchaser further represents that the monthly debt service (interest and amortization of principal, if any) together with the Maintenance and the monthly Assessment amount (if any), do not aggregate more than 35% of said current total gross monthly income.

SUTTON ESTATES, LLC, Seller

By: _____, Member

_____, Purchaser

**ESCROW RIDER TO
CONTRACT OF SALE**

AGREEMENT made this _____ day of _____, 20____, by and among _____ ("PURCHASER"), SUTTON ESTATES, LLC, ("SELLER"), as the sponsor of the Westchester Gardens, Inc. offering plan ("Plan") and LAURA B. MARCH ("ESCROW AGENT") with an address c/o Peck & Heller, 805 Third Avenue, New York, New York 10022.

WHEREAS, SELLER has, as sponsor, filed the Offering Plan with the Attorney General to offer for sale cooperative ownership interests at the premises located at 445 Gramatan Avenue, Mount Vernon, New York, subject to the terms and conditions set forth in the Plan; and

WHEREAS, ESCROW AGENT is authorized to act as an escrow agent hereunder in accordance with New York General Business Law ("GBL") Sections 352-e(2-b), 352-h and the New York Department of Law's regulations promulgated thereunder; and

WHEREAS, SELLER and PURCHASER desire that ESCROW AGENT act as escrow agent for deposits, down payments, and advances (referred to herein as "Deposit") pursuant to the terms of this Agreement.

NOW, THEREFORE, in consideration of the covenants and conditions contained herein and other good and valuable consideration, the parties hereby agree as follows:

1. ESTABLISHMENT OF THE ESCROW ACCOUNT.

1.1. ESCROW AGENT has established or will establish an escrow account for the purpose of holding the Deposit made by PURCHASER pursuant to that certain Contract of Sale to which this Rider is annexed for the purchase and sale of shares in Westchester Gardens Owners, Inc. (the "Contract of Sale") at JPMorgan Chase Bank located at its branch office located at 360 Park Avenue, in the City and State of New York, a bank authorized to do business in the State of New York. The escrow account is entitled Laura B. March Attorney Trust Account IOLA ("Escrow Account"). The account number is 5310003072.

1.2. ESCROW AGENT has designated the following attorney to serve as signatories: Laura B. March, Esq. All designated signatories are admitted to practice law in the State of New York. All of the signatories on the Escrow Account have an address c/o Peck & Heller, 805 Third Avenue, 9th floor, New York, New York 10022, and a telephone number of 212-758-5230.

1.3 ESCROW AGENT and all authorized signatories hereby submit to the jurisdiction of the State of New York and its Courts for any cause of action arising out of this Agreement or otherwise concerning the maintenance of or release of the Deposit from escrow.

1.4 Neither ESCROW AGENT nor any authorized signatories on the Escrow Account are the Sponsor, Selling Agent (if any), Managing Agent (as those terms are defined in the Plan), or any principal thereof, or have any beneficial interest in any of the foregoing .

1.5 The Escrow Account is an IOLA account established pursuant to Judiciary Law Section 497.

2. DEPOSITS INTO THE ESCROW ACCOUNT.

2.1 All Deposits received from PURCHASER prior to closing, whether in the form of checks, drafts, money orders, wire transfers, or other instruments which identify the payor, shall be placed into the Escrow Account. All instruments to be placed into the Escrow Account shall be made payable directly to the order of Laura B. March, as ESCROW AGENT, pursuant to the terms set forth in the Plan. Any instrument payable to, or endorsed other than as required hereby, and which cannot be deposited into such Escrow Account, shall be returned to PURCHASER promptly, but in no event more than five (5) business days following receipt of such instrument by ESCROW AGENT. In the event of such return of the Deposit, the instrument shall be deemed not to have been delivered to ESCROW AGENT pursuant to the terms of this Agreement.

2.2 Within five (5) business days after the Purchase Agreement has been tendered to ESCROW AGENT along with the DEPOSIT, ESCROW AGENT shall place the DEPOSIT into the Escrow Account. Within ten (10) business days of placing the DEPOSIT in the Escrow Account, ESCROW AGENT shall provide written notice to Purchaser and Sponsor, confirming the Deposit. Such notice shall set forth the Bank and the account number. If the PURCHASER does not receive notice within fifteen (15) business days after tender of the Deposit, the PURCHASER may cancel the Purchase Agreement within ninety (90) days after tender of the Deposit. Complaints concerning the failure to honor such cancellation requests may be referred to the New York State Department of Law, Real Estate Finance Bureau, 120 Broadway, 23rd Floor, New York, N.Y. 10271. Rescission shall not be afforded where proof satisfactory to the Attorney General is submitted establishing that the Deposit was timely placed in the Escrow Account in accordance with the New York State Department of Law's regulations concerning the Deposit and requisite notice was timely mailed to the Purchaser.

2.3 Any Deposits made for upgrades, extras of other custom or special work shall initially be deposited into the Escrow Account and thereafter may be released in accordance with the terms of the Contract of Sale (if any)

3. RELEASE OF FUNDS

3.1 Under no circumstances shall SELLER seek or accept release of the Deposit of PURCHASER to SELLER until after consummation of the Plan, as evidenced by the acceptance of a post-closing amendment by the New York State Department of Law. The parties hereto acknowledge that the Plan was declared effective on January 27, 1989 and a post-closing amendment dated July 12, 1989 was accepted for filing by the New York State Department of Law. Consummation of the Plan shall not, however, relieve SELLER or ESCROW AGENT of any obligation to PURCHASER as set forth in GBL §§ 352-e(2-b) and 352-h.

3.2 ESCROW AGENT shall release the Deposit to PURCHASER or SELLER as directed:

3.2.1 pursuant to terms and conditions set forth in the Contract of Sale to which this Rider is annexed, upon closing of title to the shares;

3.2.2 in a subsequent writing signed by both SELLER and PURCHASER; or

3.2.3 by a final, non-appealable order or judgment of a court

whichever is applicable.

3.3 If the Escrow Agent is not directed to release the Deposit pursuant to paragraphs (a) through (c) above, and the Escrow Agent receives a request by either party (the "Requesting Party") to release the Deposit, then the Escrow Agent must give both the Purchaser and Sponsor prior written notice ("30-Day Release Notice") of not fewer than thirty (30) days before releasing the Deposit. If the Requesting Party is SELLER and is based on a purchaser's default, SELLER must give such purchaser written notice of the default and a thirty (30)-day period to cure such default. Such thirty (30)-day cure period shall run concurrently with the 30-Day Notice. If the Escrow Agent has not received notice from the non-Requesting Party objecting to the release of the Deposit prior to the expiration of the thirty (30)-day period, the Deposit shall be released to the Requesting Party, and the Escrow Agent shall provide further written notice to both parties informing them of said release.

If the Escrow Agent receives a written notice from either party objecting to the release of the Deposit within said thirty (30)-day period, the Escrow Agent shall continue to hold the Deposit until otherwise directed pursuant to paragraphs (a) through (c) above. Notwithstanding the foregoing, the Escrow Agent shall have the right at any time to deposit the Deposit contained in the Escrow Account with the clerk of the county where the building is located and shall give written notice to both parties of the Deposit.

If the Escrow Agent is uncertain as to Escrow Agent's duties or doubts the genuineness of any document or signature, Escrow Agent also may refrain from taking any action and continue to hold the Deposit until the uncertainty or

genuineness is resolved. Escrow Agent may represent SELLER in any lawsuit, whether or not related to the Contract of Sale and irrespective of Escrow Agent being in possession of the Deposit.

3.4 SELLER shall not object to the release of the Deposit to Purchaser, if Purchaser timely rescinds in accordance with an offer of rescission contained in the Plan or an Amendment to the Plan

3.5 Any provision in this Escrow Rider or separate agreement, whether oral or in writing, by which a Purchaser purports to waive or indemnify any obligation of the Escrow Agent holding any Deposit in trust is absolutely void. The provisions of the Attorney General's regulations and GBL §§ 352-e(2-b) and 352-h concerning escrow trust funds shall prevail over any conflicting or inconsistent provisions in the Contract of Sale, Plan or any Amendment thereto.

4. RECORDKEEPING.

4.1 ESCROW AGENT shall maintain all records concerning the Escrow Account for seven years after release of the Deposit.

4.2 Upon the dissolution of the law firm which was ESCROW AGENT, the former partners or members of the firm shall make appropriate arrangements for the maintenance of these records by one of the partners or members of the firm or by the successor firm and shall notify the New York State Department of Law of such transfer.

4.3 ESCROW AGENT shall make available to the Attorney General, upon request, all books and records of ESCROW AGENT relating to the funds deposited and disbursed hereunder.

5. GENERAL OBLIGATIONS OF ESCROW AGENT.

5.1 ESCROW AGENT shall maintain the Escrow Account under its direct supervision and control.

5.2 A fiduciary relationship shall exist between ESCROW AGENT and PURCHASER, and ESCROW AGENT acknowledges its fiduciary and statutory obligations pursuant to GBL §§ 352-e(2-b) and 352-h.

5.3 ESCROW AGENT may rely upon any paper or document which may be submitted to it in connection with its duties under this Agreement and which is believed by ESCROW AGENT to be genuine and to have been signed or presented by the proper party or parties and shall have no liability or responsibility with respect to the form, execution, or validity thereof.

6. RESPONSIBILITIES OF SELLER.

6.1 SELLER agrees that it shall not interfere with ESCROW AGENT'S performance of its fiduciary duties and statutory obligations as set forth in GBL §§ 352-e(2-b) and 352-h and the New York State Department of Law's regulations.

6.2 [Intentionally deleted.]

7. TERMINATION OF AGREEMENT.

7.1 This Agreement shall remain in effect unless and until it is canceled by either:

7.1.1 Written notice given by SELLER to ESCROW AGENT of cancellation of designation of ESCROW AGENT to act in said capacity, which cancellation shall take effect only upon the filing of an amendment to the Plan with the Department of Law providing for a successor escrow agent that meets the requirements set forth in applicable regulations of the New York State Department of Law. PURCHASER shall be deemed to have consented to such cancellation;

7.1.2 The resignation of ESCROW AGENT, which shall not take effect until ESCROW AGENT is replaced by a successor escrow agent that meets the requirements set forth in applicable regulations of the New York State Department of Law, and notice is given to PURCHASER of the identity of the successor escrow agent, the Bank in the State of New York where the Deposit is being held, and the account number therefor.

7.2 Upon termination of the duties of ESCROW AGENT as described in paragraph 7.1.1 or 7.1.2 above, ESCROW AGENT shall deliver the Deposit held by ESCROW AGENT and the Purchase Agreement and any other documents maintained by ESCROW AGENT relating to the Deposit to the successor escrow agent.

8. SUCCESSORS AND ASSIGNS.

This Agreement shall be binding upon SELLER, PURCHASER, and ESCROW AGENT and their respective successors and assigns.

9. GOVERNING LAW.

This Agreement shall be construed in accordance with and governed by the laws of the State of New York.

10. ESCROW AGENT'S COMPENSATION.

Prior to release of the Deposit, ESCROW AGENT'S fees and disbursements shall neither be paid by SELLER from the Deposit nor deducted from the Deposit by any financial institution under any circumstance.

11. SEVERABILITY.

If any provision of this Agreement or the application thereof to any person or circumstance is determined to be invalid or unenforceable, the remaining provisions of this Agreement or the application of such provision to other persons or to other circumstances shall not be affected thereby and shall be valid and enforceable to the fullest extent permitted by law.

12. INDEMNIFICATION.

SELLER agrees to defend, indemnify, and hold ESCROW AGENT harmless from and against all costs, claims, expenses, and damages incurred in connection with or arising out of this Agreement or the performance or non-performance of ESCROW AGENT'S duties under this Agreement, except with respect to actions or omissions taken or suffered by ESCROW AGENT in bad faith or in willful disregard of this Agreement or involving gross negligence of ESCROW AGENT. This indemnity includes, without limitation, disbursements and attorneys' fees either paid to retain attorneys or representing the hourly billing rates with respect to legal services rendered by ESCROW AGENT to itself.

13. ENTIRE AGREEMENT.

This Agreement, read together with GBL §§ 352-e(2-b) and 352-hand the New York State Department of Law's regulations, constitutes the entire agreement between the parties with respect to the subject matter hereof.

IN WITNESS WHEREOF, the undersigned have executed this Agreement as of the day and year first written above.

ESCROW AGENT:

Laura B. March

SELLER:

SUTTON ESTATES, LC

By: _____

Name:

Title: Member

Escrow Rider Form.wpd

**DISCLOSURE OF INFORMATION ON LEAD-BASED PAINT
AND LEAD-BASED PAINT HAZARDS**

Lead Warning Statement

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

Seller's Disclosure (initial)

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

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

Seller has no knowledge of lead-based paint and/or lead-based paint hazards in the housing.

_____ (b) Records and reports available to the seller (check one below):

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

Given the age of the housing, it is possible that lead-based paint was used over the years; however Seller has not tested the unit to determine whether lead paint exists and Seller has no reports or records pertaining to lead-based paint and/or lead-based paint hazards in the housing;

Purchaser's Acknowledgment (initial)

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

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

_____ (e) Purchaser has (check one below):

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

Waived the opportunity to conduct a risk assessment or inspection for the presence of lead-based paint and/or lead-based paint hazards.

Agent's Acknowledgment (initial)

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

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

Seller: Sutton Estates, LLC by Robert Orlofsky, Member

Purchaser:

Agent: Robert Orlofsky Realty, Inc. by Robert Orlofsky

Purchaser:

AS REVISED THROUGH NOVEMBER 27, 2005

WESTCHESTER GARDENS OWNERS, INC.

HOUSE RULES**A VIOLATION OF HOUSE RULES NO. 13, 17, 22, 25, 26, 27, 28
AND 29 SHALL BE DEEMED TO BE A VIOLATION OF A SUBSTANTIAL
OBLIGATION OF THE TENANCY OF THE LESSEE.**

- (1) The public halls and stairways of the buildings shall not be obstructed or used for any purpose other than ingress to and egress from the apartments in the buildings.
- (2) Children shall not play in public areas unless accompanied by a responsible adult. Ball playing, bike riding and roller blading are not permitted in the courtyard, parking lot or other areas of the property.
- (3) No public hall of a building shall be decorated or furnished by any Lessee.
- (4) No Lessee shall make or permit any disturbing noises in a building or do or permit anything to be done therein which will interfere with the rights, comfort or convenience of other Lessees. No Lessee shall play any musical instrument or permit to be operated a stereo or a radio or television loud speaker in such Lessee's apartment between the hours of eleven o'clock p.m. and the following eight o'clock a.m. if the same shall disturb or annoy other occupants of the building. No construction or repair work or other installation involving noise shall be conducted in any apartment except on weekdays (not including legal holidays) and only between the hours of 8:30 a.m. and 5:00 p.m.
- (5) No article shall be placed in the halls or on the staircase landings, nor shall anything be hung or shaken from the doors, or windows, or placed upon the window sills of the buildings.
- (6) No awnings, window shades, window blinds, window air-conditioning units or ventilators shall be used in or about a building except such as shall have been expressly approved by the Lessor or the managing agent, nor shall anything be projected out of any window of the building without similar approval.
- (7) No sign, notice, advertisement or illumination shall be inscribed or exposed on or at any window or other part of a building, except such as shall have been approved in writing by the Lessor or the managing agent.
- (8) No baby carriages, shopping carts, bicycles or other like paraphernalia shall be allowed in or be permitted to remain in the halls passageways, areas or courts of the buildings. No garbage can, kitchen supplies, or other articles shall be placed or left in

the halls or landings.

(9) Messengers and tradespeople shall use such means of ingress and egress as shall be designated by the Lessor.

(10) Garbage and refuse from the apartments shall be disposed of only at such times and in such manner as the superintendent or the managing agent may direct.

(11) Water closets and other apparatus in a building shall not be used for any purposes other than those for which they were constructed, nor shall any sweepings, rubbish, rags or any other article be thrown into the water closets. The cost of repairing any damage resulting from misuse of any water closets or other apparatus shall be paid for by the Lessee in whose apartment it shall have been caused.

(12) No Lessee shall send any employee of the Lessor out of the building on any private business of a Lessee. No employee, as such, shall accept, receive, hold or become bailee for any property belonging to, delivered to, or for any Lessee. If, however, such person shall nevertheless do so, he shall do so, as the agent, servant or employee of the Lessee and no responsibility shall be assumed by the Lessor.

(13) No dog, cat, bird or animal shall be kept or harbored at the premises, excepting only those particular animals which were harbored at the premises prior to May 16, 1989. No pigeons or other birds or animals shall be fed from the window sills, terraces, balconies or in the yard, court spaces or other public portions of a building, or on the sidewalk or street adjacent to a building.

(14) No radio or television aerial shall be attached to or hung from the roof or exterior walls of a building.

(15) The lessee shall use the available laundry facilities only upon such days and during such hours as may be designated by the Lessor or the managing agent.

(16) The Lessee shall have the right from time to time to curtail or relocate any space devoted to storage or laundry purposes.

(17) The Lessee shall keep all floors covered with 80% carpeting and appropriate padding or the equivalent thereof excepting kitchen, closets and bathroom.

(18) The Lessee shall keep the windows of the apartment clean. In case of refusal or neglect of the Lessee during 10 days after notice in writing from the Lessor or the managing agent to clean the windows, such cleaning may be done by the Lessor, which shall have the right, by its officers or authorized agents, to enter the apartment for such purpose and to charge the cost of such cleaning to the Lessee.

(19) Complaints regarding the services of the building shall be made in writing to the managing agent of the Lessor.

(20) Any consent or approval given under these House Rules by the Lessor shall be revocable at any time.

(21) The agent of the Lessor, and any contractor or workman authorized by the Lessor, may enter any apartment at any reasonable hour of the day for the purpose of inspecting such apartment to ascertain whether measures are necessary or desirable to control or exterminate any vermin, insects or other pests and for the purpose of taking such measures as may be necessary to control or exterminate any such vermin, insects or other pests.

(22) No washing machines or other heavy appliances shall be installed in the demised premises, nor shall the Lessee use any appliances or machine therein, which in the sole opinion of the Lessor, shall overburden the electric, gas or plumbing lines of the apartment or building.

(23) The playgrounds, if any, are provided for the exclusive use of the lessees, and playpens, bicycles or any outdoor activities will not be permitted upon the landscaped portions of the Lessor's premises.

(24) Alteration or replacement of the main entrance door lock or the installation of knockers or other attachment upon any door is forbidden. The Lessor has retained a pass key to the premises. In the event the written consent of the Lessor is obtained to install a supplemental entrance door lock, the Lessee shall provide the Lessor with an additional key for the use of the Lessor pursuant to the Lessor's right of access to the demised premises.

(25) (a) No vehicle may be parked at Westchester Gardens unless it has been properly registered with the Lessor and displays a current Westchester Gardens parking sticker in the window of the vehicle. The parking sticker must be affixed to the rear, driver's side window.

(b) In order to qualify for Westchester Gardens parking registration, a vehicle must (i) be registered by New York State at a Westchester Gardens address, or (ii) if registered at a resident's place of employment, proof satisfactory to Lessor must be submitted from the employer indicating that the resident is entitled to utilize the vehicle for commutation or other purposes.

(c) Only "actively driven" vehicles shall be permitted to qualify for parking registration. "Actively driven" for purposes of this rule shall mean vehicles which are driven at least three days per week.

(d) No more than (2) cars shall be permitted to be registered for parking per licensed driver.

(e) Under appropriate circumstances, if an application is made, the

(27) Move in-Move out security program: The lessor has established a move in-move out security program designed to ensure that the public hallways are not damaged by residents moving into or out of the premises and that residents moving into the premises install carpeting as required by House Rule 17. Any shareholder who intends to sell his/her apartment must file a completed Purchase Application Form with the office of the managing agent. Along with the Purchase Application Form, the shareholder must submit a check from the shareholder (seller) in the sum of \$750.00, together with a check from the prospective purchaser, also in the sum of \$750.00, both of which checks are to be payable to the order of Lessor (Westchester Gardens Owners, Inc.). The checks will be deposited into the Lessor's account. After the shareholder moves from the premises, the superintendent will make an inspection and complete a Security Inspection Report. If there is no damage to the public areas, the security deposit will be refunded to the seller. The same procedure will be followed when the purchaser moves into the premises. If (a) there is no damage to the public areas, (b) the purchaser installs carpeting in compliance with House Rule 17 within three months of purchasing and/or taking occupancy of the apartment, whichever is later, and (c) the purchaser provides Lessor with duplicate keys to the apartment as required by Proprietary Lease paragraph 25 and House Rule 24 within three (3) months of purchasing and/or taking occupancy of the apartment, whichever is later, the security deposit will be refunded to the purchaser. The security deposit will be forfeited and shall become the property of Westchester Gardens Owners, Inc. if carpeting in compliance with House Rule 17 is not installed within three months of purchasing and/or taking occupancy of the apartment, whichever is later, or if the purchaser fails to provide Lessor with duplicate keys to the apartment within three (3) months of purchasing and/or taking occupancy of the apartment, whichever is later.

(28) Apartment alteration, renovation and remodeling: Any Lessee who desires to alter, renovate, or remodel his/her apartment, must complete a Remodeling Request Form, and submit it to the managing agent along with a security deposit in the sum of \$450.00. (The Remodeling Request Form is available from the office of the managing agent.) The Lessee may proceed with the requested work obtaining the written consent of the Lessor (see Proprietary Lease, paragraph 21(a)). The security deposit will be utilized by the Lessor to repair any damage caused to the public areas or to the building's standard equipment or to other property of the Lessor. In addition, the Lessee shall forfeit the security deposit if there is any violation of the provisions of this House Rule, the requirements, terms and conditions set forth in the Remodeling Request Form, or other requirements or conditions specified by Lessor. Upon the completion of the work, and provided there was no such damage or violation, the security deposit will be refunded to the Lessee.

(29) These House Rules may be added to, amended or repealed at any time by resolution of the Board of Directors of the Lessor.