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Cook County Recorder of Deeds  
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## AGREEMENT OF PURCHASE AND SALE OF REAL ESTATE

THIS AGREEMENT (the "Agreement") is made and entered into as of this \_\_\_\_\_ day of December, 2008, by and between New West Realty Group, LLC, an Illinois limited liability company or its designated nominee (the "Purchaser"), and 51<sup>st</sup> Street Residential, LLC, an Illinois limited liability company (the "Seller").

### WITNESSETH:

WHEREAS, Seller represents and warrants to Purchaser that Seller is the sole legal and fee simple titleholder of record to the property located at and commonly known as 3330-3356 West 51<sup>st</sup> Street, Chicago, Illinois, and

WHEREAS, Seller desires to sell and Purchaser desires to purchase the foregoing property and the parties have agreed to consummate the sale and purchase upon the terms and conditions herein expressed.

NOW, THEREFORE, in consideration of the mutual covenants and agreements hereinafter set forth, the parties hereto do hereby agree as follows:

### ARTICLE I SALE OF PROPERTY

1.01 Sale of Property. Seller hereby agrees to sell, assign and convey to Purchaser and Purchaser agrees to purchase from Seller, all of Seller's respective rights, title and interest in and to, the following:

Land and Improvements. That certain real property lying and being situated in Chicago, County of Cook, State of Illinois, located at 3330-3356 West 51<sup>st</sup> Street, being more particularly described on Exhibit "A" attached hereto and incorporated herein by reference thereto (the "Land"), together with any improvements located thereon (the "Improvements");

(b) Real Property. All rights, privileges and easements appurtenant to Seller's interest in the Land and the Improvements, if any, including, without limitation, all of Seller's right, title and interest, if any, in and to all mineral and water rights and all easements, licenses, covenants and other rights-of-way or other appurtenances used in connection with the beneficial use and enjoyment of the Land and the Improvements (the Land, the Improvements and all such easements and appurtenances are sometimes collectively referred to herein as the "Real Property");

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**Personal Property.** All personal property (including equipment), if any, owned by Seller and located on the Real Property as of the date hereof, and all fixtures, if any, owned by Seller and located on the Real Property as of the date hereof (the "Personal Property"); and

**Intangible Property.** All Seller's interest if any, in and to any guarantees, licenses, approvals, certificates, permits, architectural plans, specifications, surveys, property reports, and warranties relating to the Real Property, to the extent assignable (collectively, the "Intangible Property"). The Real Property, the Personal Property and the Intangible Property are sometimes collectively referred to as the "Property." It is hereby acknowledged by the parties that Seller shall not convey to Purchaser claims relating to any (i) real property tax refunds or rebates for periods accruing prior to the Closing; (ii) any insurance claims, and (iii) existing claims against previous tenants of the Property, all of which claims shall be reserved by Seller.

## ARTICLE II AGREEMENT TO PURCHASE AND SELL

2.01 Seller hereby represents and warrants to Purchaser that Seller holds the legal and fee simple title to the Property, and is authorized to enter into this Agreement.

2.02 Seller and Purchaser hereby agree to consummate the sale and purchase of the Property in accordance with the terms and provisions of this Agreement.

2.03 All appurtenant rights shall be transferred by Seller to Purchaser at Closing, including all right, title and interest of Seller in and to all easements, streets, rights-of-way, title and appurtenances belonging thereto, or adjacent to and pertaining to the Property.

2.04 Purchaser agrees to purchase from Seller and Seller agrees to convey to Purchaser the Intangible Property and the Personal Property by bill of sale with warranty of title, free and clear of liens, encumbrances and restrictions of every kind, but without warranty as to quality, fitness or merchantability. An itemized schedule of all items of Tangible Property and Personal Property shall be submitted to Purchaser within the time period set forth in Section 9.03 for its review and approval and shall be incorporated herein as Exhibit 2.04. Seller and Purchaser agree to cooperate with one another in reaching agreement as to the allocation of the purchase price between the Real Property and the Personal Property; however an amount of not less than five percent (5%) of the Purchase Price shall be allocated to personal property included in this transaction for purposes of the real estate transfer declarations required by this transaction.

2.05 Seller and Purchaser hereby covenant and agree that upon entering into this Agreement, each shall timely perform all of the terms, covenants, agreements, duties and

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obligations on its part to be performed hereunder.

2.06 Seller agrees that it will not assign, transfer, lease, extend or cancel any existing lease, sublet, option or otherwise convey any right, title and interest in the Property or this Agreement to any party other than Purchaser or its designee during the term of this Agreement without the written consent of Purchaser.

## ARTICLE III EARNEST MONEY

3.01 Within five (5) days after acceptance and execution of this Agreement by Seller, Purchaser shall deposit into an interest-bearing joint order escrow ("Joint Order Escrow") between Purchaser, Seller and Chicago Title Insurance Company as Escrowee (the "Escrowee"), earnest money in the amount of Fifty Thousand and no/100 Dollars (\$50,000.00) (the "Earnest Money"). At Purchaser's option, the Earnest Money can be paid in the form of a Promissory Note due and payable at Closing. In the event Purchaser terminates this Agreement during the Contingency Period (as defined herein Section 7.01), all Earnest Money shall be refunded to Purchaser upon notice to Escrowee without any further direction or approval of Seller. Upon expiration or Purchaser's earlier waiver of the Contingency Period, the Earnest Money shall be held by the Escrowee pursuant to Strict Joint Order Escrow in the form attached hereto as Exhibit 3.01 and made a part hereof.

3.02 All Earnest Money paid hereunder shall be applied to the Purchase Price and credited to Purchaser at Closing.

3.03 All interest accruing on the Earnest Money shall be for the benefit of Purchaser unless the Earnest Money is forfeited due to Purchaser's default.

## ARTICLE IV PURCHASE PRICE

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the Earnest Money and plus or minus prorations and credits, at Closing (as hereinafter defined) by bank draft or wire transfer.

## ARTICLE V SURVEY

Seller shall deliver or cause to be delivered to Purchaser at Seller's expense within five (5) days after execution of this Agreement, a current survey (the "Survey") of the Property, which survey shall be prepared by an Illinois registered land surveyor acceptable to Purchaser and shall be prepared in accordance with then current ALTA/ACSM land title survey standards and meeting the requirements of a Class A Survey (showing all optional items listed under Table A of such standards other than items 5 and 12) and shall otherwise provide for the following:

- (A) A certification for the benefit of Purchaser, Purchaser's lender, if any, and the Title Company;
- (B) The location of any and all encroachments, known, visible and/or recorded easements, lakes and water courses, regulated flood plain and wetlands and an identification of each including the type, grantee or beneficiary and by book and page and document number reference to recorded instruments;
- (C) An accurate legal description of the Property according to the recorded plat thereof;
- (D) A certification that the Property forms one contiguous tract of land without intervening strips or gores;
- (E) A certification that there are no adverse matters affecting the Property and that there are no encroachments of any improvements of any nature, on to the Property from adjoining properties or from the subject Property onto adjoining properties, or over easements or building lines;
- (F) The location of any and all improvements located on the Property including fences, parking areas, driveways and walkways, the location of all easements, building lines and set-back lines and other restrictions, means of ingress and egress to public streets and location of all utility lines servicing the Property;

A certification that the Property is not located within any designated flood plain zone or designated "wetland" area; and

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The Survey shall also be acceptable to and approved by Purchaser as set forth in Article VI hereof. Such Survey shall be deemed incorporated by reference herein as Exhibit 5.01(a).

## ARTICLE VI TITLE

6.01 Seller, within five (5) days after its execution of this Agreement, shall deliver to Purchaser a full and complete copy of Seller's most recent title insurance policy covering the Property (the "Existing Title Policy"). The Existing Title Policy shall be incorporated herein as Exhibit 6.01(a). Seller shall deliver or cause to be delivered to Purchaser at Seller's expense within the time period set forth in Section 9.03 a title commitment for an ALTA Form B Owner's Title Insurance Policy (the "Title Commitment") issued by Chicago Title Insurance Company (the "Title Company") with extended coverage, zoning endorsement, access endorsement, location endorsement, survey endorsement, utility facility and contiguity endorsement (the "Endorsements") in the total amount of the Purchase Price as set forth in Section 4.01 hereof, covering title to the Property on or after the date of this Agreement, showing indefeasible fee simple title in Seller, together with legible copies of all underlying title documents of record ("Underlying Title Documents"). The Title Commitment and Underlying Title Documents shall be deemed incorporated herein by reference to Exhibit 6.01(b).

6.02 Purchaser shall have through the expiration of the Contingency Period (as defined hereinbelow) to notify Seller of its objections (the "Objections") to the matters noted on the Survey or in the Title Commitment. Any matters not objected to by Purchaser shall be deemed accepted by Purchaser and shall be "Permitted Exceptions" under this Agreement, and shall be incorporated herein as Exhibit 6.02. If Purchaser does not make an objection during the Contingency Period, then Purchaser shall be deemed to have accepted the Survey and Title Commitment.

6.03 Seller shall have a period of ten (10) days after the date of Purchaser's notice to Seller to cure any such Objections or to have the title insurer commit to insure against loss or damage that may be occasioned by such exceptions or Survey defects by endorsement acceptable to Purchaser. Seller agrees to proceed in good faith and with due diligence in efforts to cure any such Objections to the Survey or the condition of title to the Property. If Seller shall fail to cure any such Objections within the ten (10) day cure period, then Purchaser shall have the right to either (i) terminate the Agreement, or (ii) to elect to continue the Agreement and take title to the Property at Closing subject to such uncured Objection(s) and to deduct from the Purchase Price the cost of liens or encumbrances of a definite and ascertainable amount.

6.04 Seller hereby agrees not to permit any lien or other encumbrance against the Property during the term of this Agreement or any extension thereof including any lease or tenancy or sub-let agreements or renewals or extensions of existing agreements without

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Purchaser's consent, which consent Purchaser shall have the absolute right to withhold. Seller's failure to comply with this Section shall be a default.

## ARTICLE VII CLOSING CONDITIONS

7.01 Feasibility Contingencies. Notwithstanding anything contained herein to the contrary, Purchaser's obligations hereunder are in all respects fully subject to and contingent upon the approval and satisfaction or waiver by Purchaser, in Purchaser's sole and absolute discretion, of each of the following conditions, and/or feasibility contingencies (the "Contingencies") on or before twenty-one (21) days following the later of: (i) the date the last of the Survey, the Title Commitment and Underlying Title Documents have been delivered to Purchaser, or (ii) the date of this Contract (the "Contingency Period"):

- (1) Purchaser's approval of the Survey of the Property in accordance with the conditions and provisions of Section 5.01 of this Agreement;
- (2) Purchaser's approval of the Title Commitment and Underlying Title Documents for the Property in accordance with the conditions and provisions of Section 6.01 of this Agreement;
- (3) Purchaser's approval of the feasibility and condition of the Property, which determination shall be made at Purchaser's sole and absolute discretion;
- (4) If Purchaser deems necessary, Purchaser obtaining a new environmental site assessment report covering the Property (the "Phase I Report") and Purchaser's approval of same; the Phase I shall be certified to Purchaser and Purchaser's Lender, if any;
- (5) Purchaser obtaining any engineering studies and reports, including investigations of any flood plain and wetlands, utilities and sewer, water and irrigation facilities located on the Property and all structural, mechanical, electrical, roof and other systems and components located in the buildings and improvements in the Property reflecting that the Property is satisfactory to Purchaser;
- (6) Purchaser's review and approval of the Information Documents delivered by Seller to Purchaser pursuant to Section 9.03 hereof; and
- (7) Purchaser determining that the Property is otherwise acceptable to

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Purchaser in its sole discretion.

**Termination by Purchaser.** In the event any of the foregoing Contingencies are not satisfied in Purchaser's sole, unconditional and absolute discretion by the Contingency Period Purchaser may elect, by written notice to Seller, to terminate this Agreement and all of the parties' respective obligations hereunder, or, alternatively, Purchaser may waive the satisfaction of any unsatisfied Contingencies and, in such event, the transaction contemplated herein shall be consummated pursuant to the terms and conditions of this Agreement provided, that nothing contained in this Section 7.02 shall discharge Seller from any liability resulting from its failure to perform its obligations under this Agreement. Purchaser's right to terminate pursuant to this Section 7.02 shall expire and shall be deemed conclusively waived unless notice is delivered to Seller as herein provided not more than three (3) days after expiration of after the Contingency Period.

**7.03 Additional Purchaser's Conditions.** The obligation of Purchaser to purchase the Property and to otherwise perform its obligations hereunder shall be further subject to the satisfaction (or waiver by Purchaser) on or prior to the Closing Date, or any applicable cure period pursuant to Section 16.03 below, of all of the following conditions:

- (a) Seller shall have complied in all material respects with all of its agreements and covenants contained herein to be performed on or prior to the Closing Date and all representations and warranties of Seller contained herein shall be true in all material respects on the Closing Date with the same effect as though made on the Closing Date and Purchaser shall have received a certificate, dated as of the Closing Date and signed by Seller, certifying to the fulfillment of the conditions set forth in this Section 7.03;
- (b) No statute, ordinance, rule, or regulation or order of any court or administrative agency shall be in effect which restrains or prohibits the consummation of the transactions contemplated by this Agreement or the operation of the Property for its intended purpose;
- (c) All documents required to be delivered by Seller pursuant to the terms and conditions of this Agreement, in a form acceptable to Purchaser's counsel, shall have been duly executed and delivered to Purchaser. The condition of the Property shall be in the same condition as it was on the date of this Agreement, ordinary wear and tear accepted.

Approval by the City of Chicago to rescind the Property's current Planned Development classification and revert the zoning of the Property to its original classification as RT 3.5, to Purchaser's reasonable satisfaction. In the event Purchaser is unable to obtain the foregoing approval, upon written notice by Purchaser, all Earnest Money shall be immediately returned to Purchaser and this Agreement shall be null and void and of no

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further force and effect.

**7.04 Seller's Conditions.** The obligation of Seller to sell the Property and to otherwise perform its obligations hereunder shall be subject to the satisfaction (or waiver by Seller) on or prior to the Closing Date, or any applicable cure period pursuant to Section 16.03 below, of the following conditions:

(a) Purchaser shall have complied in all material respects with all of its agreements and covenants contained herein to be performed on or prior to the Closing Date and all representations and warranties of Purchaser contained herein and in the Agreement shall be true in all material respects on the Closing Date with the same effect as though made on the Closing Date and Seller shall have received a certificate dated as of the Closing Date and signed by Purchaser certifying to the fulfillment of the conditions set forth in this Section 7.04;

(b) No statute, ordinance, rule, or regulation or order of any court or administrative agency shall be in effect which restrains or prohibits the consummation of the transactions contemplated by this Agreement or the operation of the Property for its intended purpose; and

(c) All documents required to be delivered by Purchaser pursuant to the terms and conditions of this Agreement, in a form acceptable to Seller's counsel, shall have been duly executed and delivered to Seller.

## ARTICLE VIII CLOSING DATE

8.01 This transaction shall be closed (the "Closing") no more than thirty (30) days following the expiration of the Contingency Period or such earlier date as Purchaser may designate (the "Closing Date") provided there has been fulfillment and satisfaction of all of the Contingencies as set forth in Article VII herein, unless expressly waived by Purchaser in writing or the Closing Date shall be extended to such date to enable compliance with the Closing Conditions set forth in Article VII. Possession of the Property shall be delivered to Purchaser at closing subject to the rights of the tenants under the existing leases.

## ARTICLE IX DUE DILIGENCE AND ACCESS

9.01 From and after the execution and delivery of this Agreement, and until the earlier of (i) Closing or (ii) termination of this Agreement, Purchaser and its representatives are authorized to and may conduct or may cause to be conducted



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environmental, soil, drainage, engineering tests, physical inspections and other inspections on the Property, and may make other feasibility and due diligence studies relative to the Property as Purchaser in its sole discretion deems reasonable and necessary, and Purchaser, its designees, employees, agents, contractors and consultants, are hereby granted a license by Seller to enter the Property for such purposes at all reasonable times.

**9.02 Restoration of the Real Estate.** Purchaser hereby agrees to restore the Property as necessary due to Purchaser's entry onto the Property pursuant to Section 9.01 and in conducting such tests and studies and as nearly as practical to the condition existing immediately prior to such an entry by Purchaser and to protect and indemnify Seller from any and all claims arising from, out of, or on account of such an entry by Purchaser upon the Property.

**9.03 Due Diligence Information.** To facilitate Purchaser's due diligence investigations of the Property, Seller shall provide Purchaser as soon as practicable after execution and delivery of this Agreement, but in no event later than five (5) days after Purchaser's receipt of a fully signed Agreement from Seller, (the "Effective Date") true and complete copies of all of the following documents and other information relating to the Property in Seller's possession or under Seller's control (collectively the "Information Documents"):

- (a) The Survey;
- (b) The Existing Title Policy;
- (c) Complete and legible copies of all Underlying Title Documents as noted on the Survey and the Existing Title Policy;
- (d) Full and complete copies of all existing environmental reports and assessments (the "Environmental Reports") concerning the Property;
- (e) All blueprints, architectural and engineering plans, specifications, reports, "as-built" plans, inspections and other similar documents relating to the Property and all Improvements thereon, if any;
- (f) True and complete copies of all existing contracts, agreements, Leases, and other executory undertakings and service contracts relating to the Property, including, without limitation, equipment leases and contracts for the purchase of materials, services and supplies;
- (g) All files and other documents relating to any permit, license, or other approvals or authorities issued or applied for in connection with the Property and operation of activities thereon, including all certificates of

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occupancy;

(h) All files or other documents relating to any pending or threatened litigation, or any pending or threatened claims or assessments against the Property, if any;

(i) The Personal Property and Intangible Property schedules;

(j) Any engineering and utility survey, letter, report, or evaluation relating to the Property, in addition to the Environmental Reports;

(k) All files, documents, and agreements relating to any current insurance policies or insurance arrangements covering the Property and copies of recent utility bills;

(l) All recorded copies of any and all annexations, zoning and PUD documents and copies of all development orders and agreements affecting the Property;

(m) All files or other documents relating to all pending or past code violations and notices thereof;

(n) All files or other documents relating to all pending and previous real estate tax bills and real estate assessment notices for 2006, 2007 and 2008;

(o) Other documents relating to the Property, which Purchaser may reasonably request.

All of the Information Documents required to be delivered to Purchaser hereunder shall be identified and scheduled by Seller on Schedule 9.03 (the "Schedule of Information Documents") to be attached hereto and made a part hereof. To the extent any such Information Documents do not exist, Seller shall specifically indicate same on the Schedule of Information Documents. Seller represents and warrants that the Schedule of Information Documents and the documents submitted and delivered thereunder are true and complete and constitute all of the Information Documents pertaining to the Property.

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**Confidentiality.** Purchaser agrees that all information received by Seller regarding Seller or the Property will be received and held in confidence by Purchaser. This information will not be disclosed by Purchaser to third parties except to its employees, accountants, attorneys, lenders, brokers and others assisting Purchaser with the purchase of the Property. If the

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transaction fails to close, Purchaser will return to Seller all materials Seller supplied to the Purchaser.

## ARTICLE X UPDATED DOCUMENTS

10.01 Prior to Closing, Seller, at Seller's expense, shall deliver to Purchaser such affidavits, certifications or other documents or information as may be required to update the Information Documents or as may be required by the Title Company to issue extended coverage and to remove the standard exceptions as to defects, liens, encumbrances, adverse claims or other matters appearing in the public record subsequent to the preliminary Title Commitment but prior to Closing, as to rights or claims of parties in possession and to any lien, or right to a lien, for services, labor or material furnished to the Property.

## ARTICLE XI CLOSING

11.01 Subject to Article XIV hereof, and upon fulfillment and satisfaction of the Closing Conditions, or the express written waiver thereof by Purchaser, the parties agree to close the transaction in escrow ("New York" style with GAP undertaking) with the Title Company, in accordance with its customary deed and money escrow agreement. Closing shall be at the offices of the Title Company in Chicago, Illinois.

11.02 The Seller shall provide or deliver the following at Closing:

- A Warranty Deed conveying the fee simple title to the Property to Purchaser or Purchaser's designee subject only to Permitted Exceptions;
- The Title Commitment to be marked-up into a pro-forma policy by the Title Company and include gap insurance;
- Possession of the Property;
- Bill of Sale for all Personal Property and Intangible Property;
- Seller's Certificate of Representations and Warranties;
- Seller's GAP undertaking;
- Seller's certified resolutions authorizing this Agreement, and the conveyance documents contemplated hereunder, incumbency certificate and good standing certificate;
- A FIRPTA certificate in form reasonably satisfactory to Purchaser evidencing that Seller is not a "foreign person";
- Such other documents reasonably requested by Purchaser, Title Company and/or required under this Agreement.

11.03 The Purchaser shall wire transfer the balance of the Purchase Price to the Title Company who will act as disbursing agent and shall deposit Purchaser's Certificate of

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Representations and Warranties, and such other documents reasonably requested by Seller, Title Company and/or required under this Agreement.

11.04 Seller and Purchaser shall each execute and deliver such transfer declarations, closing statements and ALTA Statements or such other documents as the Title Company customarily requires in connection with the type of transaction contemplated by this Agreement.

11.05 The closing of the purchase of the Property shall occur with the Title Company. The costs of Closing shall be paid by the parties as follows:

Seller shall pay: (i) the documentary stamps required to be affixed to the Warranty Deed; (ii) the cost of recording any corrective documents; (iii) premium for the owner's title policy, Endorsements and GAP fee; and (iv) one-half of escrow fee;

Purchaser shall pay for recording the deed and Purchaser's mortgage, and the premium for the mortgage title insurance policy and any additional endorsements requested by Purchaser or Purchaser's Lender, and one-half of escrow fee; and  
Each party will pay their own attorneys' fees.

Transfer taxes shall be paid by the party designated by the applicable state, county or municipal ordinance.

## ARTICLE XII REAL ESTATE TAXES AND PRORATIONS

12.01 Real estate taxes for the Property for the year of Closing shall be prorated between the parties as of the date of Closing. If the real estate taxes for such year are not then ascertainable, such taxes shall be prorated on the basis of One Hundred Ten Percent (110%) of the then most recent ascertainable taxes, and each party hereto agrees to re-prorate such taxes and make appropriate adjustments pursuant to the terms of a Tax Reproration Agreement which is attached hereto as Exhibit 12.01. Any real estate special assessments levied or assessed against the Property prior to Closing including any and all future installments of real estate special assessments shall be paid by the Seller prior to or at Closing. Any real estate special assessments levied or assessed against the Property after the date of this Agreement but prior to Closing shall be prorated between the parties for the current unpaid installment as of the date of Closing. Seller shall be responsible for and pay any installments due prior to the closing date and Purchaser shall be responsible for all installments due after the closing date.

12.02 All other proratable items between the parties, including rent and deposits, shall be prorated as of the date of closing.

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## ARTICLE XIII BROKERAGE/INDEMNITY

13.01 Purchaser and Seller each represents and warrants to the other that it has not dealt with any person or entity entitled to a brokerage commission, finder's fee or other compensation with respect to the transaction contemplated hereby other than \_\_\_\_\_ (the "Broker"). Purchaser hereby agrees to indemnify, defend and hold Seller harmless from and against any losses, damages, costs and expenses (including, but not limited to, attorneys' fees and costs) incurred by Seller by reason of any breach or inaccuracy of the Purchaser's (or its nominee's) representations and warranties contained in this Article XIII. Seller hereby agrees to indemnify, defend and hold Purchaser harmless from and against any losses, damages, costs and expenses (including, but not limited to, attorneys' fees and costs) incurred by Purchaser by reason of any breach or inaccuracy of Seller's representations and warranties contained in this Article XIII. Seller and Purchaser agree that it is their specific intent that no broker shall be a party to or a third party beneficiary of this Agreement or the Deposit, that no broker shall have any rights or cause of action hereunder. The provisions of this Article XIII shall survive the Closing and/or termination of this Agreement.

## ARTICLE XIV DESTRUCTION AND CONDEMNATION

14.01 Destruction. If the Property is destroyed or is damaged to the extent that the cost of repair thereof exceeds Fifty Thousand and No/100 Dollars (\$ 50,000.00) between the date hereof and the Closing, this Agreement shall, at Purchaser's election, immediately

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terminate and be null and void. If Purchaser does not elect to terminate this Agreement pursuant to its right in the foregoing sentence or if, prior to the Closing, damage is sustained, the repair cost for which is Fifty Thousand and No/100 Dollars (\$50,000.00) or less, then this Agreement shall be consummated and the insurance proceeds or rights to proceeds under existing insurance policies, as the case may be, shall be assigned to Purchaser.

14.02 **Condemnation.** In the event that all or any part of the Property shall be condemned by a governmental authority prior to conveyance thereof to Purchaser, then the Purchaser shall have the right with Seller to negotiate and contest the amount of the award. Upon Closing, and at Purchaser's election, Seller shall: give Purchaser a credit against the cash portion of the Purchase Price in the amount of the award (if it has then already been paid to Seller); or, assign to Purchaser all of Seller's right, title and interest in and to the award (if it has not theretofore been paid to Seller) in which case there shall be no credit against the Purchase Price. If there is a proposed condemnation, Seller shall give Purchaser written notice thereof including all information pertinent to such proposed taking. Purchaser shall then have thirty (30) days from receipt of such notice in which to elect to either continue or terminate this Agreement. Purchaser, in its sole and exclusive judgment, may terminate by reason of such proposed condemnation. If Purchaser elects to terminate, this Agreement shall be null and void and all Earned Money shall be refunded.

## ARTICLE XV THE PHASE I REPORT AND REGULATED/HAZARDOUS SUBSTANCES

15.01 **The Phase I Report.** If Purchaser deems necessary in its sole and absolute discretion, Purchaser may obtain, at its cost, a new environmental site assessment report to Purchaser covering the Property (the "Phase I Report"). The Phase I Report shall be prepared by an environmental firm approved by and acceptable to Purchaser's Lender and shall be certified to Purchaser and Purchaser's Lender. Upon completion of said Phase I environmental audit of the Property, should, based on the findings in the Phase I Report, Purchaser decide, in its sole and absolute discretion, to obtain a Phase II environmental audit of the Property, Purchaser shall have an additional thirty (30) days to obtain said Phase II Report of the Property upon written notice within the Contingency Period to Seller; in which event, all dates and time periods contained herein, including without limitation the Contingency Period and the Closing Date, shall be extended an additional thirty (30) days.

15.02 **Seller's Environmental Representations.** Seller represents and warrants to Purchaser that the Seller has received no written notice advising, nor does Seller have any actual knowledge, that the Property as of the date of this Agreement contains any materials, whether brought to the Property, deposited thereon, used on the Property, generated on the Property as a product or by-product of activities on the Property, or otherwise present which is a "Regulated or Hazardous Substance" (as hereinafter defined) and causes harm to

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the Property or its market value. Seller shall re-certify said representation at the time of closing. For purposes of this Agreement, a Regulated or Hazardous Substance is a material, substance or other matter:

- (a) That are polychlorinated bi-phenyls (PCB's) and/or regulated products under the Toxic Substance Control Act and/or the regulations promulgated or adopted thereunder;
- (b) That are wastes or other materials, which qualify as hazardous wastes or other regulated products under the Resource Conservation and Recovery Act and/or the regulations promulgated or adopted thereunder;
- (c) That are hazardous substances or other regulated products as defined in the Comprehensive Environmental Response Compensation and Liability Act and/or the Superfund Amendments and Reauthorization Act (and/or regulations promulgated, adopted or incorporated thereunder; or
- (d) That are otherwise classified as hazardous or regulated substances under any federal law or regulation or under the laws or regulations of the State of Illinois, including asbestos.

Seller shall indemnify and hold harmless Purchaser from and against all costs and expenses incurred by Purchaser resulting from Seller's acts or the acts of Seller's agents, contractors, subcontractors, employees and invitees causing any of Seller's above representations to be inaccurate. Such indemnification and hold harmless obligation provided for in this Article XV shall survive the Closing or other termination of this Agreement.

## ARTICLE XVI DEFAULT

**16.01 Purchaser's Default.** In the event Purchaser defaults under any of its obligations pursuant to the terms of this Agreement, Seller shall be entitled to retain all Earnest Money and Seller shall terminate this Agreement and all rights extended to Purchaser hereunder as Seller's sole and exclusive remedy. The parties expressly agree that forfeiture of the Earnest Money is fair and reasonable under the circumstances and that proof of actual damages suffered by Seller, if any, would be difficult to ascertain.

**16.02 Seller's Default.** In the event the sale of the Property contemplated by this Agreement is not consummated because of Seller's default, failure or refusal to perform hereunder, all Earnest Money paid to Seller shall be refunded to Purchaser, but such refunding shall not relieve Seller from the obligations hereunder and Purchaser may pursue all remedies at law or in equity against Seller for all damages including the remedy of

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specific performance.

**16.03 Cure Period.** In the event of default by either party to this Agreement, the party claiming such default shall notify the other in writing of the nature of such default and the defaulting party shall have fifteen (15) days after receipt of such notice to cure such default. In the event such default is of the nature so that it cannot be reasonably cured within said fifteen (15)-day period, the defaulting party must diligently pursue curing such default within said fifteen (15)-day period. No breach of this Agreement may be found to have occurred if performance has commenced to the satisfaction of the party claiming default within fifteen (15) days of receipt of such notice.

## ARTICLE XVII

### SELLER'S REPRESENTATIONS AND WARRANTIES

**17.01** To induce Purchaser to enter into this Agreement, Seller represents and warrants that as of the date hereof (and will recertify again as of Closing by delivery of Seller's Certificate) that:

- (a) Seller is a corporation duly organized and validly existing and in good standing under the laws of the State of Illinois;
- (b) There are no judicial or administrative actions, nor any judicial actions by adjacent land owners, relating to the Property which is the subject of this Agreement;
- (c) There are no violations of applicable fire, health, safety, building, pollution, environmental, zoning or other laws, ordinances, statutes, rules, regulations, restrictions pertaining to and affecting the Property;
- (d) There are no legal actions, suits or other legal proceedings, including condemnation or quiet title cases, pending or threatened against all or portion of the Property;
- (e) The improvements on the Property have been constructed and are operated in compliance with all applicable ordinances, zoning laws and regulations and Seller has received an unqualified certificate of occupancy with respect to same;
- (f) Seller possesses the power and authority to enter into this Agreement and perform thereunder, to convey marketable title as required hereunder and to comply with and be bound by the Agreement and its terms and that the undersigned signatories are authorized officers of Seller and have full power and authority to execute this Agreement and bind Seller;



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- (g) Except for those Leases assumed by Purchaser, there are no contracts, leases, licenses or agreements, which are binding upon the Property or upon Purchaser from and after Closing;
- (h) There are no options or rights of refusal in any party to purchase or acquire any ownership interest in the Property and Seller shall not grant any options or rights during the term of this Agreement;
- (i) All exhibits and documents furnished by Seller to Purchaser, including without limitation, the Information Documents, are true, authentic, correct and complete;
- (j) All impact fees, municipal fees, donations and contributions required for development and improvement of the Property have been paid in full and there are no obligations under any so called "recapture agreements" relating to the Property;
- (k) There are no defects, inadequacies or uses of the Property, which would adversely affect the insurability of same, or create extraordinary premiums;
- (l) There are no existing, pending, threatened or anticipated condemnation or eminent domain proceedings related to the Property or any portion thereof;
- (m) Except for the existing tenants, there are no parties or other parties in possession or occupancy of the Property or any part thereof, and there are no persons who have any possessory rights with respect to the Property or any part thereof;
- (n) Seller is not a "foreign person" within the meaning of Section 1445 of the Internal Revenue Code of 1986 (as amended, the "Code"), and the regulations promulgated thereunder;
- (o) There are no underground or aboveground storage tanks located on or under the Property and, to the best of Seller's knowledge, no underground or aboveground storage tanks have ever been located on or under the Property. Notwithstanding anything to the contrary contained herein, any underground or aboveground storage tanks shall be deemed Hazardous Materials for purposes of this Agreement;
- (p) No representation or warranty made by Seller in this Agreement or in any Schedule or Exhibit attached hereto, or in any certificate or other

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document furnished by Seller pursuant to this Agreement contains any untrue statement of material fact or omits any material fact necessary to make any statement contained herein or therein not misleading;

(q) No part of the Property is subject to any building or use restrictions, which prevent the use of the Property as it is used as of the date of execution hereof. There are no violations of any applicable codes, whether local, county, state or federal, and Seller has not received notices thereof, which involve the current use, or the maintenance, operation or condition of the Property. The current use, occupancy, and operation of the Property are in compliance with all applicable laws, ordinances and regulations. There is no outstanding notice of any hazard insurer or mortgagee in respect of the Property not fully and duly complied with, which may affect the use or operation of any part of the Property, or which requires as of the date hereof, or a specified date in the future, any repairs, alterations, additions or improvements thereto, or which calls attention to the need therefore, or to any violations of building, safety, fire or other ordinances or laws;

(r) The building on the Property is connected to and in use of public sewer and water lines, electric and other utility services, and all such utility services are adequate for the existing use of the Property and for the improvements. All utilities (including water, sewer, gas, electricity, trash removal and telephone service) are available to the Property. All utilities enter the land through adjoining public streets or if they pass through adjoining private land, do so in accordance with valid public or private easements, which will inure to the benefit of Purchaser. All of the utilities are installed and operating and all installation and connection charges have been paid in full;

(s) There are no material defects in the Property, including the roof, walls, foundations, HVAC, electrical and mechanical systems, all of which have been built according to the plans and specifications as delivered to Purchaser.

(t) The Improvements, any fixtures on the Property and all of the Personalty shall be in good operating order and condition as of the Closing Date, the roof shall be free of leaks, and the exterior and structure of the Improvements shall not be in need of any repair or maintenance.

The representations, warranties and covenants of Seller shall survive the Closing for a period of one (1) year.

## ARTICLE XVIII

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## PURCHASER'S REPRESENTATIONS AND WARRANTIES

18.01 Purchaser represents and warrants to Seller that as of the date hereof (and will recertify again as of the Closing) that Purchaser and its officers and directors possesses the power and authority to enter into this Agreement and such Agreement is enforceable against Purchaser in accordance with their terms.

## ARTICLE XIX COVENANTS

19.01 Operation of the Property. Seller covenants and agrees with Purchaser that from and after the date hereof until the Closing, or the earlier termination of this Agreement in accordance with the terms hereof:

- (a) Seller shall not sell, transfer or otherwise dispose of all or any portion of the Property or grant or create any lien, encumbrance, easement, covenant, condition, right-of-way, restriction or other interest upon the Property or take any action adversely affecting title to the Property without the written consent of Purchaser;
- (b) Seller shall not take any action of a material nature with respect to the Property, including, without limitation, entering into any contracts or agreements with respect to the Property, or incurring any liabilities or obligations with respect to the Property or any portion thereof, or consent to, authorize or institute any change in zoning or similar land use classification for the Property or any part thereof or any adjoining or nearby parcels except in the ordinary course of Seller's business without the consent of Purchaser, subject to Section 2.06;
- (c) Seller shall pay when due all real estate taxes and assessments and any special assessments required to be paid by Seller for the Property; provided, however, that Seller shall have the right to contest in good faith any real estate tax assessment for the Property;
- (d) Seller shall (i) promptly deliver to Purchaser copies of any notices received by Seller from any person, corporation or governmental authority of any violation of any applicable statute, ordinance, covenant, condition or restriction affecting the Property; (ii) promptly advise Purchaser of the status of any pending or threatened litigation affecting the Property, (iii) promptly advise Purchaser of any pending or threatened condemnation taking or casualty damage affecting the Property, and (iv) maintain all

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existing policies of insurance for the Property or policies of like kind and coverage in full force and effect;

(e) In the event of casualty damage to the Property or any condemnation taking or notice thereof, Seller shall take all necessary physical and legal actions to preserve the Property and all legal rights related thereto;

(f) Seller shall continue to comply with all Leases, contracts, agreements, covenants, conditions and restrictions relating to the Property;

(g) Seller shall not merge or consolidate with, or sell all or substantially all of its assets, to any other person or otherwise fail to maintain its corporate existence; and

(h) Until Closing, Seller shall at its own expense, comply in its ordinary course of business with all obligations under all Leases, service contracts and relevant requirements of all governmental authorities or agencies having jurisdiction over the Property. Seller shall operate the Property in a manner consistent with its past operating procedures and Seller shall maintain the Property in the same condition as on the date hereof, casualty and reasonable wear and tear excepted, and shall continue to keep the same insurance policies thereon in effect as are currently in effect.

(i) Seller shall, at any time and from time to time after the Closing Date, upon the request of Purchaser and without further consideration, execute and deliver all such further certificates, instruments of sale, assignment, transfer, conveyance and confirmation and take such other actions as Purchaser may request and deem necessary in connection with the performance of this Agreement to more effectively convey, transfer, grant, and assign to, and vest in Purchaser the Property and to put Purchaser in actual possession thereof.

## ARTICLE XX GENERAL PROVISIONS

20.01 Entire Agreement. This Agreement (including the Schedules and Exhibits), constitutes the sole and complete understanding of the parties with respect to the subject matter hereof. This Agreement supersedes all prior agreements, negotiations and discussions relative to the subject matter hereof and is a full integration of the agreement between the parties with respect to the subject matter hereof.

20.02 Successors and Assigns. The terms and conditions of this Agreement

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shall inure to the benefit of and be binding upon the respective successors and assigns of the parties hereto; provided, however, this Agreement may not be assigned by Seller without the prior written consent of the Purchaser. Provided further, Purchaser may assign its rights hereunder to a nominee, but any such assignment shall not affect the rights and obligations of the parties hereunder.

**20.03 Counterparts.** This Agreement may be executed in one or more counterparts, each of which shall for all purposes be deemed to be an original and all of which shall constitute the same instrument.

**20.04 Headings.** The headings of the Sections of this Agreement are inserted for convenience only and shall not be deemed to constitute part of this Agreement or to affect the construction hereof.

**20.05 Modification and Waiver.** No amendment, modification or alteration of the terms or provisions of this Agreement shall be binding unless the same shall be in writing and duly executed by the parties hereto, except that any of the terms or provisions of this Agreement may be waived in writing at any time by the party which is entitled to the benefits of such waived terms or provisions. No waiver of any of the provisions of this Agreement shall be deemed to or shall constitute a waiver of any other provision hereof whether or not similar. No delay on the part of any party in exercising any right, power or privilege hereunder shall operate as a waiver thereof.

**20.06 Notices.** Any notice, request, instruction or other document to be given hereunder by either party hereto to the other party shall be in writing and delivered personally or sent by telecopier or by overnight courier or by registered or certified mail, postage prepaid,

if to Seller to:

51<sup>st</sup> Street Residential, LLC  
3330-3356 West 51<sup>st</sup> Street  
Chicago, Illinois 60632

with a copy to:

Richard Indyke, Esq.  
221 North LaSalle Street  
Suite 1200  
Chicago, Illinois 60601  
Telecopier Number: (312) 332-3920  
Phone Number: (312) 332-2828

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if to Purchaser to:

New West Realty Group, LLC or its nominee  
1300 S. Paulina, Suite 300  
Chicago, Illinois 60608  
Attn: Theodore Mazola  
Phone No.: (312) 829-2100  
Facsimile No: (312) 421-8750

with a copy to:

Marc H. Schwartz, Esq. or Brad S Gerber, Esq.  
Harrison & Held LLP  
333 West Wacker Drive - Suite 1700  
Chicago, IL 60606  
Telecopier Number: (312) 753-6131  
Phone Number: (312) 540-4965

or at such other address for a party as shall be specified by like notice. Any notice which is delivered personally or by telecopier in the manner provided herein shall be deemed to have been duly given to the party to whom it is directed upon delivery or transmission with confirmation receipt. Any notice which is delivered by overnight courier shall be deemed to have been received by the party to whom it is directed. Any notice which is addressed and mailed in the manner herein provided shall be deemed to have been duly given to the party to which it is addressed at the close of business local time of the recipient, on the third (3rd) business day after the day it is so placed in the mail.

**20.07 Governing Law.** This Agreement shall be construed in accordance with and governed by the laws of the State of Illinois applicable to agreements made and to be performed wholly within such jurisdiction.

**20.08 Legal Fees.** In the event that either party seeks to enforce any rights arising hereunder in any court of competent jurisdiction, the prevailing party therein shall be entitled to recover from the other party, in addition to any other sums adjudicated to be due and without regard to any other relief granted, all reasonable costs and expenses (including reasonable attorneys' fees) paid or incurred by such prevailing party in connection with enforcing such rights or defending any claim or action asserted therein. The court adjudicating any claims hereunder shall determine the prevailing party in any actions brought hereunder and the amount of compensation due to such prevailing party pursuant to this Section 20.08.

**20.09 Severability.** If any provision of this Agreement is subsequently held to be invalid or unenforceable for any reason, that provision will be reformed to the maximum extent permitted to preserve the parties' original intent - failing which, such provision will be severed from this Agreement with the balance of the Agreement continuing in full force

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and effect.

**20.10 Amendments in Writing.** This Agreement and any Exhibits or Schedules attached hereto may be amended only by the mutual written consent of the parties hereto.

**20.11 Time is of the Essence.** Time is of the essence of this Agreement. The parties will make every reasonable effort to expedite the subject matters hereof and agree to cooperate fully with one another to effectuate the intent of this Agreement.

**20.12 Construction.** The parties acknowledge that each party has reviewed this Agreement and that the normal rule of construction to the effect that any ambiguities are to be resolved against the drafting party shall not be employed in the interpretation and construction of this Agreement or any amendments thereto.

**20.13 Effective Date of Agreement.** This Agreement shall become effective only upon, and all time periods not otherwise expressly set forth, shall commence to run from the date this Agreement is fully executed by both parties.

**20.14 Tax-Free Exchange.** Purchaser and Seller will cooperate with one another as to the provisions and requirements of an U.S. Section 1031 tax-free exchange provided that this cooperation does not materially increase Purchaser's or Seller's obligations under this Agreement.

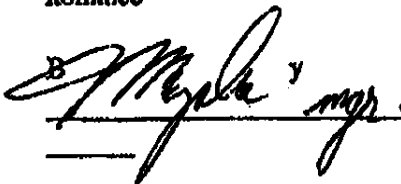
IN WITNESS WHEREOF, the parties have executed this Agreement as of the date first stated above.

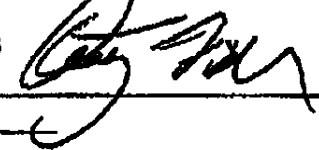
**PURCHASER:**

**SELLER:**

New West Realty Group, LLC,  
an Illinois limited liability company or  
nominee

51<sup>st</sup> Street Residential, LLC,  
an Illinois limited liability company

  
\_\_\_\_\_

B   
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## EXHIBIT AND SCHEDULES

Exhibit A:	Legal Description
Schedule 2.04:	Tangible Property and Personal Property
Exhibit 3.01	Strict Joint Order Escrow Instructions
Exhibit 5.01(a):	Survey
Exhibit 6.01(a)	Existing Title Policy
Exhibit 6.01(b)	Title Commitment and Underlying Title Documents
Exhibit 6.02:	Permitted Exceptions
Schedule 9.03:	Schedule of Information Documents
Exhibit 12.01	Tax Representation Agreement
Exhibite 13.02	Listing Agreement

Property of Cook County Clerk's Office



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## EXHIBIT A

### LEGAL DESCRIPTION

BLOCK 27 (EXCEPT THAT PART OF THE LAND TAKEN FOR ST. LOUIS AVENUE AND 51<sup>ST</sup> STREET THEREOF) AND BLOCK 28 (EXCEPT THAT PART OF THE LAND TAKEN FOR HOMAN AVENUE AND 51<sup>ST</sup> STREET THEREOF) IN JAMES H. REES' SUBDIVISION OF THE NORTHEAST ¼ OF SECTION 11, TOWNSHIP 38 NORTH, RANGE 13 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

#### PERMANENT INDEX NUMBERS:

19-11-203-001  
19-11-203-004  
19-11-203-005

#### COMMON ADDRESS OF PROPERTY:

3330/3356 WEST 51<sup>ST</sup> STREET, CHICAGO, ILLINOIS

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PURCHASER:

EXHIBIT 12.01

New West Realty Group, ~~TAX~~ TAX ~~RE-PRORATION~~ RE-PRORATION AGREEMENT  
 an Illinois limited liability company or its

nominee. THIS AGREEMENT dated the \_\_\_ day of \_\_\_, 2008, by and between 51<sup>st</sup>  
 Street Residential, LLC, an Illinois limited liability company as "Seller," and New West  
 Realty Group, LLC, an Illinois limited liability company or nominee "Purchaser," it is  
 hereby agreed as follows:

Seller has sold 3330-3356 West 51<sup>st</sup> Street, Chicago, Illinois, ("Property") to  
 Purchaser. The Closing took place on the date first written above.

At Closing, Purchaser received a credit for the 2008 real estate taxes in the amount  
 of \$ \_\_\_\_\_ and a credit for the 2009 (from 1/1/2009 through the Closing  
 Date) real estate taxes in the amount of \$ \_\_\_\_\_. These credits were based on  
 One Hundred Ten Percent (110%) of the 2007 real estate tax bill.

Upon issuance of each of the actual tax bills for the Property for the 2008 and 2009  
 real estate taxes, Seller and Purchaser agree to prorate the 2008 and 2009 (from 1/1/2009  
 through the Closing Date) real estate taxes. In the event that the credit given to Purchaser at  
 Closing for the 2008 and 2009 (from 1/1/2009 through the Closing Date) real estate taxes  
 is less than the Seller's actual portion of the real estate taxes, Seller agrees to reimburse the  
 Purchaser for the difference within 14 days after written demand. In the event that the  
 credit given to Purchaser at closing for the 2008 and 2009 (from 1/1/2009 through the  
 Closing Date) real estate taxes are greater than Seller's actual portion hereof, Purchaser  
 agrees to reimburse Seller for the difference within 14 days after written demand. Such re-  
 proration shall be undertaken after each tax bill is issued.

If either party is required to commence litigation to enforce the provisions of this  
 Agreement, the prevailing party shall be entitled to recover all reasonable attorney's fees,  
 costs and expenses.

This Agreement shall survive the closing of the transfer of the property against  
 which said real estate taxes are assessed.

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**PURCHASER:**

New West Realty Group, LLC,  
an Illinois limited liability company or its  
nominee

**SELLER:**

51<sup>st</sup> Street Residential, LLC,  
an Illinois limited liability company

B y :

B y :

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EXHIBIT 3.01

ESCROW INSTRUCTIONS

Refer to:

Phone No:

Fax No.:

**STRICT JOINT ORDER ESCROW TRUST INSTRUCTIONS**

ESCROW TRUST NO.: \_\_\_\_\_

DATE: \_\_\_\_\_

To: Chicago Title Insurance Company, Escrow Trustee:

Customer Identification:

Seller: 51<sup>st</sup> Street Residential, LLC

Purchaser: New West Realty Group, LLC or its nominee

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Property address: 3330-3356 West 51<sup>st</sup> Street, Chicago, Illinois

Contract: \_\_\_\_\_

Proposed disbursement date: Closing

**Deposits:**

Uncertified check in the amount of \$50,000.00 representing earnest money deposit for the sale of the above-referenced property.

**Delivery of Deposits:**

The above-referenced escrow trust deposits ("deposits") are deposited with the Escrow Trustee to be delivered by it pursuant to the following:

At any time, the Escrow Trustee may be authorized and directed, solely by Purchaser or its legal representatives or assigns, to deliver all or any part of the deposits to Purchaser.

Prior to the 3<sup>rd</sup> day following expiration of the Contingency Period set forth in Section 7.01 of the Contract, the Escrow Trustee may be authorized and directed, solely by Purchaser or its legal representatives or assigns, to return the deposits to Purchaser provided that Purchaser provides Escrow Trustee with a copy of the Contract evidencing the date upon which such Feasibility Period expires.

At any time after three (3) days after the expiration of the Contingency Period, the Escrow Trustee may be authorized and directed to deliver the deposits only upon the receipt of a joint order of the undersigned or their respective legal representatives or assigns.

In no case shall the above mentioned deposits be otherwise surrendered except upon the receipt of an order signed by the parties hereto, their respective legal representatives or assigns, or in obedience to the court order described below.

**Billing Instructions:**

Escrow trust fee will be billed as follows:  
One half each to purchaser and seller

An annual maintenance fee, as determined by the then current rate schedule, will commence on the first anniversary of the date of execution.

**PLEASE NOTE:** The escrow trust fee for these joint order escrow trust instructions is due

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and payable within 30 days from the projected disbursement date (which may be amended by joint written direction of the parties hereto). In the event no projected disbursement date is ascertainable, said escrow trust fee is to be billed at acceptance and is due and payable within 30 days from the billing date. Chicago Title Insurance Company, at its sole discretion, may reduce or waive the escrow trust fee for these joint order escrow trust instructions in the event the funds on deposit herein are transferred to or disbursed in connection with sale escrow trust instructions or an agency closing transaction established at Chicago Title.

## Investment:

Deposits made pursuant to these instructions may be invested on behalf of any party or parties hereto: Provided, that any direction to escrow trustee for such investment shall be expressed in writing and contain the consent of all other parties to this escrow, and also provided that you are in receipt of the taxpayer's identification number and investment forms as required. Escrow trustee will, upon request, furnish information concerning its procedures and fee schedules for investment.

Except as to deposits of funds for which escrow trustee has received express written direction concerning investment or other handling, the parties hereto agree that the escrow trustee shall be under no duty to invest or reinvest any deposits at any time held by it hereunder; and, further, that escrow trustee may commingle such deposits with other deposits or with its own funds in the manner provided for the administration of funds under Section 2-8 of the Corporate Fiduciary Act (Ill. Rev. Stat. 1989, Ch 17, Par. 1552-8) and may use any part or all such funds for its own benefit without obligation of any party for interest or earnings derived thereby, if any. Provided, however, nothing herein shall diminish escrow trustee's obligation to apply the full amount of the deposits in accordance with the terms of these escrow trust instructions.

In the event the escrow trustee is requested to invest deposits hereunder, Chicago Title Insurance Company is not to be held responsible for any loss of principal or interest which may be incurred as a result of making the investments or redeeming said investment for the purposes of these escrow trust instructions.

## Compliance With Court Order:

The undersigned authorize and direct the escrow trustee to disregard any and all notices, warnings or demands given or made by the undersigned (other than jointly) or by any other person. The said undersigned also hereby authorize and direct the escrow trustee to accept, comply with and obey any and all writs, orders, judgments or decrees entered or issued by any court with or without jurisdiction; and in case the said escrow trustee obeys or complies with any such writ, order judgment or decree of any court, it shall not be liable to any of the parties hereto or any other person, by reason of such compliance, notwithstanding any such writ, order, judgment or decree be entered without jurisdiction or

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be subsequently reversed, modified, annulled, set aside or vacated. In case the escrow trustee is made a party defendant to any suit or proceedings regarding this escrow trust, the undersigned, for themselves, their heirs, personal representatives, successors, and assigns, jointly and severally, agree to pay to said escrow trustee, upon written demand, all costs, attorney's fees, and expenses incurred with respect thereto. The escrow trustee shall have a lien on the deposit(s) herein for any and all such costs, fees, and expenses. If said costs, fees, and expenses are not paid, then the escrow trustee shall have the right to reimburse itself out of the said deposit(s).

## Execution.

These escrow trust instructions are governed by and are to be construed under the laws of the State of Illinois. The escrow trust instructions, amendments or supplemental instructions hereto, may be executed in counterparts, each of which shall be deemed an original and all such counterparts together shall constitute one and the same instrument.

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**For Seller:**

**Richard Indyke, Esq.**

**Address:** 221 North LaSalle Street, Suite 1200  
**City/State:** Chicago, Illinois 60601  
**Phone No.:** (312) 332-2828  
**Fax No.:** (312) 332-3920

**Signature:**

**For Purchaser**

**Firm/Name** Harrison & Held LLP

**Attn:** Brad S Gerber

**Address:** 333 West Wacker Drive, Suite 1700

**City/State:** Chicago, Illinois 60606

**Phone No.:** (312) 540-4965

**Fax No.:** (312) 753-6131

**Signature:** \_\_\_\_\_

**Accepted: Chicago Title Insurance Company, as Escrow Trustee**

**By:** \_\_\_\_\_

**Date:** \_\_\_\_\_