

# **Residential Real Estate Closing Customs New London County**

## **Introduction**

The following customs for residential real estate closings were adopted by the New London County Bar Association effective August 1, 2000 and as amended effective August 1, 2001, July 1, 2006, September 23, 2009 and February 1, 2015. The customs may be superseded by any written contract of the parties, but in areas where the contract is silent, these customs are to be followed.

The February 1, 2015 amendment reflects changes required by CFPB compliance.

**Residential Real Estate Closing Customs  
For New London County**

**1. PAYMENT OF THE TITLE SEARCH**

Buyer will pay for Buyer's own search.

**2. ADJUSTMENTS**

Adjustments are made on the basis of the Buyer owning the property on the date of the closing. Adjustments to the Seller are made through the day immediately preceding the closing day.

**3. RENT AND SECURITY DEPOSIT ADJUSTMENTS**

Rent adjustments are based on the number of days in the month of the sale. This is true with respect to rent backs as agreed to by the parties and with respect to tenants in the premises. It shall be considered the responsibility of the Sellers to collect rent for the month of the closing and rent shall be adjusted as if rent has been paid to the Sellers for the month in which the closing is taking place. Security Deposits are also to be adjusted from the Sellers to the Buyers. It shall be the responsibility of the Sellers to provide proof that a Security Deposit does not exist or that interest is not due for the failure of the tenant to pay rent on time. The amount of the security deposit shall be calculated by adding to the security deposit interest from the date of the last payment of interest to the tenant or if no such payment has been made then adding interest from the date the security deposit was placed with the Sellers. Interest shall be at the rate set by the Department of Banking for the State of Connecticut as adjusted from time to time. The parties shall, if requested by Buyers' counsel execute a form in substantially the same form as is attached hereto as Exhibit "A".

**4. ADJUSTMENTS FOR OIL IN THE TANK**

The oil in the tank shall be adjusted in favor of the Seller. Seller shall provide at the closing a reading from seller's oil company of the amount of oil in the tank on or before the time of the closing and the last price paid by the Seller of that oil from the last provider. When the tank is a 275 gallon tank the parties shall adjust based on a full tank containing 260 gallons of oil. In circumstances where the Sellers of property are to maintain possession after closing oil adjustments shall be made between the parties on the date occupancy is taken by the Buyers.

## **5. LOCATION FOR THE CLOSING**

The closing shall be held in an office designated by the Buyer's attorney and located in New London County (unless Buyer's lender requires otherwise). It is the custom of New London County to allow the Sellers and their counsel to complete their side of the transaction and be released even though the Buyers may have significant loan documentation to complete.

## **6. COMMON INTEREST COMMUNITIES – ADJUSTMENTS OF WORKING CAPITAL ACCOUNT CONTRIBUTIONS**

Contributions required to be made by the first purchaser of a unit in a common interest community to a working capital account or reserve account of the community association are not subject to recoupment or other adjustment on subsequent resale of the unit.

## **7. COMMON INTEREST COMMUNITIES – SPECIAL ASSESSMENTS**

Special assessments of a common interest community, not part of the regularly budgeted common expense assessments, are not subject to adjustment. If payment of all or any portion of the special assessments is due and payable prior to the original closing date stated in the contract, the amount then due (without regard to any grace period) is payable by the Seller; if all or any portion of the special assessment is due and payable on or after the original closing date stated in the contract, such payment becomes the Buyer's responsibility.

## **8. COMMON INTEREST COMMUNITIES – MONTHLY ADJUSTMENT OF COMMON CHARGES**

Regularly budgeted common expense assessments are adjusted as if they were payable on the first day of the month in advance, whether such assessments are in fact made on an annual basis and payable monthly, or assessed on a monthly basis.

## **9. SEWER AND WATER ASSESSMENT ADJUSTMENT AT TIME OF CLOSING**

In those instances where the Buyer has agreed to assume and pay any outstanding sewer assessment and payment of all or any portion of a principal installment on account of said assessment is due and payable prior to the original closing date stated in the contract, such amount then due (without regard to any grace period) is payable by the Seller; if all or any portion of a principal installment on account of said assessment is due and payable on or after the original closing date stated in the contract, such payment becomes the Buyer's responsibility. Interest on sewer assessments is paid in arrears. This custom would then provide for the Buyer to receive a credit at the closing for interest on the outstanding principal balance from the date to which interest has been paid to the date of the closing. Interest only

shall be adjusted pro rata as of the date of closing. Principal payments would not be prorated. In the event the contract is silent as to the existence of or payment for a Sewer or Water Assessment, the seller shall payoff said assessment in full.

In the event the town has determined that an assessment, in an undetermined amount is to be placed at some time in the future, the buyer shall assume responsibility for such assessment. This paragraph is not intended to remedy a situation where a Seller has misrepresented the existence of a future assessment on a Homeowner's Disclosure or when the town has given appropriate notice to the Seller of the future assessment but the Seller has failed to disclose such assessment.

#### **10. REAL ESTATE TAXES – ADJUSTMENT AT CLOSING**

Real estate taxes shall be adjusted as of the date of the closing unless otherwise agreed. The tax year shall be the fiscal year of the town in which the property is located. All New London county towns are now on a fiscal year commencing July 1 and ending June 30. Real estate taxes assessed upon the List of the preceding October 1<sup>st</sup> shall be considered to be applicable to the subsequent fiscal year. This method of tax adjustment would also apply to any other taxes levied upon the same grand list, for example fire district taxes and association taxes. Such adjustments are made on the basis of a 365-day year. Taxes shall only be adjusted on the basis of actual taxes paid by the Sellers in advance in those circumstances where taxes have been reduced or adjusted pursuant to C.G.S. § 12-129b or C.G.S. §170aa.

When closings take place during the months of July and January it shall be the responsibility of the Sellers to prove the payment of taxes or adjustments shall be made by having the Buyers pay the taxes and adjust to the Buyers for the actual taxes paid. In the event a Sellers' mortgagee has "disbursed" taxes and the tax collector has not yet received such payment the Sellers shall deliver to Buyers' counsel a sum equal to the taxes due plus two (2) months interest on said bill. Upon proof that the taxes have been paid the Buyers counsel shall release such sums to the Sellers. In the event taxes remain unpaid on August 20<sup>th</sup> for the July bill or February 20<sup>th</sup> for the January bill the Buyers' counsel shall have the right to use the escrowed sums to pay the taxes due. Taxes shall be adjusted in favor of the Sellers under this circumstance.

#### **11. FUNDS AT CLOSING**

At closing Buyer shall tender to Sellers an attorney trustee check, cashier's, teller's or certified check(s), payable to Sellers for the balance of the purchase price due, at closing, as set forth in the Buy/Sell Agreement adjusted in accordance with the Buy/Sell Agreement and these local customs. The settlement agent shall be considered the issuing agent for all checks to be cut with respect to the transaction. The settlement agent shall also be responsible for payoff of the Sellers' mortgages, if required, in accordance with Section 14 of these customs. As such the settlement

agent shall issue all checks for payoffs of the Sellers' mortgage obligations as well as all other Seller obligations due in accordance with the purchase and sale contract. All checks issued shall be in accordance with disbursements listed on the HUD1 Settlement Statement. All funds shall be delivered to Sellers' counsel in escrow pending Buyers' counsel having the opportunity to deposit funds necessary for closing and to perform a rundown of title prior to recording the closing documents. Sellers' counsel shall, if requested, execute an Escrow Agreement in substantially the same form as is attached hereto as Exhibit "C". It is acknowledged and agreed that unless funds are available to Sellers, Buyers' counsel shall not record the deed of conveyance. Recording is conclusive evidence that funds may be used by the Seller and creates the obligation to wire any payoffs as is contemplated by Section 14.

## **12. RELEASES AT CLOSING**

In the event Seller's title is encumbered by one or more liens, Seller's attorney shall deliver to Buyer's attorney a release for each such lien together with recording fees for all such releases. Seller's attorney shall immediately cause payoff proceeds to be delivered to each lienholder(s). The settlement agent shall be entitled to a fee of Twenty and 00/100 (\$20.00) Dollars as compensation for compliance with the notification law under C.G.S. §49-10b for each Mortgage on the property to be paid at the time of closing.

## **13. UNAVAILABILITY OF RELEASE OF MORTGAGE LIEN AT CLOSING**

In the event Sellers' title is encumbered by a mortgage lien(s) for which Sellers' attorney is unable to deliver a release of mortgage at closing, the parties shall close the transaction, provided Seller's attorney delivers the following:

***If the debt secured by the mortgage lien previously has been paid but the lien is not released from the Land Records at the time of the closing, and in a circumstance where a title insurance company release service was not utilized:***

A. Mortgagee's written payoff statement as defined by C.G.S. Section 49-8a (as the same may be amended from time to time) with respect to each loan secured by such mortgage;

B. Written confirmation, in a form similar to that attached as Exhibit "B", that the Attorney who handled the payoff will make prompt, reasonable and diligent efforts to obtain the release of mortgage lien and provide same to Buyer's attorney, along with recording fees for such release and that, in the event that such attorney, for any reason, is unable to obtain the release of mortgage lien within 10 days that such attorney shall take such immediate action pursuant to C.G.S. Section 49-8a to effectuate the release of the mortgage in accordance with the referenced statute.

C. Photostatic copy of the front and back of the canceled check paying off said mortgage.

***If the debt secured by the mortgage lien previously has been paid but the lien is not released from the Land Records at the time of the closing, and in a circumstance where a title insurance company release service was utilized***

D. Buyers' counsel and/or its title insurance company shall be provided an indemnity by Sellers' title insurance company release service that payment of the mortgage has been made and that it shall remain responsible to obtain the release or comply with the requirements of C.G.S. Section 49-8a to effectuate the release of the mortgage in accordance with the referenced statute

***If the debt secured by the mortgage lien is to be paid at the time of the closing and Buyers' counsel uses a Mortgage Release Tracking Service operated by or on behalf of a licensed title insurance company:***

E. Mortgagee's written payoff statement as defined by C.G.S. section 49-8a with respect to each loan secured by such mortgage(s);

F. Written confirmation (See Attached Exhibit "C") that Seller's attorney will make prompt and reasonable delivery of the Mortgage payoff, which payoff shall be sent with a letter prepared by Sellers' counsel instructing lender where to send the Release document. Sellers' counsel shall also, by such confirmation, agree to deliver to Buyers' counsels' release service such release in the event same is forwarded to them. Sellers shall indemnify Buyers and Buyers' counsel that such funds as are necessary to payoff the loan will be supplied by them and that in the event additional sums are necessary they will be provided within forty eight (48) hours of notice that such funds are necessary, In the event a wire transfer is to be the method of payment the written confirmation recited herein shall be that as attached hereto as Exhibit "G" and comply with Section 14 of these customs;

G. Seller shall also deliver to Buyers' counsel a sum not to exceed \$35.00 per Release to be paid to such counsels' title insurance company release service as a fee for the processing of the Release documents together with the recording fee necessary for such Release. Such payment shall be made at the time of closing and shall be by check directly to the title company release service provider. Payment of this fee shall absolve Sellers' counsel of the obligation to track and obtain the Release from the Sellers' lender. Seller shall remain responsible for any financial deficiency in the payoff amount and Sellers' counsel shall remain responsible for the delivery of the payoff amount to the Sellers' lender. Seller's counsel will cooperate as necessary to assure that the funds have been delivered to Sellers' lender by supplying proof of delivery of such funds if requested by Buyers' counsel.

***If the debt secured by the mortgage lien is to be paid at the time of the closing by the Seller's attorney and Buyers' counsel does not use a Mortgage Release Service operated by or on behalf of a licensed title insurance company:***

H. Mortgagee's written payoff statement as defined by C.G.S. section 49-8a with respect to each loan secured by such mortgage(s);

I. Written confirmation (See Attached Exhibit "B") that Seller's attorney has made and will make prompt, reasonable and diligent efforts to obtain the release of mortgage lien and provide same to Buyer's attorney, along with recording fees for such release; (2) that Seller's attorney shall immediately cause the mortgage payoff proceeds to be delivered to Seller's mortgagee(s) in accordance with mortgagee's payoff statement, and (3) that, in the event that Seller's attorney, for any reason, is unable to obtain the release of mortgage lien within 60 days from the receipt of payment by the Mortgagee(s), Seller's attorney shall take such immediate action as is necessary to deliver to Buyer's attorney a release of mortgage affidavit and exhibits pursuant to C.G.S. Section 49-8a, together with recording fees for such affidavit(s) and exhibits and the Seller's indemnity that such funds as are necessary to payoff the loan proceeds will be supplied by them;

#### **14. PROVIDING PAYOFF FUNDS FOR SELLERS' MORTGAGEES**

In the event a mortgagee payoff letter requires that funds be delivered by wire transfer or by bank check, the Seller's counsel shall contact the loan servicer to determine if they will accept an attorney trustee check. In the event they will accept an attorney trustee check Seller's counsel shall represent to Buyer's counsel by notation on the Check Escrow Agreement and a client's fund check will be delivered at closing. In the event the loan servicer will not accept a client's fund check Buyer's counsel or Settlement agent shall determine whether they will provide wire services or a bank check to be delivered to Seller's counsel. In light of issues relating to actual funding, funding authorization required by many lenders post closing and the New London County closing custom of recording prior to funds being made available for use, this custom considers the preferred method of payoff to be wire transfer. With respect to any payoff made by wire transfer three (3) extra days of per diem shall be added to the payoff amount. With respect to any payoff made by bank check five (5) extra days of per diem shall be added to the payoff amount. Nothing in this section shall preclude adding more per diem if the circumstances require. The following shall define the obligations of Buyer, Buyer's counsel or Settlement Agent and Seller and Seller's counsel depending on whether a wire is to be sent or a bank check provided.

**In the event the payoff is to be made by Buyer's counsel or Settlement Agent by wire transfer:**

Seller shall pay to Buyer's counsel or Settlement Agent the sum of \$75.00 as compensation for the wire and administrative costs associated with sending such wire for each mortgage to be paid. Buyer's counsel or Settlement Agent shall, within four (4) business hours of recording of documents conveying title, initiate wires in accordance with the payoff statements provided to it by Seller's counsel from each of Seller's mortgagees and to be paid pursuant to and in the amount stated on the Settlement Statement. Immediately thereafter Buyer's counsel or Settlement Agent shall deliver to Seller's counsel, by fax or email, documentation showing that such wire has been sent. Buyer's counsel or Settlement Agent shall execute and deliver to Seller's counsel an Undertaking in a form attached to these customs as Exhibit "F". Seller and Seller's counsel shall deliver to Buyer's counsel or Settlement Agent a Guarantee Letter in a form attached to these customs as Exhibit "G".

Notwithstanding the wiring of funds Seller's counsel shall forward within one (1) day of the wire, via overnight mail, a letter, in the nature of a payoff letter, to the mortgagee servicer enclosing a copy of the wire confirmation with instruction on how the release should be executed, where to send the release document and where to send any excess proceeds or escrows. A copy of this letter shall be delivered to Buyer's counsel at closing.

**In the event payoff is to be made by Buyer's counsel or Settlement Agent by delivering a bank check to Seller's counsel:**

Seller shall pay to Buyer's counsel or Settlement Agent the sum of \$75.00 as compensation for the bank check and administrative costs associated with obtaining such bank check for each mortgage to be paid. In the event Buyer's counsel or Settlement Agent has received funding and is able to obtain a bank check to be delivered at closing, Seller's counsel agrees to comply with the terms of the standard check escrow agreement as to the use of said check. In the event funding has not been received in sufficient time for Buyer's counsel or Settlement Agent to obtain a bank check prior to closing it shall, within 4 business hours of recording of documents conveying title make available at the office of Buyer's counsel or Settlement Agent a bank check which can be used unconditionally upon delivery for payoff of the mortgage referenced.

**15. MECHANIC'S LIEN WAIVERS**

A seller of property is obligated to deliver to the buyers or the buyers' counsel completed absolute lien waivers at the closing whenever work has been performed or services have been provided during the ninety (90) days preceding the transfer of title. The buyers or counsel for buyers shall not be obligated to accept, in lieu of lien waivers any indemnity agreement promising to hold buyers or counsel harmless from the loss arising from sellers' failure to provide such waivers.



## **16. ESTATE TAX LIENS AND PROBATE MATTERS**

A seller of property subject to an estate tax lien to the State of Connecticut shall provide to buyers' counsel either of the following:

- A. A Release of Succession Tax Lien from the State of Connecticut Commissioner of Revenue Services.
- B. An Agreement to hold the gross proceeds from the sale of the property in escrow pending receipt by the Buyers' counsel of a Release of Succession Tax Lien from the State of Connecticut Commissioner of Revenue Services.

## **17. EXECUTION AND DELIVERY OF DOCUMENTS**

It is commonly understood that certain documents to be executed by the parties at closing are required by a lender to a transaction as well as by the Settlement Agent to comply with law and/or custom. Such documents to be executed by the respective parties include a Hazardous Waste Affidavit specific to the property referenced, a Non-Foreign Affidavit, a Title Insurance Affidavit, a Utility Affidavit, and a Form 1099 or its alternative. A copy of the HUD1 shall also be delivered to each Realtor. Seller shall also provide to Buyer's counsel, upon request, copies of picture identification properly identifying those parties signing as the owners/transferees of the property to be conveyed.

## **18. ESCROW FOR FIRE DISTRICT TAXES OR WATER BILLS**

In the event counsel is unable to obtain information for either fire district taxes, final water readings or municipal utilities for use at closing the custom in New London County is to escrow two (2) times the last fire district tax bill plus interest and/or two (2) times the last water bill. In the event counsel is unable to determine the last water bill with any certainty it shall be assumed that the amount to be escrowed shall be equal to Two Hundred and 00/100 (\$200.00) Dollars per housing unit being sold. Such sums shall be held by the Sellers' counsel until such time as the bills are determined and appropriate checks cut to pay the outstanding amount, if any, with the balance returned to the Sellers.

## **19. CLOSING COST CREDITS**

Whenever a contract for purchase calls for a closing cost credit and the items to be used to determine the credit are not specifically identified in the contract, a closing cost shall be defined by reference to that allowance that the Buyers' mortgage lender attributes to the term. The intent of this section is, in circumstances where the terms of the closing cost credit are not specifically defined, to be as liberal in construing the term "closing cost" as a Buyers' lender will allow without regard to each parties' understanding of the meaning of the term. In general terms it is the

intent of this section that closing costs could be everything other than the sale price in the event a lender allows all such items to be considered closing costs. Absent guidance from a lender, and where a contract is not specific, a closing cost is anything other than the sale price.

## **20. ESCROWS, ESCROW AGENTS AND ESCROW AGREEMENTS**

The handling of escrows at closing has become an issue after the Appellate Court decision in *Galvanek v. Skibitchy* and the enactment of Public Act No. 00-74. This section is adopted in consideration of the foregoing while balancing the ethical implications of attempts to hold escrow agents harmless from their responsibilities as escrow agents while recognizing their obligations as attorney for one of the parties. Connecticut Bar Association Informal Opinion 99-17 requires that any limitation of liability with respect to an escrow agents responsibilities may be considered an attempt to limit prospective liability for malpractice and such a limitation can only be made if the client consents after solicitation of independent representation. As a result, and in attempt to balance the practicalities of the practice of real estate law with the case law, statutory authority and ethical obligations, these closing customs permit the handling of an escrow by one of the parties' attorneys upon the signing of an escrow agreement in substantially the same form as attached hereto as Exhibit "D" .

## **21. COOPERATION BY SELLERS' ATTORNEY IN COMPLIANCE WITH CFPB REQUIREMENTS OF PROVIDING A CLOSING STATEMENT PRIOR TO CLOSING**

All parties agree and acknowledge that regulations set forth by CFPB, effective August 1, 2015, shall require Buyer/Borrowers to have the closing statement delivered to them by their lender three days prior to closing. In connection with that change in law many lenders will be commencing a change in procedure several months prior to the effective date of the act. This custom is intended to facilitate the ability of the Buyers' attorney and Buyers' lender to comply with this new law.

In furtherance of the above Sellers' counsel shall provide to Buyers' counsel, not less than ten (10) days prior to closing, all Sellers' numbers to be included on the Closing Statement. In the event a closing date has not been scheduled, the contract date shall be considered the closing date. In the event Buyers' counsel notifies Sellers' counsel of a closing date different from the contract closing date Sellers' counsel shall use their best efforts to provide numbers as soon as is practical given the new closing date. In the event Sellers' counsel fails to provide numbers within the time frame necessary to allow Buyers' lender to close, Buyers shall not be considered in breach of contract and any dates recited in the contract shall be extended accordingly. Nothing contained in this custom shall be construed to infer that the reasonableness standard used in contract interpretation should be abrogated nor does it imply that time is of the essence. In the event Buyers' counsel has not received Sellers' numbers in a timely manner and must provide lender with closing adjustments relating to taxes or any other municipal adjustments, Buyers'

numbers shall control unless it is determined that the adjustment results in more than a 2 day loss to Sellers as calculated by Sellers' counsel.

**Exhibit "A"**

**ASSIGNMENT OF LEASES**

This Assignment ("Assignment") is made as of the date hereinafter set forth by \_\_\_\_\_ of the County of New London and State of Connecticut and ("Assignor") to \_\_\_\_\_ of the City of \_\_\_\_\_, County of New London, State of Connecticut ("Assignee").

FOR VALUE RECEIVED, Assignor hereby grants, transfers and assigns to Assignee its interest as lessor in any and all leases now in together with all rents, income and profits arising from said leases to accrue in the future from the Property, and from any and all leases for the use and occupancy of the together with and including Assignor's entire interest in any other lease, rental or occupancy agreement now existing with respect to the Property located at \_\_\_\_\_ (all of which present and future leases, rentals and occupancy agreements whether or not identified in are made subject to this Assignment and are herein referred to as "Leases").

The tenants which are the subject of this Assignment are as follows:

- 1.
- 2.
- 3.

Assignors also warrant that they have transferred this date all security deposits, if any, with respect to the leases described together with all properly due interest on said security deposit.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_ at \_\_\_\_\_, Connecticut.

Sellers

Buyers

\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

**-Exhibit "B"-**

**GUARANTEE LETTER INDEMNIFICATION AGREEMENT**

(No Release Tracking Servicer)

TO: [Buyers' Counsel] (Buyer's/Title Counsel)

FROM: [Seller's Counsel] (Seller's Counsel)

RE: Sale of Property located at:  
(Property Address)

SELLERS: (Sellers)

BUYERS: (Buyers)

DATE: (Closing Date)

Please be advised that the undersigned is representing the Sellers in the above-referenced transaction. The property is encumbered by a mortgage from the Sellers to      (Lender) in the original principal amount of \$            dated            and recorded in Volume            Page            of the (Property Town) Land Records. Said mortgage was further assigned to                                      in Volume            Page           .

The Lender will not provide a release of the mortgage until said Mortgagee has received the funds necessary to satisfy said Mortgage in full according to the terms set forth in Mortgagee's written payoff letter. To the best of my knowledge, I know of no fact or circumstances which would prevent the Lender from issuing a release of mortgage upon receipt of funds sufficient to satisfy the mortgage. Seller's counsel as undersigned acknowledges that they have contacted Seller's loan servicer and verified that it/they will accept an attorney's client fund check as payoff of the loan referenced herein. In reliance on this representation Buyer's counsel or Settlement Agent agree to disburse the loan payoff referenced by client funds check pursuant to this escrow agreement.

To induce the Buyers to complete the purchase of the property and to induce the Title Insurance Company to issue a policy or policies of title insurance to the buyers and/or the Buyers' Mortgagee without taking exception for the aforesaid mortgage, the undersigned as counsel for the Sellers does hereby agree to immediately forward to Sellers' Mortgagee as aforesaid sufficient funds to fully satisfy Seller's mortgage and to obtain a release of the Seller's mortgage within Sixty (60) days after the date hereof. Promptly, upon receipt of said release of mortgage, I shall have the same properly recorded and forward a copy of the same to the Buyer's counsel.

In the event the Mortgagee has received payment in satisfaction of the mortgage and the release of the Seller's mortgage has not been subsequently executed and delivered by the Mortgagee within Sixty (60) days after receipt of payment, the

undersigned seller's attorney shall proceed pursuant to P.A. 86-341, to notify the Mortgagee in writing at least fifteen (15) days in advance of his intention to execute an affidavit in compliance with the Act. A copy of such affidavit will be attached to the notification and forwarded to the Mortgagee.

If such Mortgagee fails to respond to the notification within fifteen (15) days after receipt of the aforesaid affidavit, undersigned seller's attorney shall promptly file the affidavit on the land records of the proper town(s) in lieu of the mortgage release with the same effect as if such release had been recorded.

Upon either the proper filing of such affidavit or release of mortgage on the land records, I shall forward a copy of the Affidavit or Release to the Title Counsel and provide all pertinent recording information of said affidavit or release.

In further consideration of Buyer's Counsel closing the transaction this date, the Seller, whose signatures appear below, hereby indemnify and hold harmless Buyers' Counsel and the Buyer of said transaction, as to any and all losses, damages and/or claims thereof, including but not limited to, attorneys fees in regard to any litigation related thereto, in regard to the aforementioned payoff and release of mortgage.

Dated this (Day of Closing) day of (Month of Closing), (Year of Closing).

\_\_\_\_\_  
Seller's Attorney

\_\_\_\_\_  
(Seller1)

\_\_\_\_\_  
(Seller2)

STATE OF CONNECTICUT     )  
  ) ss:  
COUNTY OF NEW LONDON    )

Personally appeared (Seller1) and (Seller2), signers and sealers of the foregoing instrument and acknowledged the same to be their free act and deed before me.

\_\_\_\_\_  
Commissioner of Superior Court  
Notary Public

-Exhibit "C"-

**GUARANTEE LETTER INDEMNIFICATION AGREEMENT**

(Release Tracking Servicer)

TO: [Buyers' Counsel] (Buyer's/Title Counsel)

FROM: [Seller's Counsel] (Seller's Counsel)

RE: Sale of Property located at:  
(Property Address)

SELLERS: (Sellers)

BUYERS: (Buyers)

DATE: (Closing Date)

Please be advised that the undersigned is representing the Sellers in the above-referenced transaction. The property is encumbered by a mortgage from the Sellers to \_\_\_\_  
(Lender) in the original principal amount of \$ \_\_\_\_\_ dated \_\_\_\_\_  
and recorded in Volume \_\_\_\_\_ Page \_\_\_\_\_ of the (Property Town) Land Records.  
Said mortgage was further assigned to \_\_\_\_\_ in Volume \_\_\_\_\_  
Page \_\_\_\_\_.

The Lender will not provide a release of the mortgage until said Mortgagee has received the funds necessary to satisfy said Mortgage in full according to the terms set forth in Mortgagee's written payoff letter. To the best of my knowledge, I know of no fact or circumstances which would prevent the Lender from issuing a release of mortgage upon receipt of funds sufficient to satisfy the mortgage. Seller's counsel as undersigned acknowledges that they have contacted Seller's loan servicer and verified that it/they will accept an attorney's client fund check as payoff of the loan referenced herein. In reliance on this representation Buyer's counsel or Settlement Agent agree to disburse the loan payoff referenced by client funds check pursuant to this escrow agreement.

To induce the Buyers to complete the purchase of the property and to induce the Title Insurance Company to issue a policy or policies of title insurance to the buyers and/or the Buyers' Mortgagee without taking exception for the aforesaid mortgage, the undersigned as counsel for the Sellers does hereby agree to immediately forward to Sellers' Mortgagee as aforesaid sufficient funds to fully satisfy Seller's mortgage. Sellers' counsel shall deliver such funds together with a letter prepared by Buyers' counsel instructing the Sellers' lender where to deliver the Release document. Sellers' counsel will cooperate as necessary to assure that the funds have been delivered to Sellers' lender by supplying proof of delivery of such funds if requested by Buyers' counsel.

In further consideration of Buyer's Counsel closing the transaction this date, the Sellers, whose signatures appear below, hereby indemnify and hold harmless Buyers'

Counsel and the Buyer of said transaction, as to any and all losses, damages and/or claims thereof, including but not limited to, attorneys fees in regard to any litigation related thereto, in regard to the aforementioned payoff and release of mortgage. Sellers further agree that in the event additional sums are necessary to pay off the mortgage referenced that such sums will be delivered to Buyers' counsel with forty eight (48) hours of request for same.

**Dated this (Day of Closing) day of (Month of Closing), (Year of Closing).**

**Seller's Attorney**

(Seller1)

(Seller2)

**STATE OF CONNECTICUT            )**  
**COUNTY OF NEW LONDON         ) ss:**

Personally appeared (Seller1) and (Seller2), signers and sealers of the foregoing instrument and acknowledged the same to be their free act and deed before me.

**Commissioner of Superior Court  
Notary Public**



**-Exhibit "D"-**

**CHECK ESCROW AGREEMENT**

Sellers' et al

TO

Buyers, et al

I, the undersigned, hereby acknowledge receipt of all checks payable to Seller or on behalf of Seller as referenced on the HUD 1 Settlement Statement which checks are issued by Buyers' Counsel as settlement agent in the above referenced matter: If you have required, the checks referenced are itemized as follows:

- 1.
- 2.
- 3.
- 4.
- 5.
- 6.

As it relates to any mortgage payoff Seller's counsel as undersigned acknowledges that they have contacted Seller's loan servicers and verified that it/they will accept an attorney's client fund check as payoff. In reliance on this representation Buyer's counsel or Settlement Agent agree to disburse the loan payoff referenced by client funds check pursuant to this escrow agreement. In the event any loan servicer will not accept client's funds a wire or bank check will be delivered at the Buyer's counsel or Settlement Agents discretion.

In order to provide sufficient time to deposit Lender Funds and/or confirm wire funds pursuant Statewide Grievance Committee Ethics Opinion 99-1, record relevant closing documentation on the appropriate land records, and to assist Buyers' Counsel in it efforts to comply with Practice Book Sec. 2-28, (OVERDRAFT NOTIFICATION) it is expressly agreed that the above referenced checks are accepted in escrow and shall not be disbursed to any party until \_\_\_\_\_ or sooner notified by a representative of Buyers' counsel. In the event you choose to disburse said checks you acknowledge your responsibility in the event checks are presented for deposit prior to the time referenced herein.

**Seller's Attorney**

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-Exhibit "E"-

## **ESCROW AGREEMENT**

### **PARTIES:**

Buyer: \_\_\_\_\_

Seller: \_\_\_\_\_

Property Address: \_\_\_\_\_

\_\_\_\_\_

Wherein Seller desires to convey the property listed above to the Buyer, and the Buyer desires to obtain possession of said property; and wherein Buyer and Seller acknowledge that certain work needs to be done and/or certain items need to be repaired and/or the parties wish an escrow established for the following purpose(s).

Now in consideration of the above, Seller and Buyer hereby deliver \_\_\_\_\_  
(\$ \_\_\_\_\_) to \_\_\_\_\_, Escrow Agent, and agree to the following:

1. That the following items will be repaired and/or the following work and/or will be performed (Add additional sheets if necessary):

<u>ITEMS/WORK REQUIRED</u>	<u>ESCROWED AMOUNT</u>	<u>COMPLETION DATE</u>
1. _____	_____	_____
2. _____	_____	_____
3. _____	_____	_____

### **MISCELLANEOUS PROVISIONS**

1. Escrow Agent: Seller and Buyer hereby deliver to escrow agent cash in the sum referenced above.

2. All items listed on the schedule above are to be done in reasonably workmanlike manner of a quality customary for similar work in the **New London** area. Work shall be performed by a contractor hired by the \_\_\_\_ Buyer \_\_\_\_ Seller.

3. Amount escrowed for any one item may be released when that particular item is completed, and written notification of both Buyer and Seller upon verification of amounts due. **The parties acknowledge that funds will not be released without agreement of both parties. This agreement is to ensure that funds are available to accomplish the terms of this agreement. It shall be assumed that in the event a contractor has been hired to perform the work**

that sums may be released if the Buyer is satisfied with the work and the work performed is within the estimate provided.

4. The money escrowed is solely for the above items and is applicable only to them and cannot be retained for other items not set forth above.

5. If any item is not completed by the date set forth above, the amount escrowed for such item shall be released to \_\_\_\_\_. \_\_\_\_\_ retains the right to exercise any legal remedy, including but not limited to monetary reimbursement, necessary to satisfy such deficiency.

6. If the Buyer feels that any item has not been completed in a reasonably workmanlike manner as required in paragraph "2" above, the matter shall be submitted to an appraiser employed or selected by mortgage bank for decision, and Seller and Buyer shall split the cost of said appraiser's fee.

7. Escrow Agent shall not be liable for any error of judgment or for any act done or omitted by it in good faith, or for anything which it may in good faith do or refrain from doing in connection herewith. No liability will be insured by agent. It is further agreed that the escrow agent is not a party to and shall not be bound by the agreement between Buyer and Seller. **The parties to this Escrow Agreement hereby agree that the Escrow Agent referenced herein is acting as an attorney for one of the parties to this Agreement. The parties hereby waive any conflict of interest, if any, which may arise with respect to the representation of said party by the Escrow Agent in the event of negotiation or litigation if required over any issue reflected in this agreement. The party represented by the Escrow Agent in this transaction acknowledges that they have the right to consult with independent counsel regarding any limitation of liability that this paragraph provides to Escrow Agent and has either consulted such counsel or has decided not to do so.**

8. The parties acknowledge that their closing counsel represents them for closing however the flat fee being charged for closing does not anticipate the negotiation and/or adversarial proceedings necessary to release the escrow amount. In the event work is required to resolve the escrow the parties will have to retain counsel and may be responsible for additional attorney's fees for such representation.

9. The parties hereto agree that in the event legal action is required to enforce the terms or conditions of this escrow agreement the successful party in any such litigation shall be entitled to reasonable attorneys fees and costs. The parties further agree that in the event the escrowed amount is less than Five Thousand and 00/100 (\$5,000.00) any legal action hereunder will be brought in the Small Claims Division of the Superior Court and the parties hereto waive rights to remove said action to the Superior Court Docket unless a counterclaim in excess of the small claims limit is to be filed.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_ at, \_\_\_\_\_ Connecticut.

\_\_\_\_\_  
Buyer:

\_\_\_\_\_  
Seller:

\_\_\_\_\_  
Buyer:

\_\_\_\_\_  
Seller:

\_\_\_\_\_  
Buyer:

\_\_\_\_\_  
Seller:

\_\_\_\_\_  
Buyer's Attorney:

\_\_\_\_\_  
Seller's Attorney:

\_\_\_\_\_  
Escrow Agent

\_\_\_\_\_  
Date Accepted

**Exhibit "F"**

**UNDERTAKING OF RESPONSIBILITY TO WIRE TRANSFER  
BY BUYERS' COUNSEL**

TO: [Buyers' Counsel] (Buyer's/Title Counsel)

FROM: [Seller's Counsel] (Seller's Counsel)

RE: Sale of Property located at: (Property Address)

SELLERS: (Sellers)

BUYERS: (Buyers)

DATE: (Closing Date)

The undersigned Buyer's counsel or Settlement Agent, in consideration of Seller delivering documents of conveyance to Buyers, agree to, within four (4) business hours of recording of documents conveying title in the above transaction, initiate wires in accordance with the payoff statements provided to it by Seller's counsel from each of Seller's mortgagees and to be paid pursuant to and in the amount stated on the Settlement Statement. Immediately thereafter Buyer's counsel or Settlement Agent shall deliver to Seller's counsel, by fax or email, documentation showing that such wire has been sent.

The undersigned Buyer's counsel or Settlement Agent agrees to indemnify and hold Seller and Seller's counsel harmless for any issue relating to its failure to wire the funds as required hereunder within the time stated without written permission of Seller's counsel to delay such wire. Such indemnity shall include indemnity as to any and all losses, damages and/or claims thereof, including but not limited to, attorneys fees in regard to any litigation related thereto, in regard to the aforementioned wire of the payoff of the mortgage. The undertaking contemplated herein does not require or anticipate that Buyer's counsel or Settlement Agent shall be financially responsible for the payoff of the loan but only to insure that the funds recited on the Settlement Statement are wired in accordance with the instructions contained on the payoff letter provided. Once such wire is performed and the wire confirmation provided to Seller's counsel all obligations contemplated by this agreement shall be satisfied.

In the event the wire is rejected or returned, through no fault of the Buyer's counsel or Settlement Agent, Seller's counsel shall be responsible, upon notice from Buyer's counsel or Settlement Agent, to determine the problem relating to such rejection or return and only upon notification to Buyer's counsel or Settlement Agent of the necessary correction shall there be a further duty to rewire funds.

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**Buyer's Counsel/Settlement Agent**

**Exhibit "G"**

**GUARANTEE LETTER INDEMNIFICATION AGREEMENT**

(Release Tracking Servicer and Wire Transfer Sent)

TO: [Buyers' Counsel] (Buyer's/Title Counsel)

FROM: [Seller's Counsel] (Seller's Counsel)

RE: Sale of Property located at:  
(Property Address)

SELLERS: (Sellers)

BUYERS: (Buyers)

DATE: (Closing Date)

Please be advised that the undersigned is representing the Sellers in the above-referenced transaction. The property is encumbered by a mortgage from the Sellers to \_\_\_\_\_ (Lender) in the original principal amount of \$ \_\_\_\_\_ dated \_\_\_\_\_ and recorded in Volume \_\_\_\_\_ Page \_\_\_\_\_ of the (Property Town) Land Records. Said mortgage was further assigned to \_\_\_\_\_ in Volume \_\_\_\_\_ Page \_\_\_\_\_.

The Lender will not provide a release of the mortgage until said Mortgagee has received the funds necessary to satisfy said Mortgage in full according to the terms set forth in Mortgagee's written payoff letter. To the best of my knowledge, I know of no fact or circumstances which would prevent the Lender from issuing a release of mortgage upon receipt of funds sufficient to satisfy the mortgage.

To induce the Buyers to complete the purchase of the property and to induce the Title Insurance Company to issue a policy or policies of title insurance to the buyers and/or the Buyers' Mortgagee without taking exception for the aforesaid mortgage, the undersigned as counsel for the Sellers does hereby agree to forward to Sellers' Mortgagee as aforesaid evidence of the wire transfer to be sent by Buyers' counsel. Sellers' counsel shall deliver such notice together with a letter prepared by Buyers' counsel instructing the Sellers' lender where to deliver the Release document.

In further consideration of Buyer's Counsel closing the transaction this date, the Sellers, whose signatures appear below, hereby indemnify and hold harmless Buyers' Counsel and the Buyer of said transaction, as to any and all losses, damages and/or claims thereof, including but not limited to, attorneys fees in regard to any litigation related thereto, in regard to the aforementioned payoff and release of mortgage. Sellers further agree that in the event additional sums are necessary to pay off the mortgage referenced that such sums will be delivered to Buyers' counsel with forty eight (48) hours of request for same.



Dated this (Day of Closing) day of (Month of Closing), (Year of Closing).

\_\_\_\_\_  
Seller's Attorney

\_\_\_\_\_  
(Seller1)

\_\_\_\_\_  
(Seller2)

STATE OF CONNECTICUT     )  
  ) ss:  
COUNTY OF NEW LONDON    )

Personally appeared (Seller1) and (Seller2), signers and sealers of the foregoing instrument and acknowledged the same to be their free act and deed before me.

\_\_\_\_\_  
Commissioner of Superior Court  
Notary Public