CONSULT YOUR LAWYER BEFORE SIGNING THIS INSTRUMENT—THIS INSTRUMENT SHOULD BE USED BY LAWYERS ONLY.

THIS AGREEMENT, made the day of in the year
BETWEEN

hereinafter referred to as the borrower, and

hereinafter referred to as the lender,

WHEREAS, the borrower has applied to the lender for a loan of

Dollars,

to be advanced as hereinafter provided and to be evidenced by the bond or note of the borrower for the payment of said sum, or so much thereof as shall at any time be advanced thereon, on

with interest upon each amount so advanced from the date of such advance at the rate of per centum per annum to be paid on the day of in the year and thereafter; said bond or note to be secured by a mortgage on the premises described as follows:

ALL that certain plot, piece or parcel of land, with the buildings and improvements thereon erected, situate, lying and being in the

TOGETHER with all right, title and interest of the mortgagor in and to the land lying in the streets and roads in front of and adjoining said premises;
TOGETHER with all fixtures, chattels and articles of personal property now or hereafter attached to or used in connection with said premises, including but not limited to furnaces, boilers, oil burners, radiators and piping, coal stokers, plumbing and bathroom fixtures, refrigeration, air conditioning and sprinkler systems, wash-tubs, sinks, gas and electric fixtures, stoves, ranges, awnings, screens, window shades, elevators, motors, dynamos, refrigerators, kitchen cabinets, incinerators, plants and shrubbery and all other equipment and machinery, appliances, fittings, and fixtures of every kind in or used in the operation of the buildings standing on said premises, together with any and all replacements thereof and additions thereto;
WHEREAS, the lender agrees to make said loan upon the terms, covenants and conditions hereinafter set forth, and the borrower agrees to take said loan and expressly covenants to comply with and perform all of the terms, covenants and conditions of this agreement,

NOW, THEREFORE, it is agreed between the parties as follows:

1. The borrower expressly covenants to make on said premises the improvement described below in accordance with the plans and specifications therefor which, before the making of the first advance hereunder, the borrower agrees to file with all governmental authorities having jurisdiction and to obtain all necessary approvals of said plans and specifications and all necessary building permits from said authorities. The said plans and specifications shall first be submitted to and approved by the lender in writing; and no changes or amendments thereto shall be made without first obtaining the written approval of the lender. The said improvement to be made shall be as follows:

2. With the approval of the lender, the loan may be evidenced by more than one bond or note aggregating the amount of said loan and be secured by more than one mortgage each covering a portion of the said premises; in that case reference herein made to the bond, note or mortgage shall be deemed to include all of the said bonds, notes or mortgages.

3. With the approval of the lender, the bond or note and mortgage may, for the convenience of the borrower, be written for a sum larger than the amount of the loan above specified, but in no case will the lender be obligated to advance more than the amount of the loan so specified.

4. The said bond or note and mortgage shall be upon the standard forms promulgated by the former NEW YORK BOARD OF TITLE UNDERWRITERS or, at the option of the lender, upon such other forms and containing such clauses as the lender shall determine are needed for the lender's protection, and the mortgage shall be executed and acknowledged by all parties necessary to make it, as determined by the lender's attorney, a valid lien on a good and marketable title in fee to said premises and on the said fixtures and personal property to be covered thereby for all sums that may be advanced, free and clear of all liens, encumbrances and defects, except those, if any, to which the lender has expressly agreed herein to take subject or which the lender may hereafter waive. The said bond or note and mortgage are to be delivered on the day of in the year at the office of .

5. The borrower at the time of the execution of this agreement or, at the option of the lender, at the time fixed for the delivery of the mortgage, shall pay all fees and charges agreed to be paid including the fees, if any, for the procuring and making of said loan and the charges for the examination of the title to said premises, surveys, appraisals, inspections and drawing of papers, and shall also pay the recording fees and mortgage recording tax and cost of revenue stamps, if any, and architects', engineers' and building loan service fees.

6. The said loan is to be advanced at such times and in such amounts as the lender shall determine, but tentatively in installments in accordance with the following schedule:

SCHEDULE OF PAYMENTS

The lender may, as provided in Paragraph 7 of this agreement, advance parts or the whole of any installments before they become due in accordance with this schedule.

7. No advance shall be due unless, in the judgment of the lender, all work usually done at the stage of construction when the advance is made payable be done in a good and workmanlike manner, and all materials and fixtures usually furnished and installed at that time are furnished and installed, and unless all construction be approved by an engineer or architect satisfactory to the lender, but the lender may advance parts or the whole of any installments before they become due, if the lender believes it advisable so to do, and all such advances or payments shall be deemed to have been made in pursuance of this agreement and not to be modifications thereof. The making of any advance or any part of an advance shall not be deemed an approval or acceptance by the lender of the work theretofore done. Any advance or installment of any part or parts thereof may be postponed or deferred by mutual consent of the borrower and the lender, and any such postponement or postponements shall be deemed to be in pursuance of this agreement and not in modification thereof. A receipt for any advance shall be binding on the borrower although signed by any one of the individual parties constituting the borrower, any one partner, if the borrower is a partnership, and any one officer, if the borrower is a corporation.

8. The lender may require five days' notice in writing from the borrower before an advance shall be called for. All advances are to be made at the office of the lender or at such other place as the lender shall designate.

9. The lender may at any time release portions of the mortgaged premises from the provisions of this agreement and from the mortgage executed and delivered pursuant thereto upon such terms and conditions as the lender shall deem fit.

10. The lender may at any time extend the payment of the principal secured by said bond or note and mortgage, and any extensions so granted shall be deemed made in pursuance of this agreement and not to be modifications thereof.

11. The borrower shall furnish to the lender, on or before the making of the final advance, the final certificates of approval, including certificate of occupancy, of the various governmental authorities having jurisdiction and the certificate of the Board of Fire Underwriters acting in and for the locality in which the said premises are situated.

12. The borrower shall furnish to the lender, or the lender may procure at the expense of the borrower, surveys made by a surveyor satisfactory to the lender whenever required by the lender.

13. The borrower shall furnish to the lender, premiums prepaid, or the lender may procure at the expense of the borrower, insurance policies in companies, forms and amounts satisfactory to such lender insuring the premises against loss or damage by fire, with the usual extended coverage endorsement, and other hazards as may reasonably be required by the lender.

14. The lender may at the expense of the borrower employ a watchman to protect the buildings and their contents from depredation or injury.

15. If the construction of said buildings be at any time discontinued or not carried on with reasonable dispatch in the judgment of lender, said lender may purchase materials and employ workmen to protect said buildings so that the same will not suffer from depredation or the weather, or to complete said buildings, so that they may be used for the purposes for which they are designed under the said plans and specifications.

16. All sums paid or expended in accordance with any of the foregoing provisions shall be deemed advances to the borrower and secured by said bond or note and mortgage and may be applied, at the option of the lender, to any advances thereafter becoming due.

17. The lender may deduct from any payment to be made under this agreement any amount necessary for the payment of any fees and expenses relating to the examination of the title to said premises, including cost of surveys, charges for appraisals, inspections, drawing of papers, mortgage recording tax, revenue stamps, if any, and architects', engineers' and building loan service fees, and any expenses incurred in the procuring or the making of the said loan, and in the payment of any insurance premiums, mortgages, tax, assessment, water rate, sewer rents and other charges, liens and encumbrances upon the said premises whether before or after the making of said loan and any other amounts necessary for the payment of the cost of improvement as defined by the Lien Law, and apply such amounts in making said payments, and all sums so applied shall be deemed advances under this agreement and secured by said bond or note and mortgage.

18. The lender may cause said loan to be made by some other person or corporation. The bond or note and mortgage shall then run to said person or corporation. The provisions of this agreement shall apply to such bond or note and mortgage, and if the loan be so made, it shall be deemed a compliance by the lender with this agreement. The lender may assign this agreement and the bond or note and mortgage and cause the assignee or any subsequent assignee to make any advances not made at the time of the assignment, and all the provisions of this agreement shall continue to apply to said loan and bond or note and mortgage. In case the loan is made in accordance with any of the methods mentioned in this paragraph 18, it shall be deemed a compliance by the lender with this agreement and to have been made pursuant thereto and not to be a modification thereof, and the advances so made shall be secured by said bond or note and mortgage.

19. In the event of the death of the borrower while still holding title to the mortgaged premises, the lender may, at the option of the lender, in case the work upon the said improvement is continued as provided in this agreement, continue to make advances under this agreement and subject to all its terms and conditions to the borrower's executors or administrators; and all sums so advanced by the lender shall be deemed advances under this agreement, and not to be modifications thereof, as if made to the borrower in his lifetime, and shall be secured by said bond or note and mortgage.

20. The borrower will not assign this contract or the moneys due thereunder or convey or encumber the property without the written consent of the lender, but in such event the lender may nevertheless at the option of the lender continue to make advances under this agreement to the borrower or to those who succeed to the borrower's title; and all sums so advanced by the lender shall be deemed advances under this agreement, and not to be modifications thereof, and shall be secured by said bond or note and mortgage.

21. The borrower further agrees: (i) where stairs are required, to erect the permanent stairs with temporary treads as rapidly as the framework erected will permit; (ii) to submit to the lender, for the lender's approval the details of the floor construction and framing plans before the contract therefore is let; (iii) to give the lender sufficient notice (a) when tests of the plumbing and heating systems and structural work are to be made; any further tests required by the lender are to be made by the contractors for such work under the direction of the lender at the expense of the borrower; (b) to permit an examination of all bottoms before any foundation materials are placed or used; and (c) to make an inspection after floor filling is completed and before the wood flooring is laid in each story.

22. In case city sewers have not been installed or the street or streets adjacent to the said premises have not been paved, the borrower shall install and properly connect sewers of city specifications as to size and quality and shall pave such street or streets so as to have the same conform to the established city grade thereof; and the borrower shall, upon demand, furnish evidence satisfactory to the lender of compliance with the provisions hereof.

23. The borrower covenants and agrees not to do any act or thing prohibited by the terms of this agreement, and it is expressly agreed that in any of the following events all obligation on the part of the lender to make said loan or to make any further advance shall, if the lender so elect, cease and terminate, and the said bond or note and mortgage shall, at the option of the lender, become immediately due and payable, but the lender may make any advances or parts of advances after the happening of any of the following events without thereby waiving the right to demand payment of the mortgage debt and without becoming liable to make any other or further advances:

(a) If the mortgage offered by the borrower does not give to the lender a good and sufficient lien for the indebtedness to be secured thereby on said premises satisfactory to the lender's attorney.

(b) If at the time any payment is due to the borrower the title is not satisfactory to the lender's attorney, regardless of whether the lien, encumbrance or other question existed at the time of any prior advance.

(c) If the borrower assigns this contract or any of said advances or any interest therein, or if said premises are conveyed or encumbered in any way without the written consent of the lender, or if the borrower dies before receiving the final advance hereunder.

(d) If a survey shows that the improvement on said premises encroaches upon the street or upon adjoining property, or any adjoining structure encroaches upon said premises to an extent deemed material by the lender's attorney.

(e) If the borrower does not take the loan or the advances within thirty days after they are made pay able, or in case where the payment of advances is dependent upon the erection of a new building, the building be not fully enclosed within months from date hereof or in any event if the improvement be not fully completed and ready for occupancy within months from date hereof.

(f) If the improvement on said premises is, in the judgment of the lender, materially injured or destroyed by fire or otherwise.

(g) If a petition in bankruptcy is filed by or against the borrower or a receiver or trustee of the property of the borrower is appointed; or if the borrower files a petition for reorganization under any of the provisions of the Bankruptcy Act or of any other law, state or federal, or makes an assignment for the benefit of creditors or is adjudged insolvent by any state or federal court of competent Jurisdiction.

(h) If the borrower does not make said improvement in accordance with plans and specifications which are previously furnished to and approved in writing by the lender and which have been filed with and approved by all governmental authorities having jurisdiction, and in accordance with all laws, rules, regulations and requirements of such governmental authorities existing at the commencement of the improvement and any amendments thereof and additions thereto made with the written approval of the lender during the construction of the improvement or fails to file amended or supplemental plans and specifications, if required because of such amendments and additions after first obtaining the written approval thereof by the fender and the approval of such governmental authorities; or if the borrower fails to furnish the lender with a written certificate issued by the department of the governmental authority in the locality in which the property is situated having jurisdiction thereof approving said plans and specifications and any amended and supplemented plans and specifications where such department has jurisdiction.

(i) If the owner of said premises does not permit the lender, or representatives of the lender to enter upon said premises and inspect the improvement thereon at all reasonable times and examine all detailed plans, shop drawings and specifications which are kept at the work, or fails to furnish to them, when requested, copies of such plans, drawings and specifications.

(j) If for any cause whatever the construction of said improvement is at any time discontinued or not carried on with reasonable dispatch in the judgment of the lender.

(k) If the borrower executes any chattel mortgage on any materials, fixtures or articles used in the construction or operation of the improvement or appurtenant thereto, or articles of personal property placed in said premises, or if any such materials, fixtures or articles are not satisfactory to the lender or are purchased on conditional bill of sale or otherwise so that the ownership thereof will not vest unconditionally in the borrower, free from encumbrance, on delivery at the premises; and if the borrower does not furnish to the lender, if requested, the contracts, bills of sale, statements, receipted vouchers and agreements, or any of them, under which the borrower claims title to such materials, fixtures and articles.

(l) If the borrower fails to comply with any requirement of any governmental authority having jurisdiction within thirty days after notice in writing of such requirement shall have been given to said borrower; or fails to furnish to the lender, when requested, official searches made by the governmental authorities having jurisdiction.

(m) If the borrower does not disclose to the lender, upon demand, the names of all persons with whom the borrower contracted or intends to contract for the construction of said improvement or the furnishing of labor or materials therefor.

(n) If the borrower permits any purchaser or prospective purchaser to occupy the premises before this agreement shall have been fully performed and the final advance made thereunder.

(o) If the borrower fails to keep, observe or perform any of the conditions, stipulations, agreements or covenants contained in this agreement or in the said bond or note or mortgage.

24. In the event that more than one mortgage is executed pursuant to this agreement and there should be any default by the borrower in the performance of any of the conditions, stipulations, agreements and covenants contained in this agreement or in any of the bonds or notes and mortgages given in connection therewith, then, at the option of the lender, the principal indebtedness secured by all or any of such bonds or notes and mortgages shall immediately become due and payable and all or any such mortgages may be foreclosed in either one or more actions, and any judgment of foreclosure and sale obtained therein may direct that the mortgaged premises covered by all the mortgages sought to be foreclosed in such action be sold in one parcel.

25. The borrower, in compliance with Section 13 of the Lien Law, covenants that the borrower will receive the advances to be made hereunder and to be secured by the mortgage executed pursuant hereto and will hold the right to receive such advances as a trust fund to be applied first for the purpose of paying the cost of improvement, and will apply the same first to the payment of the cost of improvement before using any part of the total of the same for any purpose.

26. And it is mutually understood and agreed by and between the parties hereto on behalf of themselves and their respective personal representatives or successors in interest that the bond or note and mortgage contemplated to be executed, acknowledged and delivered pursuant to this agreement shall be made subject to all the conditions, stipulations, agreements and covenants contained in this agreement, to the same extent and effect as they would be if fully set forth in and made part of said bond or note and mortgage, until this agreement is terminated by the completion of the improvement described herein and the making of the final advance hereunder as provided for herein; and it is further expressly understood and agreed that this agreement is made subject to all the conditions, stipulations, agreements and covenants contained in said bond or note and mortgage, to the same extent and effect as they would be if fully set forth herein and made part hereof.

A true statement under oath, verified by the borrower as required by Section 22 of the Lien Law, is attached hereto and made part of this agreement.

This agreement may not be changed or terminated orally. Wherever the word “lender” is used herein it shall be deemed to include also the personal representatives, successors and assigns of the lender.

IN WITNESS WHEREOF, the parties hereto have duly executed this agreement the day and year first above written.

IN PRESENCE OF:

STATE OF NEW YORK, COUNTY OF ss.:

being duly sworn, deposes and says:

I reside at No.

I am the of

the borrower mentioned in the within building loan contract.

The consideration paid, or to be paid, by the borrower to the lender for the loan described therein is

Dollars

($), and that all other expenses incurred, or to be incurred, in connection with said loan are as follows:

Broker’s commission, $

Examination and insurance of title and recording fees, $

Mortgage tax, Architect’s, engineer’s and surveyor’s fees, $

Internal revenue stamp taxes, $

Inspections, $

Appraisals, $

Conveyancing, $

Building loan service fees, $

Sums paid to take by assignment prior existing mortgages which are consolidated with building loan mortgages and also the interest charges on such mortgages,

$

Sums paid to discharge or reduce the indebtedness under mortgages and accrued interest thereon and other prior existing encumbrances,

$

Sums paid to discharge building loan mortgages whenever recorded,

$

Taxes, assessments, water rents and sewer rents paid (existing prior to commencement of improvement).

$

and that the net sum available to the said borrower for the improvement is

Dollars,

($), less such amounts as may become due or payable for insurance premiums, interest on building loan mortgages, ground rent, taxes, assessments, water rents and sewer rents accruing during the making of the improvement.

This statement is made pursuant to Section 22 of the Lien Law of the State of New York.
The facts herein stated are true to the knowledge of the deponent.

_____

Sworn to before me this
day of in the year

ACKNOWLEDGEMENT TAKEN IN NEW YORK STATE

State of New York, County of , ss:

On the day of in the year , before me, the undersigned, personally appeared

, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.

ACKNOWLEDGEMENT TAKEN IN NEW YORK STATE

State of New York, County of , ss:

On the day of in the year , before me, the undersigned, personally appeared

, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.

ACKNOWLEDGEMENT BY SUBSCRIBING WITNESS TAKEN IN NEW YORK STATE

State of New York, County of , ss:

On the day of in the year , before me, the undersigned, a Notary Public in and for said State, personally appeared , the subscribing witness to the foregoing instrument, with whom I am personally acquainted, who, being by me duly sworn, did depose and say that he/she/they reside(s) in

(if the place of residence is in a city, include the street and street number if any, thereof); that he/she/they know(s)

to be the individual described in and who executed the foregoing instrument; that said subscribing witness was present and saw said

execute the same; and that said witness at the same time subscribed his/her/their name(s) as a witness thereto

ACKNOWLEDGEMENT TAKEN OUTSIDE NEW YORK STATE

*State of , County of , ss:

*(Or insert District of Columbia, Territory, Possession or Foreign County)

On the day of in the year , before me the undersigned personally appeared

Personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), that by his/her/their signature(s) on the instrument, the individual(s) or the person upon behalf of which the individual(s) acted, executed the instrument, and that such individual make such appearance before the undersigned in the

(add the city or political subdivision and the state or country or other place the acknowledgement was taken).

Building Loan Contract

SECTION:

BLOCK:

LOT:

COUNTY OR TOWN:

Title No.

TO

FREEDOM LAND TITLE AGENCY, LLC
999 Walt Whitman Road, Suite 201,
Melville, NY 11747
(631) 423-1300 / (631) 423-1313 (fax)
(914) 250-9600 / (914) 462-3385 (fax)

RETURN BY MAIL TO: