

CONTRACT TO PURCHASE

This **CONTRACT TO PURCHASE** is entered into this ____ day of, _____ 20__ by and between **Niagara Orleans Regional Land Improvement Corporation**, a New York not-for-profit corporation having an office for the transaction of business at 6311 Inducon Corporate Dr., Sanborn, NY 14132 ("Seller") and _____ of _____ ("Buyer")

In consideration of the mutual covenants and promises hereinafter set forth, Buyer and Seller mutually covenant and agree as follows:

1. PROPERTY. Buyer agrees to buy and the Seller agrees to sell that certain property situated in the _____, County of Niagara, State of New York commonly known as _____ and being all of current tax map parcel _____, together with all improvements thereon and fixtures and articles of personal property now attached or appurtenant to the property and owned by Seller, together with all easements and rights-of-way, if any, benefitting or appurtenant thereto, and all right, title and interest of Seller in and to any land lying in the bed of any highway, street, road or avenue, opened or proposed, in front of or abutting or adjoining said real property (all of the foregoing real property, easements, rights-of-way, and right, title and interest are referred to herein together as the ("Property")).

2. PURCHASE PRICE. The Purchase Price for the Property shall be \$ _____ payable as follows:

a) Deposit. \$ _____ shall be deposited with Seller and held in escrow until this Contract is accepted and executed by Seller, at which time it shall become part of the purchase price and held in accordance with the terms and conditions of this Contract. In the event Seller shall not accept and execute this Contract, the deposit shall be returned to Buyer.

b) Cash Balance. \$ _____ in cash or other good funds at Closing.

c) Financing. \$ _____ of the purchase price shall be obtained by Buyer, at Buyer's cost and expense, obtaining a mortgage loan upon such terms and conditions as are acceptable to Buyer. Buyer shall make good faith application for this financing within 3 days of the acceptance of this Contract by Seller. Buyer shall provide Seller with evidence of written approval of this financing, or reasonably satisfactory proof of financial ability to close, within ____ days of the acceptance of this Contract by Seller or Seller may cancel this Contract at Seller's option by written notice as provided for

herein. If, following a good faith application by Buyer, this financing cannot be obtained, as evidenced by a denial letter from a lender which regularly makes mortgage loans in the county where the Property is located, this Contract may be terminated by either party and the deposit shall be returned to Buyer.

3. INSPECTIONS AND TESTS In accordance with Section 7, this is an as-is purchase and the Seller makes no representation that Seller will make any repairs or improvements unless previously agreed to by the Seller to the Buyer in writing. Buyer, at Buyer's sole cost and expense, may enter on the Property and make or cause to be made any inspections, tests or other desired evaluation of the Property ("Tests"), subject to the following:

- a) Buyer shall give Seller at least 2 business day's written notice prior to initiating any such Tests; and
- b) No Tests shall be initiated or conducted without the Seller approving the type, method, date and time of any Tests; and
- c) All such Tests shall be completed within 10 days of the acceptance of this Contract by Seller.

Buyer agrees that any damage caused by Buyer, its agents or employees in the course of such entry shall be promptly repaired by Buyer at no cost whatever to Seller. Buyer shall indemnify and hold Seller harmless against any and all losses, expenses, claims or damages (including reasonable attorney's fees) caused by or resulting from Buyer's entry upon the Property, including, without limitation, claims for personal injury and damage to the Property.

In the event the results of such Tests are unsatisfactory to Buyer, then Buyer may, at Buyer's sole option, deem this Contract null and void and the Deposit shall be returned to Buyer. Buyer shall have 15 days from the date of acceptance of this Contract by Seller to deliver written notice, together with a copy of each such Test, to Seller of Buyer's election to so deem this Contract null and void. In the event Buyer shall not deliver such written notice, then Buyer shall be deemed to have waived any and all rights Buyer may have pursuant to this paragraph.

4. ABSTRACTS, TAX SEARCHES AND SURVEY. Seller is not responsible for and shall not deliver to Buyer an abstract of title, real property tax search or survey for the Property. Any abstract of title, property tax search, survey or other due diligence related to the Property shall be obtained by and at the sole cost and expense of the Buyer.

5. TITLE AND DEED. Buyer acknowledges that Seller obtained title to the Property following a municipal tax foreclosure proceeding and, as such, Seller makes no representations or warranties as to title to the Property other than Seller has not done or suffered anything whereby the Property has been encumbered in any way whatever. Buyer shall have a period of 20 days from the date of acceptance of this Contract by Seller to examine and accept or reject title to the Property and deliver written notice to

Seller of Buyer's intention to reject title and deem this Contract null and void. In the event Buyer shall not deliver such written notice, then such failure shall be deemed an acceptance of title. If Buyer finds valid objection to Seller's title which makes it unmarketable, Seller shall have a reasonable period of time after notification of the same to cure the defect. If Seller is able to cure the defect, this Contract shall remain in effect. In the event the Seller is unable to cure the defect; the Buyer may cancel this Contract.

Buyer shall pay for title insurance required by its lender, if any.

At Closing, Seller shall transfer title to the Property to the Buyer by a Bargain and Sale Deed with a covenant against grantor's acts and containing a reversion clause to NORLIC should purchaser fail on its obligations and responsibilities of this contract.

6. IMPROVEMENT OF PROPERTY. Buyer has agreed to improve, develop and use the Property as specified in a certain Property Purchase Application submitted by the Buyer to the Seller dated _____ attached hereto and made a part hereof as Exhibit A (the "Application"). Seller's obligations under this Contract are subject to Buyer executing and delivering a Development Enforcement Note and Mortgage in the amount of _____ in a form acceptable to Seller, in its sole but reasonable discretion, to ensure Buyer fulfills its development and use commitments to the Seller pursuant to the Application within _____ of Closing.

7. AS IS. The Buyer acknowledges and agrees that the Buyer is purchasing the Property, any personal property and any and all improvements, buildings, fixtures and fittings belonging to or used in the operation of the Property and owned by Seller, **AS IS, WITH NO WARRANTIES OR REPRESENTATIONS WHATSOEVER, WHETHER SUCH ARE EXPRESS OR OTHERWISE; IMPLIED OR OTHERWISE; AS TO THE CONDITION, SUITABILITY OF USE, MERCHANTABILITY, OR FITNESS FOR A PARTICULAR PURPOSE OF THE PROPERTY OR ANY PORTION OF SUCH, OR OTHERWISE.** The terms of this provision shall survive Closing.

8. NEW YORK PROPERTY CONDITION DISCLOSURE ACT. Seller is exempt from the New York Property Condition Disclosure Act (the "Act").

9. AGRICULTURAL DISTRICT NOTICE. The Property is/ is not located within an Agricultural District. Notice pursuant to New York State Agriculture and Markets Law Section 310:

It is the policy of this state and this community to conserve, protect and encourage the development and improvement of agricultural land for the production of food, and other products, and also for its natural and ecological value. This disclosure notice is to inform prospective residents that the property they are about to acquire lies partially or wholly

within an agricultural district and that farming activities occur within the district. Such farming activities may include, but not be limited to, activities that cause noise, dust and odors. Prospective residents are also informed that the location of property within an agricultural district may impact the ability to access water and/or sewer services for such property under certain circumstances. Prospective purchasers are urged to contact the New York State Department of Agriculture and Markets to obtain additional information or clarification regarding their rights and obligations under article 25-AA of the Agriculture and Markets Law.

10. UTILITY SERVICE SURCHARGE DISCLOSURE. If a residential dwelling is the subject of this Contract, Seller and Buyer agree that Seller cannot warrant and represent to Buyer that the Property does have utility service available to it, and is not subject to an electrical and/or gas utility surcharge. The terms of this provision shall survive Closing.

11. LEAD BASED PAINT CONTINGENCY. If a residential dwelling is the subject of this Contract and the residential dwelling was constructed prior to 1978, Buyer and Seller must complete, sign and attach a Lead Based Paint Contingency Addendum and Disclosure Form.

12. CLOSING. The Closing shall be held at the office of the Niagara County Clerk or at the office of the attorney for Seller, or as otherwise agreed, on or before _____ . The Seller may, at any time after the Contract Closing date, notify the Buyer that time is of the essence, which notice shall set a specific time for Closing on a Business Day that is on or after the 7th Business Day following receipt of the notice by the Buyer or the Buyer's attorney.

13. ADJUSTMENTS. Prepaid or unpaid charges for real property taxes and other assessments levied and assessed against the Property, including water usage charges, rents, fuel oil and special district levies, shall be apportioned as of the date of Closing, with Seller being responsible for the apportioned costs attributable to the time period prior to Closing, and Buyer being responsible for the apportioned costs attributable to the time period subsequent to Closing. Under no circumstances shall Seller be responsible for the payment of any missing meter charges, "turn on" or reconnection charges imposed by a utility company or municipality in establishing or reestablishing water or any other utility services to the Property. Buyer acknowledges that Seller is an exempt entity and pays no real property tax (other than special assessments and special ad valorem levies) and, in accordance with Section 520 of the New York Real Property Tax Law, the Property may become immediately subject to real property tax upon Closing.

14. INSPECTION PRIOR TO CLOSING. Buyer shall have the right of reasonable inspection of the Property immediately prior to Closing in order to verify that the condition of the Property is in substantially the same condition as it was in as of the date of this Contract, absent ordinary wear and tear.

15. POSSESSION. Sole and exclusive possession of the Property shall be delivered by Seller to Buyer at Closing.

16. RECORDING EXPENSES. Buyer shall pay at Closing all costs for recording the deed and any related transfer documents including the Real Property Transfer Report (RP-5217) and the Transfer Tax Return (TP-584). Buyer shall also pay any New York State transfer tax which may be due upon a sale of the Property.

17. ASSIGNMENT/TRANSFER Buyer may assign or transfer its interest in this Contract to a business entity wholly owned by Buyer. Otherwise, this Contract may not be assigned or transferred by Buyer without Seller's written consent. Buyer shall remain fully liable to Seller for the performance of this Contract, regardless of any such assignment/transfer and this clause shall survive the closing of this contract to purchase and be included in the reversionary clause under paragraph 5 hereof.

18. RISK OF LOSS. The risk of loss or damage to the Property by fire or other causes until Closing shall remain with Seller.

19. BROKER. Seller and Buyer represent that neither has dealt with any broker in connection with this Contract other than_____. Seller shall be responsible for the payment of any real estate commission which may be due in accordance with a separate agreement with such broker. No realtor or broker commission shall be due and owing by Seller until Closing and passing of title by delivery of a deed by Seller to Buyer. This provision shall control regardless of the statements set forth in any Disclosure/Authorization Addendum executed in connection with this Contract.

20. DEFAULT. In the event Buyer defaults in its obligations under this Contract and fails to close and pay the Purchase Price, then the Deposit, together with accrued interest thereon, if any, shall be retained by the Seller and applied against Seller's damages for such default and Seller shall retain and be able to pursue all other equitable and legal remedies it may have as the result of Buyer's default hereunder. In the event Seller defaults in its obligations under this Contract and fails to close and deliver the Deed, Buyer may, at its option and as its sole and exclusive remedy, pursue either of the following remedies: (a) sue Seller for specific performance; or (b) terminate this Contract and obtain a return of the Deposit.

21. MISCELLANEOUS.

a) This Contract shall be interpreted and enforced in accordance with the laws of the State of New York.

b) Section heading are inserted for the convenience of the parties and may not be used as a means of interpreting this Contract.

c) This Contract shall be binding upon and inure to the benefit of the parties hereto, their respective legal representatives, heirs, executors, administrators, successors and assigns.

d) All notices under this Contract shall be in writing and shall be served by personal service, or by certified or registered mail, return receipt requested. Notices by mail shall be addressed to each party at the address set forth in this Contract. Any party may notify the other parties of a different address to which notices shall be sent.

e) There are and were no verbal or written representations, agreements, or promises pertaining to the subject matter of this Contract not incorporated in writing in this Contract.

f) The waiver by any party hereof of any breach of any provision of this Contract shall not operate or be construed as a waiver of any subsequent breach

g) The acceptance of the Deed by Buyer shall be deemed to be the full performance and discharge of every agreement and obligation on the part of Seller to be performed pursuant to the provisions of this Contract.

h) If any action, suit, arbitration or other proceeding is instituted to remedy, prevent or obtain relief from a default in the performance by Seller or Buyer of its obligations under this Contract, the prevailing party shall be entitled to recover all of such party's attorneys' fees incurred in each and every such action, suit, arbitration or other proceeding, including any and all appeals therefrom. As used in this paragraph, attorneys' fees shall be deemed to include the full and actual costs of any legal services actually performed in connection with the matters involved calculated on the basis of the usual fee charged by the attorney performing such services and shall not be limited to mean "reasonable attorneys' fees" as defined in any statute or rule of court.

IN WITNESS WHEREOF, the Seller and Buyer have executed this Contract as of the date first above written.

**Niagara Orleans Regional Land
Improvement Corporation**

Buyer:

By: _____

By: _____