



STATE OF NEW YORK  
OFFICE OF THE ATTORNEY GENERAL

ERIC T. SCHNEIDERMAN  
Attorney General

(212) 416-6550

DIVISION OF ECONOMIC JUSTICE  
Real Estate Finance Bureau

July 18, 2013

Dorami Realty Of New York Inc  
c/o Dorami Realty Of New York, Inc.  
Attention: Philip Raffiani  
146 Main Street  
Tuckahoe, NY 10707

RE: 141 Vivabene Condominium  
File Number: CD050318  
Date Amendment Filed: 07/17/2013  
Receipt Number: 121794  
Amendment No: 9  
Filing Fee: \$225.00


Dear Sponsor:

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

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

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

Very truly yours,

  
Linda Roots  
Assistant Attorney General *LRP*

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**9TH AMENDMENT  
TO  
OFFERING PLAN OF  
CONDOMINIUM OWNERSHIP OF  
PREMISES KNOWN AS  
141 VIVABENE CONDOMINIUM  
141 MAIN STREET  
TUCKAHOE, NY**

**DATED: June 3, 2013**

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**THIS AMENDMENT MODIFIED AND SUPPLEMENTS THE TERMS OF THE ORIGINAL  
OFFERING PLAN DATED APRIL 24, 2006 AND SHOULD BE READ IN CONJUNCTION WITH  
THE PLAN AND THE PRIOR AMENDMENTS**

**HOLDER OF UNSOLD SHARES:**

**DORAMI REALTY OF NEW YORK, INC.**

**Dated: June 3, 2013**

**9TH AMENDMENT TO THE OFFERING PLAN  
OF CONDOMINIUM OWNERSHIP**

Condominium:

141 VivaBene Condominium

Holder of Unsold Shares to Whom this Amendment  
Relates ("Holder of Unsold Shares"):

Dorami Realty of New York Inc.

This Amendment modifies and supplements the terms of the original Offering Plan dated April 24, 2006 and should be read in conjunction with the Offering Plan. The Offering Plan is hereafter referred to as the "Plan".

**1. Updated Budget.**

The projected budget for the Sixth year of operation from January 1, 2013 through December 31, 2013 has been completed as reflected in the attached Schedule A (see attachment to adequacy letter). An adequacy letter for this projected budget is attached hereto as Schedule A.

**2. Meetings of the Unit Owners.**

A meeting of the Unit Owners occurred on March 19, 2013 to present the budget.

**3. Units under Contract.**

There are no Units under contract for sale at this time.

**4. Sponsor's Disclosures.**

- A. The aggregate monthly common charge payments for Units held by Sponsor is \$3,349.
- B. The aggregate monthly real estate taxes payable for Units held by Sponsor is \$10,765.
- C. Units owned by the Sponsor are occupied by tenants with aggregate monthly rents of \$33,200 (see attached detailed rent roll).
- D. There are no financial obligations of the Condominium that will become due within 12 months from the date of this amendment.
- E. All unsold Units (Units A-F and H-J) are subject to a mortgage loan from Hudson Valley Bank located at 27 Scarsdale Rd., Yonkers, NY 10707. The balance of the loan is \$2,271,338, the loan matures on 6/1/2017 with a balloon payment. The monthly loan payment is \$13,943. Sponsor is current and has been current for the past 12 months with all payments required pursuant to this mortgage.
- F. Sponsor's monthly obligations set forth above will be paid from sponsor's income from rental properties.
- G. Sponsor is current with all financial obligations of the Condominium, including but not limited to, taxes, reserve or working capital fund payments, assessments and payments for repairs or improvements per the Plan, and the mortgage relating to unsold Units. Sponsor was current for all such obligations during the 12 months preceding the filing of this Amendment. On 12/31/2012 Sponsor owed \$16,745 in overdue common charges. This amount was paid in full on 01/3/2013. On 6/3/2013 Sponsor owes \$16,745 in overdue common charges. Sponsor expects this to be paid in full before 1/10/2014.

- H. The Sponsor is also the sponsor of 120 VivaBene Condominium, located at 120 Main St., Tuckahoe, NY 10707, Plan #CD40446. The 120 VivaBene Condominium offering plan is on file with the office of the Attorney General and is available for inspection. Sponsor is current with all financial obligations of 120 VivaBene Condominium, including but not limited to taxes, reserve or working capital fund payments, assessments and payments for repairs or improvements per the Plan, and the mortgage relating to unsold Units. Sponsor was current for all such obligations during the 12 months preceding the filing of this Amendment. On 12/31/2012 Sponsor owed \$18,985 in overdue common charges. This amount was paid in full on 01/3/2013. On 6/3/2013 Sponsor owes \$18,985 in overdue common charges. Sponsor expects this to be paid in full before 1/10/2014.
- I. The Sponsor controls the Board of Managers until the Annual Meeting of the Board following the earlier to occur of: (a) the transfer of title to Residential Units representing 90% of the Residential Units Common Interest or (b) 5 years after the First Closing, which was on December 7, 2006, per the Plan. Since the Sponsor currently owns a controlling number of units the Sponsor currently controls the Board of Managers. The board members are Philip Raffiani, Jeanne Raffiani and Laura Raffiani.

**5. Incorporation of Plan.**

The Plan, as modified and supplemented herein, is incorporated herein by reference as if set forth herein at length.

**6. Other Material Changes.**

A. Certified Financial Statements.

Attached are the most recent certified Financial Statements for the Condominium for the fiscal year end 2012.

B. Schedule A to the Plan.

Attached is the revised Schedule A and Footnotes to the Plan which has been revised to show changes in Unit Taxes and Common Charges. There are no changes in proposed Unit selling Prices.

C. Schedule B to the Plan.

Attached is the revised Schedule B and Footnotes to the Plan which has been revised to show any changes in projected expenses over the 2012 budgets.

Except as set forth in this Amendment, there have been no other material changes in the Plan.

**7. Revised "Escrow and Procedure to Purchase" Section of the Plan.**

The Procedure to Purchase Section of the Plan regarding escrow trust fund requirements is hereby replaced with the following disclosures set forth herein. The Purchase Agreement, as set forth in Part II Section A of the Plan, is hereby replaced with the revised Purchase Agreement, attached hereto as Exhibit B. The Escrow Agreement, as set forth in Part II of the Plan Section is hereby replaced with provisions of the revised Purchase Agreement.

**Section 14 paragraph 1 of the Plan is modified as follows:**

Replace "SBJ – 141 VivaBene Condominium Escrow Account" with "Anthony S. Colavita, Esq. 141 VivaBene Condominium Escrow Account".

**Section 14 paragraph 3 of the Plan is deleted in its entirety and replaced with the following:**

**3. Disbursement of Funds and Escrow and Release of Funds.** Counsel for the Sponsor, Anthony S. Colavita Esq. 575 White Plains Rd. Eastchester, NY (914-793-1331) shall serve as escrow agent ("**Escrow Agent**") for the Sponsor and Purchaser. All designated signatories are admitted to practice law in the State of New York. Neither the Escrow Agent nor any authorized signatories on the account are the Sponsor, Selling Agent, Managing Agent, or any principal thereof, or have any beneficial interest in any of the foregoing. The Escrow Agent will hold all monies received directly or through its agents or employees in an escrow account until the closing of title to a particular Residential Unit or cancellation of the Purchase Agreement.

The Escrow Agent has established the escrow account at HSBC Bank, located at 356 White Plains Road, Eastchester, NY 10709, in the State of New York ("Bank"), a bank authorized to do business in the State of New York. The escrow account is entitled "**Anthony S. Colavita, Esq. 141 VivaBene Condominium Escrow Account**" or similar name, which account or accounts shall be interest-bearing for the benefit of the Purchaser ("Escrow Account"). The Escrow Account is not an IOLA account. The Escrow Account is federally insured by the FDIC at the maximum amount of \$250,000 per deposit. Any deposit in excess of \$250,000 will not be insured. Within ten (10) business days after tender of the deposit submitted with the Purchase Agreement and delivery to Purchaser of a fully executed Purchase Agreement, the Escrow Agent shall notify the Purchaser that such funds have been deposited, together with the account number and the rate of interest. After the closing of title to the Residential Unit, such funds will be payable to Sponsor. The signature of the Escrow Agent shall be required to withdraw any of such funds.

All Deposits received from Purchaser shall be in the form of checks, money orders, wire transfers, or other instruments, and shall be made payable to or endorsed by the Purchaser to the order of **Anthony S. Colavita, Esq.**, as Escrow Agent.

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

The interest rate for all Deposits made into the Escrow Account shall be the prevailing rate for such accounts. Interest shall begin to accrue upon placing the Deposit into the Escrow Account. All interest earned thereon shall be paid to or credited to the Purchaser at closing. No fees of any kind may be deducted from the Escrow Account, and the Sponsor shall bear all costs associated with the maintenance of the Escrow Account.

The Purchase Agreement, as revised to reflect the foregoing, is attached hereto as Exhibit B. The revised escrow provisions are included in Section 15 of the Purchase Agreement, which must be executed by the Escrow Agent.

Before the Escrow Agent is changed, or funds are transferred to a new escrow account, the Plan will be amended to disclose the changes made. The Escrow Agent will maintain all records as to the escrow account for a period of seven years after release of the funds.

All funds received by Sponsor will be handled in accordance with the provisions of Section 352-h and 352-e(2)(b) of the General Business Law and Lien Law and shall be employed by Sponsor only in connection with the consummation of the Plan. Such deposit together with any interest accumulated thereon shall remain the property of the Purchaser until consummation of the Plan.

The following provisions of Section 71-a(3) of the Lien Law are included in the Plan for explanatory purposes only, and not to supersede any other rights granted to Purchaser in this Section 11. Section 71-a (3) of the Lien Law requires, at the Purchaser's option, that the deposit be placed in escrow in an interest-bearing escrow account in a bank, trust company, savings bank, state or federal savings and loan association located in New York. Said monies must be deposited within five (5) business days after entering into the contract. The Sponsor must advise the Purchaser, in writing, within ten (10) business days after the deposit has been made. Such deposit, together with the interest accumulated thereon, shall remain the property of the Purchaser until consummation of the transaction or until such time as either party is entitled to said funds pursuant to the terms of the Purchase Agreement and the Offering Plan. All interest shall be the property of the Purchaser unless the Purchaser defaults under the Purchase Agreement.

If the Purchaser does not receive notice of such deposit within fifteen (15) business days after tender of the deposit, he may cancel the Purchase Agreement and rescind within ninety (90) days after tender of the deposit. Rescission may not be afforded where proof is submitted establishing that the escrowed funds were timely deposited in accordance with these regulations and requisite notice was timely mailed to the Purchaser.

If insufficient funds are raised through the offering or otherwise to effectuate the contemplated transaction, or if Sponsor is unable for any reason to perform in accordance with the terms of the Purchase Agreement, and if the Purchase Agreement has been subsequently terminated as set forth above, such monies will be fully returned to him with interest, if any.

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

Under no circumstances shall Sponsor seek or accept release of the Deposit of a defaulting Purchaser until after consummation of the Plan, as evidenced by the acceptance of a post-closing amendment by the New York State Department of Law. Consummation of the Plan does not relieve the Sponsor of its obligations pursuant to GBL §§ 352-e(2-b) and 352-h.

The Escrow Agent shall release the Deposit if so directed:

- (a) pursuant to the terms and conditions set forth in Purchase Agreement upon closing of title to the Unit Interests; or
- (b) in a subsequent writing signed by both Sponsor and Purchaser; or
- (c) by a final, non-appealable order or judgment of a court.

If the Escrow Agent is not directed to release the Deposit pursuant to paragraphs (a) through (c) above, and the Escrow Agent receives a request by either party to release the Deposit, then the Escrow Agent must give both the Purchaser and Sponsor prior written notice of not fewer than thirty (30) days before releasing the Deposit. If the Escrow Agent has not received notice of objection to the release of the Deposit prior to the expiration of the thirty (30) day period, the Deposit shall be released and the Escrow Agent shall provide further written notice to both parties informing them of said release. If the Escrow Agent receives a written notice from either party objecting to the release of the Deposit within said thirty (30) day period, the Escrow Agent shall continue to hold the Deposit until otherwise directed pursuant to paragraphs (a) through (c) above. Notwithstanding the foregoing, the Escrow Agent shall have the right at any time to deposit the Deposit contained in the Escrow Account with the clerk of the county where the unit is located and shall give written notice to both parties of such deposit.

The Sponsor shall not object to the release of the Deposit to:

(a) a Purchaser who timely rescinds in accordance with an offer of rescission contained in the Plan or an Amendment to the Plan; or

(b) all Purchasers after an Amendment abandoning the Plan is accepted for filing by the Department of Law.

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

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

The Purchase Agreement and the Plan may contain, or be modified to contain a provision waiving purchaser's rights or abrogating Sponsor's obligations under Article 23-A of the GBL.

**Section 14 paragraph 11, 12 and 14 of the Plan are deleted in its entirety and replaced with the following:**

- 11. THIS SECTION INTENTIONALLY LEFT BLANK.**
- 12. THIS SECTION INTENTIONALLY LEFT BLANK.**
- 14. THIS SECTION INTENTIONALLY LEFT BLANK.**

**END OF REVISED "Escrow and Procedure to Purchase" SECTION OF THE PLAN**

#### **8. Certificate of Occupancy.**

A true and accurate copy of the current Certificate of Occupancy for the Property Issued by the Village of Tuckahoe on February 13, 2004 is hereby attached.

**9. Definitions.**

All capitalized terms not expressly defined in this Amendment have the meanings given to them in the Plan.

**10. Extension of Offering.**

The Plan is hereby extended for a period of twelve (12) months.

HOLDER OF UNSOLD SHARES/SPONSOR:

**DORAMI REALTY OF NEW YORK, INC.**

Dated: June 3, 2013



**Exhibit A**

**Affidavit in Support of Seventh Amendment to the Plan**

State of New York            )  
  ss.:  
County of Westchester    )

Philip Raffiani, under oath, deposes and says:

1. I am the Vice President of Dorami Realty of New York, Inc., the Sponsor of the Offering Plan dated April 24, 2006 to submit the premises known as 141 Main St., Tuckahoe, NY ("Property") to condominium ownership ("Plan").
2. The Plan was accepted for filing by the Attorney General of the State of New York on April 24, 2006.
3. The Plan was declared effective by notice to Purchaser on September 14, 2007. Amendments to the Plan were accepted and filed by the Attorney General of the State of New York as follows: Second Amendment on September 21, 2007; Third Amendment on April 1, 2008; Fourth Amendment on June 27, 2008; Fifth Amendment on July 1, 2009; Sixth Amendment on July 26, 2010; Seventh Amendment on June 13 2011; Eighth Amendment on June 27<sup>th</sup>, 2012.
4. I have read the Ninth Amendment to the Plan and the statements contained therein are true and accurate to the best of my knowledge and belief.
6. I hereby submit this Affidavit to the Attorney General in connection with the Ninth Amendment to the Offering Plan.

Sponsor: Dorami Realty of New York, Inc.



By: Philip Raffiani, Vice President

By: Philip Raffiani

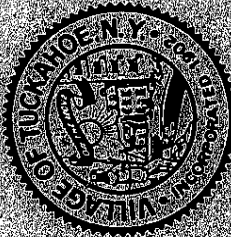
Sworn to before me this 17<sup>th</sup> day  
of May, 2013.



Notary

Rosa M. Torres  
License # 01To6125454  
Westchester County  
Appointment Date 4-18-05  
Expiration Date 4-18-17

2/13/04



# VILLAGE OF TUCKAHOE DEPARTMENT OF BUILDINGS VILLAGE HALL

White: File  
Pink: Occupant  
Canary: Permanent

1369

## Certificate of Occupancy

Issued 2/13/04 To MICHAEL PROPERTIES

Location of Building 141 BROAD ST Block 29 Lot 13-17  
Zone Residential Section 2

This Certifies That The Building Situated On The Above Mentioned Premises Has Been Completed And Conforms Substantially With The Approved Plans And Applications, And The Requirements Of The Building Code, Zoning Ordinance And All Other Laws Pertaining To Same. Permission Is Hereby Granted For Its Occupancy For The Purposes Specified Below. Any Use Or Occupancy Other Than As Approved Herein Is Illegal And Will Automatically Revoke This Certificate Of Occupancy And Be Subject To Legal Action.

CLASSIFICATION OF BUILDING BY USE	TYPE OF CONSTRUCTION	No. of Stories	No. of Rooms	No. of Bath-Rooms	No. of Lavatories	No. of Kitchens	No. of Families	Inside of Fire District
R-3	TYPE II	3	46	30	70	10	10	10
Garage Attached	Under							
Kind of Heating System	HOT AIR							
Remarks: including variances	VARIANCES TO APPROVED PLANS AND PERMITS							

No. of Cars 10

The receipt of a fee of 650.00 is hereby acknowledged

*William Williams*

Building Inspector, Village of Tuckahoe

No. of Building Permit 2312

**EXHIBIT B**

**PURCHASE AGREEMENT**

**141 VIVABENE CONDOMINIUM AT 141 MAIN STREET,**  
**TUCKAHOE, NEW YORK**

**Unit #: \_\_\_\_\_ Common Interest Percentage: \_\_\_\_\_%**

**Purchase Price: \$\_\_\_\_\_**

**Down Payment (Payable to Anthony S. Colavita, Esq. – 141 VivaBene  
Condominium Escrow Account): \$\_\_\_\_\_**

**Balance Due at Closing: \$\_\_\_\_\_**

**Purchaser:**

**Name:**

**Address:**

**Telephone #:**

**Purchaser Attorney:**

**Name:**

**Address:**

**Telephone:**

**Fax #:**

**Email:**

**Seller:**

**Name: Dorami Realty of New York, Inc.**

**Address: 146 Main St. Tuckahoe, NY 10707**

**Telephone #: (914) 337-8569 Fax #: (914) 337-8531**

**Email: Phil@miradoprop.com**

**Seller Attorney:**

**Name: Anthony Colavita, Esq.**

**Address: 575 White Plains Rd. Eastchester, NY 10709**

**Telephone #: (914) 793-1331 Fax #: (914) 793-0624**

**Email:**

**Statement of Seller:**

**DORAMI REALTY OF NEW YORK, INC.**, with an address at 146 Main Street, Tuckahoe, New York 10707, a New York corporation ("**Seller**"), has promulgated a Plan of Condominium Ownership ("**Plan**") for 1414 VivaBene Condominium ("**Condominium**") pursuant to which the land, with appurtenances, and the homes ("**Homes**") being constructed thereon by Seller, located in the Town of Eastchester, Village of Tuckahoe, County of Westchester, has been declared to be a Condominium under the provisions of Article 9-B of the Real Property Law of the State of New York on the terms and conditions more particularly set forth in the Plan.

**Statement of Purchaser:**

Purchaser acknowledges as follows:

Purchaser has received and read a copy of the Plan and all filed amendments thereto. The Plan and amendments, which include the Declaration to be made by the Seller and to be recorded in the Office of the Westchester County Clerk, the schedules, By-Laws and Rules and Regulations attached thereto, are incorporated herein by reference and made part of this Agreement with the same force and effect as if fully set forth herein.

PURCHASER HAS HAD THE OPPORTUNITY TO REVIEW THE OFFERING PLAN AND ANY FILED AMENDMENTS FOR NOT LESS THAN THREE (3) BUSINESS DAYS.

Purchaser is desirous of purchasing the above-numbered Home, as designated in the Declaration and on the floor plans filed in the aforesaid County Register's Office, together with an undivided interest in the Common Elements appurtenant thereto (the above-numbered Home and the undivided interest being hereinafter collectively called the "**Home**");

**Agreement between Seller and Purchaser:**

For good and valuable consideration, receipt of which is hereby acknowledged, Seller and Purchaser mutually agree as follows:

1. **Payment for Home:** Seller hereby agrees to sell and Purchaser hereby agrees to purchase the Home for the Total Purchase Price stated above. The Down Payment stated above has been paid on the signing of this Agreement, receipt of which by check, subject to collection, is hereby acknowledged by Seller. The Balance Due at Closing shall be payable at the closing of title, as hereinafter provided in Paragraph 3, by unendorsed certified check of Purchaser, or teller's or cashier's check, drawn on a bank or trust company which is a member of the New York Clearing House Association, to the order of the Seller or as Seller may direct.

2. **Acceptance by Seller.** Within 7 days after delivery to Seller or its Agent by Purchaser of this Purchase Agreement, executed by Purchaser, Seller will either:

(a) accept this Agreement and cause to be returned to Purchaser a fully executed counterpart thereof; or

(b) reject this Agreement offer and refund the down payment tendered by Purchaser. If Seller takes no action within the aforesaid twenty (20) day period the Purchase Agreement shall be deemed null and void and the down payment shall be returned.

3. **Closing of Title:** The closing of title shall take place on \_\_\_\_\_, at such place as Seller may designate, at an hour and on a date (hereinafter called the “Closing Date”) to be specified by Seller or at the office of the Purchaser’s Lender if required by the Lender. The closing of title may be adjourned to such later date as the parties may agree upon in writing, or otherwise as set forth in the following paragraph, and the adjourned date shall then be deemed the Closing Date hereunder. Purchaser shall be entitled to any adjournments of the Closing Date up to \_\_\_\_\_ on written notice by Purchaser to Seller, subject to the provisions of Paragraph 7. However, Purchaser may not seek an adjournment of any kind based upon any provision set forth in Paragraph 18 herein. **In the event that Seller cannot close by \_\_\_\_\_, Seller shall have the right to cancel this Agreement at any time thereafter on notice to Purchaser.** Upon cancellation, the Down Payment and accrued interest shall be promptly refunded to Purchaser, and neither party shall have any further rights against, or obligations or liabilities to the other by reason of this Agreement.

At the closing of title, Seller shall deliver to Purchaser a bargain and sale deed in the form contained in Part II of the Plan, with covenant against grantor's acts, conveying the Home to Purchaser, executed and acknowledged by Seller in form for recording.

Title to the Home will close only after, or concurrently with, the occurrence of the events set forth in “Conditions of Closing Title to Individual Units” in Section 14 of the Plan, entitled “Terms of Sale”.

4. **Power of Attorney to Board of Managers and Seller:** At the closing of title and simultaneously with the delivery to Purchaser of the deed conveying the Home, Purchaser shall execute and acknowledge the power of attorney to the Board of Managers and the Seller in the form contained in Part II of the Plan. Purchaser agrees to deliver such power of attorney to Seller at the closing of title for recording and to pay the recording fee.

5. **Limited Financing Contingency:**

(a) The Purchaser is electing to obtain financing; the obligations of Purchaser hereunder are conditioned upon issuance on or before the 45th day after the date of this Agreement of a written commitment from a lending institution on or before the date of this Purchase Agreement, subject to the following conditions and limitations:

(i) The financing contingency is only applicable to mortgage financing of no more than ninety percent (90%) of the purchase price (or such lesser amount as Purchaser shall apply for) at the Lender’s prevailing rate of interest and for a customary loan term, secured by a first mortgage on the Home;

(ii) Purchaser shall apply to at least one Lender for such first mortgage loan

within ten (10) days after the date of this Agreement;

(iii) Purchaser shall furnish accurate and complete information to the Lender relating to Purchaser, as required;

(iv) Purchaser shall pay all fees, points and charges required in connection with such application and loan; and

(v) Purchaser shall pursue such application with diligence, and generally cooperate in good faith with such Lender to the end of securing such first mortgage. Purchaser shall notify the Sponsor promptly of the name and address of each Lender to which Purchaser has given an application. Purchaser shall furnish Seller with a copy of such commitment promptly after receipt thereof. If Purchaser fails to obtain such a commitment from a Lender on or before the 45<sup>th</sup> day after the date of this Agreement, Purchaser shall have the right to cancel this contract by giving notice to Seller by the 50<sup>th</sup> day after the date of this Agreement. Upon cancellation, the Down Payment and accrued interest shall be promptly refunded to Purchaser, and neither party shall have any further rights against, or obligations or liabilities to the other by reason of this Agreement. If Purchaser does not give such notice to Seller on or before the 45<sup>th</sup> day after the date of this Agreement or if the Purchaser has not applied to at least one (1) Lender, this Agreement shall not be terminated by virtue of this paragraph and the Agreement shall remain in full force and effect, except that Purchaser's right to cancel under this Paragraph shall be deemed waived. A mortgage commitment conditional upon the Purchaser's selling any property that Purchaser owns, the liquidation or reduction of any existing installment debt prior to closing, or the furnishing of documents and information reasonably available to Purchaser, shall be deemed a firm mortgage commitment which satisfies the limited financing contingency clause in this Agreement.

(c) As used in this Agreement, "Lender" means any person or entity in the business of making loans to persons seeking to purchase residential homes. A mortgage broker who does not have independent lending capacity shall not be deemed to be a "Lender" under this Agreement.

## **6. Condition of Title:**

(a) Seller agrees to convey to Purchaser title in fee simple to the Home, free and clear of all liens and encumbrances other than those set forth in the Plan (specifically in Part I thereof in the section titled "Terms of Sale") and Exhibits submitted in connection therewith. Notwithstanding the above, the existence of unpaid taxes or liens of any kind at the time of title closing shall not constitute an objection to title, provided that a reputable title insurance company licensed to do business in the State of New York shall be willing to insure against collection of same from the Home herein described. The parties agree that the Seller may pay and discharge any liens and encumbrances upon the property, not provided for in the Plan or this Agreement, out of the monies to be paid by the Purchaser at the time of closing title.

(b) Purchaser agrees that all terms and provisions of this Agreement are and shall be subject and subordinate to the lien of any building loan mortgage or development loan mortgage

and any advances heretofore or hereafter made thereon, and any payments or expenses which at any time were or may be incurred pursuant to the terms thereof, incidental thereto or to protect the security thereof, without the execution of any further legal documents by Purchaser. This subordination shall apply whether such advances are voluntary or involuntary and whether made in accordance with the building loan schedule of payments or accelerated thereunder by virtue of lender's right to make advances before they become due in accordance with the schedule of payments. However, at closing the Home will be conveyed free and clear of all mortgage liens.

**7. Expenses of Closing and Closing Adjustments:**

(a) Purchaser will pay the closing costs and expenses referred to in the Section of the Plan (as same may be amended to date) entitled "Home Closing Costs and Adjustments", including the following:

(i) fee title insurance;

(ii) deed, power of attorney and any mortgage agreements recording fee;

(iii) mortgage costs chargeable by the lender, mortgage title insurance, and mortgage taxes (including a reimbursement to the Seller for mortgage tax previously paid by the Seller as per subsection (d) below);

(iv) two months' common charges for the working capital fund payable to the Sponsor;

(v) attorneys' fees of Seller, as detailed in the Plan, Purchaser and Mortgage Lender (if any);

(vi) New York State real property transfer taxes attributable to the transfer of the Home, as described in the Plan;

(vii) Escrow for real estate taxes payable with respect to the Home for the next tax payment period following the Closing Date; and

Purchaser should refer to Section 15 of the Plan for a detailed description and calculation of the estimated closing costs and adjustments to be borne by Purchaser.

Notwithstanding the foregoing, or any requirement of the Plan, Purchaser shall not be required to use Seller's Title Company or pay any sums to Seller for use of a Title Company of their choice.

(b) If Purchaser adjourns the Closing, the Purchaser will be liable for all common charges and real estate taxes assessed against the Home from and after the scheduled closing date.

(c) Except as otherwise provided in this agreement, real estate taxes and Common charges and expenses shall be adjusted between Seller and Purchaser as of midnight preceding the Closing Date in accordance with the provisions of the Plan. Any such expenses or adjustments

payable to Seller in excess of One Thousand (\$1000.00) Dollars will be paid by certified check or bank check.

(d) Prior to the Closing Date, the Seller will have paid a mortgage recording tax for a construction loan mortgage on the Property. Pursuant to Section 339-ee(2) of the New York Real Property Law, it is specifically understood that such credit shall inure to the benefit of Seller. Accordingly, at closing, each purchaser electing mortgage financing shall pay the full amount of the mortgage recording tax chargeable on the amount being financed, without regard to any credit to which the Sponsor is entitled under Section 339-ee(2), and the Sponsor will be reimbursed out of such payment at closing to the extent of any mortgage tax credit allowed.

#### **8. Default by Purchaser:**

(a) If Purchaser shall fail to pay any portion of the purchase price when due; fail to close title on the date, hour and place specified by Seller pursuant to Paragraph 3 hereof; fail to perform any of Purchaser's other material obligations hereunder; or if any of Purchaser's representations in this Agreement shall be untrue in any material respect, Purchaser shall be in default, and Seller may send a notice to Purchaser to cure the default within thirty (30) days. If within the thirty (30) day period Purchaser shall fail to cure the default, Seller, at its option, may cancel this Agreement by notice of cancellation to Purchaser. If Seller shall elect to cancel this Agreement, Seller shall certify to its counsel that title has not closed because of Purchaser's default and that Seller has elected to cancel this Agreement by reason thereof Counsel shall thereupon pay over to Seller as liquidated damages the Down Payment and the interest earned thereon, if any. Upon such payment being made each of the parties hereto shall be relieved of any further liabilities or obligations hereunder. If this Agreement shall be canceled by Seller, Seller may sell the Home to any third party and shall be under no obligation to account to Purchaser for any part of the proceeds of such sale. Counsel may rely upon the truth and accuracy of the facts contained in Seller's certification and the authority of the person or persons executing the same and shall have no liability as a result of such reliance.

(b) TIME IS OF THE ESSENCE AS TO PAYING THE BALANCE DUE, AND AS TO CURING ALL DEFAULTS WITHIN ANY GRACE PERIODS GRANTED HEREUNDER. FAILURE TO MAKE A PAYMENT WITHIN THE GRACE PERIOD AFTER A PURCHASER IS CALLED UPON TO MAKE SUCH PAYMENT MAY RESULT IN LOSS OF THE DOWN PAYMENT AND CANCELLATION OF THE PURCHASE AGREEMENT. Purchaser should consult his or her own attorney prior to executing a Purchase Agreement.

(c) In the event of an uncured default by Purchaser in his or her obligations under the Purchase Agreement, no more than five percent (5%) of the purchase price, plus any interest earned thereon and the cost of any special work performed for the Purchaser, may be retained as liquidated damages. Seller agrees not to seek the remedy of specific performance in connection with Purchase Agreements as to which there has been a default by Purchaser. No down payment or other monies shall be released pursuant to an uncured default by Purchaser before the First Home Closing

9. Intentionally left blank.

10. **Agreement May Not Be Assigned:** Purchaser shall have no right to assign this



Agreement without the prior consent in writing of Seller and any purported assignment of this Agreement in violation hereof shall be voidable at the option of Seller.

11. **Survival:** The closing of title to the Home and the delivery of the deed thereto shall be deemed full compliance by Seller with each and every term of this Purchase Agreement, except as to any item specifically listed and excepted therefrom.

12. **No Representations:** Except as specifically set forth herein or in the Plan, Purchaser acknowledges that he has not relied upon any architect's plans, sales plans, selling brochures, representations, warranties or statements of any nature, whether made by Seller, the Selling Agent, Seller's Counsel, or otherwise, including, but not limited to, any relating to the description or physical condition of the building or the Home, the size or the dimensions of the Home or the rooms therein contained or any other physical characteristics thereof, the building services, the estimated Common Charges and expenses allocable to the Home, the availability of any tax benefits, or the right to any income tax deduction on account of any real estate taxes or mortgage interest paid by Purchaser. Purchaser agrees that Seller shall have no liability or responsibility to Purchaser if the layout or dimensions of the Home or any part thereof or of the Common Elements as shown on the floor plans or on the architectural plans and specifications for the building are not accurate or correct provided such layout or dimensions conform substantially to the floor plans and the architectural plans and specifications for the building and the site as modified or supplemented in accordance with the Plan and that Purchaser will not be relieved from his obligations hereunder by reason of any minor inaccuracy or error.

13. **Recording of Deed and Power of Attorney:** At the closing of title, Purchaser will deliver the executed deed received from Seller and executed and acknowledged power of attorney to the representative of the title company, if any, or to Seller for recording in the Office of the City Register, County of Westchester. Such deed and power of attorney will be in the forms annexed hereto (and made a part hereof) as set forth in Part II of the Plan.

14. **Binding Effect:** This agreement shall not be effective or binding on Seller until a counterpart hereof is executed by Seller and delivered to Purchaser. Subject to the provisions hereof, this Purchase Agreement shall bind and inure to the benefit of the parties hereto, their heirs, personal representatives, successors and assigns.

15. **Monies to be Held in Trust, Payment of Down Payment:** The required down payment pursuant to this Agreement will be ten percent (10%) of the purchase price for the Home as set forth in the Plan and shall be held in escrow as follows:

- a. The law firm of Anthony S. Colavita Esq., with an address at 575 White Plains Rd, Eastchester, NY 10709, telephone number 914-793-1331, shall serve as escrow agent ("Escrow Agent") for Sponsor and Purchaser. Escrow Agent has designated Anthony S. Colavita Esq. to serve as signatory. All designated signatories are admitted to practice law in the State of New York. Neither the Escrow Agent nor any authorized signatories on the account are the Sponsor, Selling Agent, Managing Agent, or any principal thereof, or have any beneficial interest in any of the foregoing.

- b. Escrow Agent and all authorized signatories hereby submit to the jurisdiction of the State of New York and its Courts for any cause of action arising out of the Purchase Agreement or otherwise concerning the maintenance of release of the Deposit from escrow.
- c. The Escrow Agent has established the escrow account at HSBC, 356 White Plains Road, Eastchester, NY 10709, in an account or accounts entitled "**Anthony S. Colavita, Esq. 141 VivaBene Condominium Escrow Account**" or similar name, which account or accounts shall be interest-bearing for the benefit of the Purchaser ("Escrow Account"). The Escrow Account is not an IOLA account. The Escrow Account is federally insured by the FDIC at the maximum amount of \$250,000 per deposit. Any deposit in excess of \$250,000 will not be insured.
- d. All Deposits received from Purchaser shall be in the form of checks, money orders, wire transfers, or other instruments, and shall be made payable to or endorsed by the Purchaser to the order of **Anthony S. Colavita, Esq.**, as Escrow Agent.
- e. The interest rate for all Deposits made into the Escrow Account shall be the prevailing rate for such accounts. Interest shall begin to accrue upon placing the Deposit into the Escrow Account. All interest earned thereon shall be paid to or credited to the Purchaser at closing. No fees of any kind may be deducted from the Escrow Account, and the Sponsor shall bear all costs associated with the maintenance of the Escrow Account.
- f. Within five (5) business days after the Purchase Agreement has been tendered to Escrow Agent along with the Deposit, the Escrow Agent shall sign the Purchase Agreement and place the Deposit into the Escrow Account. Within ten (10) business days of the placing the deposit in the Escrow Account, Escrow Agent shall provide written notice to Purchaser and Sponsor, confirming the Deposit. The notice shall provide the account number and the initial interest rate to be earned on the Deposit. Any Deposits made for upgrades, extras, or custom work shall be initially deposited into the Escrow Account, and released in accordance with the terms of the Purchase Agreement.
- g. The Escrow Agent is obligated to send notice to the Purchaser once the Deposit is placed in the Escrow Account. If the Purchaser does not receive notice of such deposit within fifteen (15) business days after tender of the Deposit, he or she may cancel the Purchase Agreement within ninety (90) days after tender of the Purchase Agreement and Deposit to Escrow Agent. Rescission shall not be afforded where proof is submitted establishing that the Deposit was timely placed in the Escrow Account in accordance with the New York State Department of Law's regulations concerning Deposits and requisite notice was timely mailed to the Purchaser.
- h. All Deposits, except for advances made for upgrades, extras, or custom work received in connection with the Purchase Agreement, are and shall continue to be the Purchaser's money, and may not be comingled with any other money or

pledged or hypothecated by Sponsor, as per GBL § 352-h.

- i. Under no circumstances shall Sponsor seek or accept release of the Deposit of a defaulting Purchaser until after consummation of the Plan, as evidenced by the acceptance of a post-closing amendment by the New York State Department of Law. Consummation of the Plan does not relieve the Sponsor of its obligations pursuant to GBL §§ 352-e(2-b) and 352-h.
- j. The Escrow Agent shall release the Deposit if so directed:
  - (a) pursuant to terms and conditions set forth in the Purchase Agreement upon closing of title to the Home; or
  - (b) in a subsequent writing signed by both Sponsor and Purchaser; or
  - (c) by a final, non-appealable order or judgment of a court.

If the Escrow Agent is not directed to release the Deposit pursuant to paragraphs (a) through (c) above, and the Escrow Agent receives a request by either party to release the Deposit, then the Escrow Agent must give both the Purchaser and Sponsor prior written notice of not fewer than thirty (30) days before releasing the Deposit. If the Escrow Agent has not received notice of objection to the release of the Deposit prior to the expiration of the thirty (30) day period, the Deposit shall be released and the Escrow Agent shall provide further written notice to both parties informing them of said release. If the Escrow Agent receives a written notice from either party objecting to the release of the Deposit within said thirty (30) day period, the Escrow Agent shall continue to hold the Deposit until otherwise directed pursuant to paragraphs (a) through (c) above. Notwithstanding the foregoing, the Escrow Agent shall have the right at any time to deposit the Deposit contained in the Escrow Account with the clerk of the county where the Home is located and shall give written notice to both parties of such deposit.

The Sponsor shall not object to the release of the Deposit to:

- (a) a Purchaser who timely rescinds in accordance with an offer of rescission contained in the Plan or an Amendment to the Plan; or
- (b) all Purchasers after an Amendment abandoning the Plan is accepted for filing by the Department of Law.

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

- k. Any provision of the Purchase Agreement or separate agreement, whether oral or in writing, by which a Purchaser purports to waive or indemnify any obligation of the Escrow Agent holding any Deposit in trust is absolutely void.

The provisions of the Attorney General's regulations and GBL §§ 352-e(2-b) and 352-h concerning escrow trust funds shall prevail over any conflicting or inconsistent provisions in the Purchase Agreement, Plan, or any amendment thereto.

- l. Escrow Agent shall maintain the Escrow Account under its direct supervision and control.
- m. A fiduciary relationship shall exist between Escrow Agent and Purchaser, and Escrow Agent acknowledges its fiduciary and statutory obligations pursuant to GBL §§ 352-e(2-b) and 352(h).
- n. Escrow Agent may rely upon any paper or document which may be submitted to it in connection with its duties under this Purchase Agreement and which is believed by Escrow Agent to be genuine and to have been signed or presented by the proper party or parties and shall have no liability or responsibility with respect to the form, execution, or validity thereof.
- o. Sponsor agrees that it shall not interfere with Escrow Agent's performance of its fiduciary duties and statutory obligations as set forth in GBL §§ 352-e(2-b) and 352-(h) and the New York State Department of Law's regulations.
- p. Sponsor shall obtain or cause the selling agent under the Plan to obtain a completed and signed Form W-9 or W-8, as applicable, from Purchaser and deliver such form to Escrow Agent together with the Deposit and this Purchase Agreement.
- q. Prior to release of the Deposit, Escrow Agent's fees and disbursements shall neither be paid by Sponsor from the Deposit nor deducted from the Deposit by any financial institution under any circumstance.
- r. Sponsor agrees to defend, indemnify, and hold Escrow Agent harmless from and against all costs, claims, expenses and damages incurred in connection with or arising out of Escrow Agent's responsibilities arising in connection with this Purchase Agreement or the performance or non-performance of Escrow Agent's duties under this Purchase Agreement, except with respect to actions or omissions taken or suffered by Escrow Agent in bad faith or in willful disregard of the obligations set forth in this Purchase Agreement or involving gross negligence of Escrow Agent. This indemnity includes, without limitation, disbursements and attorneys' fees either paid to retain attorneys or representing the hourly billing rates with respect to legal services rendered by Escrow Agent to itself.
- s. Down payments will be retained in the Escrow account as set forth above until:
  - (i) Seller performs under the terms of the Purchase Agreement;
  - (ii) Purchaser rescinds or defaults in performance, thereby excusing performance by Seller;
  - (iii) release or discharge of Seller's liability to refund such down payment;
  - (iv)

upon transfer of title to the Home to the Purchaser; or (v) by mutual consent of Seller and Purchaser.

- t. The parties acknowledge that the Escrow Agent for the down payment is also counsel for the Sponsor. Purchaser agrees that in case of any dispute relating to the disposition of the down payment, counsel for the Sponsor may continue to represent the Sponsor.

The provisions of Section (10), (11) and (12) of the Plan are incorporated into this Agreement as if set forth in full herein. If conflicts between this Agreement and Sections (10), (11) and (12) arise this Agreement shall prevail.

16. **Equipment and Furnishings:** Seller will provide Purchaser only with fixtures, equipment, hardware, appliances and furnishings referred to in the Plan, which are included in the purchase price of the Home. Furnishings, equipment, appliances and decorations in any model Home or sales office that are not referred to in the Plan are excluded from this sale unless specifically included by a rider to this Purchase Agreement. The cost of any such special items will be an addition to the purchase price.

**17. Acceptance of Condition of Home; Risk of Loss:**

(a) Purchaser shall accept title without abatement in or credit against the purchase price, and without provision for escrow, notwithstanding that Seller may not have completed construction of (i) minor details of the Home or the Building; (ii) another Home; or (iii) portions of the Common Elements that do not materially affect Purchaser's access to and use of the Home.

(b) (i) The risk of loss from fire or other casualty with respect to each Home shall remain with Seller until the closing of title, but without any obligation or liability by Seller to repair or restore any Home. In case of damage or destruction of a Home due to fire or other casualty prior to the closing, Seller will have the right to elect whether to repair or restore the Home, which election shall be in the Seller's sole discretion. If the Seller elects to restore the Home, the Purchase Agreement shall continue in full force and effect, and the Purchaser shall not have the right to reject title or receive a credit or abatement against the purchase price for the Home. In that event the Seller shall be entitled to a reasonable period of time within which to complete the repair or restoration, not to exceed twelve (12) months, and any insurance proceeds shall belong solely to the Seller. If the Seller elects not to restore the Home, or (if the damage occurs after the establishment of the Condominium but before closing of title to the Home) and the Board of Managers elects not to restore the common elements of the Condominium, or if the period of repair will exceed twelve (12) months, the Purchase Agreement shall be deemed cancelled, the Seller shall return to Purchaser all sums deposited thereunder (together with interest), and the parties shall have no further liability to each other. Purchaser may nullify such cancellation (provided the damage relates solely to an individual Home and does not affect the common elements of the Condominium) by notice given within 10 days thereafter, agreeing to take title subject to the damage without abatement or reduction in the purchase price, but with an assignment of all insurance proceeds or condemnation awards allocable to the repair of the Home. In that case, at closing the Seller shall assign to the Purchaser all insurance proceeds or condemnation awards allocable to the Home and the Seller shall

have no further responsibility to repair the Home. The foregoing rights apply only if Purchaser is not in default. If Purchaser is in default under the Purchase Agreement at such time, the Purchaser may not nullify the Seller's option to cancel and the Seller may retain all sums paid as liquidated damages.

(ii) Notwithstanding part (i), if Purchaser enters into actual possession of a Home prior to the closing of title, the Purchaser shall bear the risk of loss or other casualty with respect to that Home, i.e., the Purchaser will be obligated to bear the cost of restoring the Home to the same extent as if the Purchaser had already taken title.

**18. Inspection, Condition of Units:** At least one (1) day before Closing, a representative of the Sponsor and Purchaser shall inspect the Home. At the conclusion of the inspection Purchaser will complete and sign an inspection statement in the form annexed as Exhibit A. Purchaser's signing of this Purchase Agreement and the inspection statement shall constitute its acceptance of the Home and the Building in the condition in which it shall be at the time of Closing, subject to the "Exceptions" noted on the inspection statement, including the existing kitchen, bathroom and other appliances, fixtures, equipment, air conditioning units and installations, if any, which are owned by the Sponsor. By closing title, Purchaser waives any claim regarding the condition of the Home except as set forth in the inspection statement. Purchaser shall be in default under this agreement if Purchaser fails to inspect the Home with a representative of the Sponsor on or before the day before the scheduled Closing Date. Except as expressly provided in this Agreement or the Plan, Sponsor shall have no obligation to repair or improve the Home, any portion of Property, or the appliances, equipment, or fixtures attached to or used in connection with the Home or the Property.

**19. Possession of Home Prior to Closing:** It is expressly understood and agreed that the Purchaser shall in no event take possession of the Home prior to the time of the delivery of the deed and full compliance by the Purchaser with the terms of this agreement, and should the Purchaser violate this provision, the Purchaser consents that the Seller shall have the right to remove him from the Home as a squatter and intruder by summary proceedings. Upon the Purchaser's unauthorized possession, the Purchaser shall be deemed in default hereunder at the option of the Seller, and if the Seller so elects, the Seller may cancel this Agreement and the amount deposited hereunder shall belong to the Seller as liquidated damages deemed earned hereunder. It is further understood and agreed that the Seller will not be responsible for damage or loss to any property belonging to Purchaser, whether same is delivered to the property before, on or after the closing of title herein.

**20. Limitation of Seller's Liability:** Except as may otherwise be required by law, the Seller's liability under this agreement for failure to complete any portion of the Home or Building, or deliver title for any reasons whatsoever shall be limited to the return of the money deposited hereunder (with interest, if any), and upon the return of said money, this Agreement shall be null and void and the parties hereto released from any and all liability hereunder. In any event, the Seller shall not be required to bring any action or proceeding or otherwise incur any expense to render the title to the Home marketable or to cure any objection to title. Notwithstanding the foregoing, Seller shall not be entitled to cancel this agreement should the aggregate cost to repair actual defects be less than \$3,000 to repair or replace.

**21. Definitions:** The term "Purchaser" shall be read as "Purchasers" if more than one

person is Purchasers, in which case their obligations shall be deemed joint and several. The terms used herein shall have the same meanings as ascribed thereto in the Plan.

22. **Gender:** The use of the masculine gender in this Purchase Agreement shall be deemed to refer to the feminine gender or to an entity whenever the context so requires.

23. **Other Agreements:** This Purchase Agreement supersedes any and all understandings and agreements between the parties and constitutes the entire agreement between them and no oral representations or statements shall be considered a part hereof.

24. **Amendment of Purchase Agreement:** This Purchase Agreement may not be amended, altered or discharged except by agreement in writing signed by the party sought to be charged therewith or by his, her or its duly authorized agent.

25. **Brokerage:** Purchaser represents and warrants to Seller that Purchaser did not negotiate with any broker for the purchase of the Home other than \_\_\_\_\_ (“Agents”). Purchaser hereby agrees to indemnify, defend and hold harmless Seller, the Agents, and their respective agents, counsel and employees, from any claims by any other broker that alleges that it has dealt with Purchaser in connection with the purchase of the Home.

26. **Governing Law:** This Purchase Agreement shall be governed by and construed in accordance with the law of the State of New York.

27. **Jury Waiver:** Purchaser hereby waives trial by jury in any action, proceeding, or counterclaim involving any matter whatsoever arising out of, or in any way connected with this Purchase Agreement, or the relationship of the parties as Purchaser and Seller, or the right of Purchaser to any statutory relief or remedy.

28. **Binding Effects of Declaration, By-Laws, Plan, Rules and Regulations:** Purchaser hereby agrees to be bound by the Declaration, By-Laws, the Rules and Regulations and the Plan.

29. **Notices:** Whenever, under the provisions of this Agreement, notice is required to be given by or to any party such notice shall be sufficient if in writing sent by mail or overnight carrier to the address follows: if to Purchaser, at the address set forth on page 1 or at such other address as Purchaser may hereafter designate in writing; and if to Seller, to: Dorami Realty of New York, Inc., 146 Main Street, Tuckahoe, New York 10707, and will be deemed received within 3 days of depositing same with the post office or 2 days of depositing same with an overnight carrier.

30. **Conflict with Plan:** Any conflict between the Plan and this Purchase Agreement will be resolved in favor of the Purchase Agreement.

31. **Captions:** The captions in this Purchase Agreement are for convenience and reference only and in no way define, limit or describe the scope of this Purchase Agreement, or the intent of any provision hereof.

32. **No Recording:** This Purchase Agreement shall not be recorded unless either Party hereto is in default. Recording of the Purchase Agreement is an event of default hereunder.

33. **Separability of Provisions:** Each provision of this Agreement shall be considered separable; and if, for any reason, any provision or provisions herein are determined to be invalid and contrary to any existing or future law, such invalidity shall not impair the operation of or affect those portions of this Agreement which are valid.

33. **Bona Fide Purchase:** Purchaser represents that:

(i) he or she is an individual over eighteen years of age;

(ii) he or she is a bona fide purchaser of the Home for occupancy or investment; and

(iii) he or she is not an employee, shareholder, member or limited partner of the Sponsor, Selling Agent, or any principal thereof, nor is he or she related by blood, marriage or adoption or as a business affiliate to the Sponsor or the Selling Agent.



In witness whereof, each party has signed this Agreement.

Dated: \_\_\_\_/\_\_\_\_/20\_\_

Purchaser: \_\_\_\_\_

Purchaser: \_\_\_\_\_

Purchaser: \_\_\_\_\_

Seller:  
DORAMI REALTY OF NEW YORK, INC.

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

Philip Raffiani  
Vice President

Dated: \_\_\_\_/\_\_\_\_/20\_\_

Escrow Agent:  
With regard to Section 15 only.

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

Anthony S. Colavita Esq.

Dated: \_\_\_\_/\_\_\_\_/20\_\_

**EXHIBIT A**  
**LIMITED WARRANTY**

**SPONSOR:** Dorami Realty of New York, Inc.  
146 Main Street  
Tuckahoe, New York 10707

**NAME OF PURCHASER(S):** \_\_\_\_\_  
\_\_\_\_\_

**ADDRESS OF PURCHASER(S):** \_\_\_\_\_  
\_\_\_\_\_

**ADDRESS OF HOME  
WARRANTED:** Home No. \_\_\_\_\_  
  
141 VivaBene Condominium  
141 Main Street  
Tuckahoe, New York 10707

**COMMENCEMENT DATE:** The date that Purchaser takes title to the Home or the date that any person begins residential occupancy of the Home, whichever is earlier ("Warranty Date").

**This Limited Warranty excludes all consequential, incidental, special and indirect damages.**

**THIS LIMITED WARRANTY IS GIVEN IN LIEU OF AND REPLACES ALL OTHER WARRANTIES ON THE CONSTRUCTION AND SALE OF THE HOME AND ITS COMPONENTS. BOTH EXPRESS AND IMPLIED (INCLUDING ANY WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE AND THE HOUSING MERCHANT IMPLIED WARRANTY). THERE ARE NO WARRANTIES WHICH EXTEND BEYOND THE FACE HEREOF. THE PURPOSE OF THIS LIMITED WARRANTY IS TO IDENTIFY THE SPONSOR'S RESPONSIBILITIES FOR CONSTRUCTION DEFECTS OF A LATENT OR HIDDEN NATURE THAT COULD NOT HAVE BEEN FOUND OR DISCLOSED ON FINAL INSPECTION OF THE HOME.**

**1. This is a Limited Warranty.** This is a Limited Warranty which excludes any other promises or guarantees that Sponsor could make (also known as "express warranties" or "implied

AMENDMENT FILING FORM
(Cooperatives, Condominiums, H.O.A.s, Timeshares, etc.)

Re: 141 VIVABENE CONDOMINIUM
(Address of Premises and/or Name of Project)

File No. : CD 50318 Amendment No. : 9 Plan Filing Date: 04/24/2006

Sponsor: DORAMI REALTY OF NEW YORK INC Holder of Unsold Shares: DORAMI REALTY OF NY INC

Current Address: 146 MAINS STREET, TUCKAHOE NY, 10707
(if different from address disclosed in plan)

Individual Attorney's Name: JEANNE RAFFIANI CORPORATE COUNSEL

Law Firm:

Address: 146 MAIN STREET TUCKAHOE NY 10707

Check whichever are applicable: (Failure to answer all questions will result in amendment's rejection).

- Cooperative Condominium [checked]
H.O.A. [ ]
Timeshare [ ]
Syndication Filing [ ]
Commercial Only [ ]
New Construction [ ]
Rehab [ ]
Vacant [ ]
Loft [ ]
Conversion [checked]
Eviction [ ]
Non-Eviction, since filing date [checked]
Non-Eviction, since Amend. No. [ ]
Non-Eviction, by this Amend. [ ]

[checked] Post-closing amendment has already been filed including all requirements of regulations (e.g. 13 NYCRR 18.5(f) for coops and 13 NYCRR 23.5(f) for condos)

[checked] Certified financial statements of income and expense have been provided for the calendar/fiscal year 01 mo. 2012 yr. to 12 mo. 2012 yr.

[checked] The last budget contained in the offering plan or any subsequent amendment is for the calendar/fiscal year commencing 01 mo. 2013 yr.

[ ] Check if this is a price change only amendment (e.g. 13 NYCRR 18.5(d)(1) for coops).

The primary purposes of this amendment are as follows:

[checked] Continued on attached sheet.

I (We) hereby certify under penalty of perjury that the offering plan or filing for the subject premises as amended by the proposed amendment complies with Article 23-A of the General Business Law and applicable regulations promulgated by the Department of Law.

DATED:

\_\_\_\_\_, 2013

TUCKAHOE, New York

SPONSOR

by:



PHILIP RAFFIANI V.P.
PRINT NAME AND TITLE

IN CAPACITY OF

- [checked] principal(s) of sponsor
[checked] holder(s) of unsold shares

OTHER SIGNATORIES: (Print names underneath)

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

SWORN TO BEFORE ME THIS 17th DAY OF May, 2013.



NOTARY PUBLIC

Rosa M. Torres
License # 01To6125454
Westchester County
Appointment Date 4-18-05
Expiration Date 4-18-11

Amendment #9  
June 3, 2013  
Form RS-2/CD/2

Continuation

The primary purposes of this Amendment are as follows:

1. Update the Condominium budget to 1/1/2013 – 12/31/2013;
2. File certified financial statements for fiscal year end 12/31/12;
3. Update Schedule A to the Plan regarding Unit Prices (no changes), Unit taxes and common charges.

***141 VIVABENE CONDOMINIUM***

**Financial Statements**

**For the Year Ended  
December 31, 2012**



# ***141 VIVABENE CONDOMINIUM***

**For the Year Ended December 31, 2012**

## **I N D E X**

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**McGUIGAN TOMBS & COMPANY \* CERTIFIED PUBLIC ACCOUNTANTS**



INDEPENDENT AUDITOR'S REPORT

To the Board of Directors  
of 141 Vivabene Condominium

We have audited the accompanying financial statements of 141 Vivabene Condominium, which comprise the balance sheet as of December 31, 2012, and the related statements of operations and unit owners' equity, and cash flows for the year then ended, and the related notes to the financial statements.

**Management's Responsibility for the Financial Statements**

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

**Auditor's Responsibility**

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

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

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

AICPA MEMBER DIVISION FOR CPA FIRMS \* PRIVATE COMPANIES PRACTICE SECTION





2399 Highway 34 • Bldg D  
Manasquan, New Jersey 08736  
732-292-1800 • Fax 732-292-9336  
www.mcguiganco.com

**Opinion**

In our opinion, the financial statements referred to above present fairly, in all material respects, the financial position of 141 Vivabene Condominium as of December 31, 2012, and results of its operations and its cash flows for the year then ended in conformity with accounting principles generally accepted in the United States of America.

**Other Matter Disclaimer**

Our audit was conducted for the purpose of forming an opinion on the financial statements as a whole. As discussed in Note 3, the Association has not estimated the remaining useful lives and replacement costs of the common property and, therefore, has not presented information about the estimates of future costs of major repairs and replacements that accounting principles generally accepted in the United States of America have determined is required to supplement, although not be a part of, the basic financial statements.



McGuigan Tombs & Company, P.C.  
Certified Public Accountants

February 19, 2013  
Manasquan, New Jersey

AICPA MEMBER DIVISION FOR CPA FIRMS \* PRIVATE COMPANIES PRACTICE SECTION





**141 VIVABENE CONDOMINIUM**

Balance Sheet  
as of December 31, 2012

ASSETS

Cash and cash equivalents	\$ 7,232
Assessments receivable	16,745
Prepaid insurance	<u>4,358</u>
	<u>\$ 28,335</u>

LIABILITIES AND UNIT OWNERS' EQUITY

Accounts payable	\$ 55
Unit owners' equity	
Undesignated	20,530
Designated for future repairs and contingencies	<u>7,750</u>
	<u>28,280</u>
	<u>\$ 28,335</u>

See accompanying notes to financial statements

141 VIVABENE CONDOMINIUM  
Statement of Operations and Unit Owners' Equity  
For the Year Ended December 31, 2012

<b>Revenues</b>	
Operating assessments	\$ 44,772
Interest income	3
<b>Total revenues</b>	<u>44,775</u>
<b>Expenses</b>	
Insurance	15,907
Management fees	9,600
Repairs and maintenance	5,663
Outside services	3,600
Professional fees	2,000
Utilities	1,442
Filing fees	420
Office supplies	240
<b>Total expenses</b>	<u>38,872</u>
Excess of revenues over expenses	\$ 5,903
Opening unit owners' equity	<u>\$ 22,377</u>
Ending unit owners' equity	
Undesignated	20,530
Designated for future repairs and contingencies	<u>7,750</u>
<b>Total unit owners' equity</b>	<u>\$ 28,280</u>

See accompanying notes to financial statements

**141 VIVABENE CONDOMINIUM**  
Statement of Cash Flows  
For the Year Ended December 31, 2012

Cash flows used by operating activities	
Excess of revenues over expenses	\$ 5,903
Adjustments to reconcile excess of revenues over expenses to net cash used by operating activities:	
Accounts receivable	(6,698)
Prepaid insurance	(256)
Accounts payable	<u>(165)</u>
Net cash used by operating activities	(1,216)
Net decrease in cash and cash equivalents	\$ (1,216)
Cash and cash equivalents, beginning of the year	<u>8,448</u>
Cash and cash equivalents, end of the year	<u>\$ 7,232</u>
Cash paid during the year for:	
Interest	<u>\$ -</u>
Taxes	<u>\$ -</u>

See accompanying notes to financial statements

141 VIVABENE CONDOMINIUM

Notes to Financial Statements

December 31, 2012

Note 1 - Summary of Significant Accounting Policies

Organization

141 Vivabene Condominium (the "Association") is a condominium association formed pursuant to Article 9-B of the Real Property Law of the State of New York on September 14, 2007. The primary purpose of the Association is to manage the common expenses and preserve the common elements of the property known as 141 Main Street in Tuckahoe, NY. The property consists of 10 residential units, which are individually and collectively referred to as the "units." The Association shall be run by a Board of Managers elected by the Unit Owners. The Board of Managers has the authority to manage and administer the affairs of the Association.

The financial information included herein reflects related party transactions as described in Note 4. Accordingly, these financial statements may not be indicative of the financial position, results of operations, cash flows or indicative of future operations that would have occurred had the Association operated independently of its Sponsor during the period. Management believes that the accounting judgment underlying such transactions is reasonable.

Unit Owner assessments

Unit Owners are subject to regular and special assessments to provide funds for the Association's operating expenses, future capital acquisitions, and major repairs and replacements. The annual budget and assessments of Unit Owners are determined by the board of managers and are approved by the Unit Owners. Currently, the Association is controlled and run by the sponsor. The Association retains excess operating funds at the end of the operating year, if any, for use in future operating periods.

Assessments receivable

Assessments receivable at the balance sheet date represent fees due from unit owners. Unit Owner assessments are considered delinquent if such assessments are unpaid by the due date of the assessment notice. The Association's bylaws allow the Board of managers to place liens on the properties of homeowners whose assessments are 15 days in arrears. As of December 31, 2012, there were assessments receivable due from the sponsor in the amount of \$16,745, which were collected in full in January of 2013.

Use of estimates

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

141 VIVABENE CONDOMINIUM  
Notes to Financial Statements (cont'd)  
December 31, 2012

Note 1 - Summary of Significant Accounting Policies (cont'd)

Disclosure of fair value of financial statements

The carrying amount reported in the balance sheet for cash and assessments received in advance approximates fair value because of the immediate short-term maturity of these financial instruments.

Cash and cash equivalents

The Association considers highly liquid investments purchased with original maturities of three months or less and certificates of deposits with a maturity of one year or less to be cash equivalents.

Concentration of credit risk

Financial instruments that potentially subject the Association to concentrations of credit risk are cash and accounts receivable arising from its normal business activities. The Association does not require collateral, but establishes allowances for uncollectible accounts receivable and believes that their accounts receivable credit risk exposure beyond allowances is limited. The Association maintains its cash balances in two financial institutions and is subject to credit risk to the extent it exceeds federally insured limits. Balances may exceed the amount of insurance provided on such deposits. The balance of one account is invested in a non-interest bearing account. The balances of two accounts are invested in interest bearing accounts and are insured by the Federal Deposit Insurance Corporation up to \$250,000 per financial institution. Effective December 31, 2010 through December 31, 2012, all non-interest bearing accounts are fully insured regardless of the balance in the account at all FDIC insured institutions.

Income taxes

The Association has elected to be taxed as a homeowner association and accordingly, files a federal form, 1120-H. The Association generally is taxed only on nonmembership income, such as interest income and earnings from commercial operations. Earnings from Unit Owners, if any, may be excluded from taxation if certain elections are made. The Association is subject to no income tax for the year ended December 31, 2012.

Uncertain tax positions

Management has determined that the Company does not have any uncertain tax positions and associated unrecognized benefits that materially impact the financial statements or related disclosures. Since tax matters are subject to some degree of uncertainty, there can be no assurance that the Company's tax returns will not be challenged by the taxing authorities and that the Company will not be subject to additional tax, penalties, and interest as a result of such challenge.

The Company is no longer subject to federal and New York tax examinations by taxing authorities for years prior to 2009.

141 VIVABENE CONDOMINIUM  
Notes to Financial Statements (cont'd)  
December 31, 2012

Note 1 - Summary of Significant Accounting Policies (cont'd)

Subsequent events

FASB ASC Topic 855 requires interim and annual disclosure of the date through which subsequent events have been evaluated, as well as whether that date is the date the financial statements were issued or the date the financial statements were available to be issued. The Company evaluated subsequent events through the report date on February 19, 2013, no disclosure is necessary.

Note 2 - Cash balances

As of December 31, 2012, the cash balances were comprised as follows:

General checking	\$ 6,868
Interest bearing money market	95
Interest bearing savings account	<u>269</u>
	<u>\$ 7,232</u>

Note 3 - Future major repairs and contingencies

As mentioned in the auditor's report, a supplemental schedule detailing the remaining useful lives and replacement costs is required by generally accepted accounting principles. New York State law and the Association's governing documents do not require the accumulation of funds to finance estimated future major repairs and replacements. The association has not estimated the remaining useful lives and replacement costs. Therefore, the accompanying financial statements do not include such a schedule as required by accounting principles generally accepted in the United States of America.

When funds are required for major repairs and replacements, the Association plans to raise required funds via special Unit owner assessments or borrowings. The effect on future assessments has not been determined. As of December 31, 2012 The Board of Managers has designated \$7,750 as "Unit owners' equity - designated for future repairs and contingencies."

141 VIVABENE CONDOMINIUM  
Notes to Financial Statements (cont'd)  
December 31, 2012

Note 4 - Related party transactions/economic dependency

For the year ended December 31, 2012, the Association paid management fees to the Sponsor's parent company totaling \$9,600. In addition to management services, the Association contracted with the Sponsor's parent company to provide certain services which were charged as follows:

Repairs and maintenance	\$ 3,600
Office supplies	<u>240</u>
	<u>\$ 3,840</u>

As of December 31, 2012, the sponsor owned 9 of 10 units.

For the year ended December 31, 2012, the Sponsor accounted for \$40,188 (90%) of operating assessments. The Association will continue to be economically dependent on the Sponsor as long as the Sponsor controls multiple membership units. A default by the Sponsor on its assessment obligation would negatively affect the ability of the Association to pay its bills as they come due as well as the future assessment obligations of other members.

SCHEDULE B		5/16/2013							
141 VIVABENE TUCKAHOE NY									
PROJECTED BUDGET FOR OPERATIONS									
PERIOD FROM January 1, 2012 TO December 31, 2012									
	INCOME	ANNUAL AMOUNT	SCH B FOOT NOTES	MONTHLY AMOUNT	NOTES	PCT	PER UNIT		
	UNIT ASSESSMENT 10 TOWN HOUSES	44,772.00	01	3,731.00	10 TOWN HOUSES	100%	373		
	INTEREST INCOME	12.00	09	1.00					
	<b>TOTAL INCOME</b>	<b>44,784.00</b>		<b>3,732.00</b>		100%			
	<b>EXPENSES</b>								
	JANITORAL	3,000.00	02	250.00	PART TIME SUPER	6.7%			
	BUILDING REPAIRS	2,400.00	02	200.00		5.4%			
	ALARM AND VIDEO SECURITY	-	03	-		0.0%			
	TELEPHONE	-	03	-		0.0%			
	ELECTRIC	624.00	03	52.00	SITE LIGHTING, COMMON SYS, SERVICE HEAT	1.4%			
	WATER AND FIRE	900.00	03	75.00	SUMMER IRRIGATION AND CLEANING	2.0%			
	MANAGEMENT CONTRACT	9,600.00	04	800.00		21.4%			
	CLEANING AND ICEMELT	480.00	04	40.00		1.1%			
	SNOW REMOVAL	2,700.00	04	225.00	560/STORM 64 STORMS PER YEAR	6.0%			
	LANDSCAPING	3,540.00	04	295.00	255 FOR 10 MONTHS + 500 MULCH	7.9%			
	INSURANCE	17,520.00	05	1,460.00		39.1%			
	ACCOUNTING AND TAX PREP	2,400.00	06	200.00		5.4%			
	CONSULTING	-	06	-		0.0%			
	LEGAL	-	06	-		0.0%			
	DUES AND SUBSCRIPTIONS LIC & FEES	-	07	-		0.0%			
	OFFICE SUPPLIES & OTHER / BOOK KEEPING	360.00	07	30.00		0.8%			
	BANK CHARGES	48.00	07	4.00		0.1%			
	CONTINGENCY AND RESERVES	1,200.00	08	100.00		2.7%			
	BUDGET EXCESS/SHORTFALL	-	10	-		0.0%			
	<b>TOTAL EXPENSES</b>	<b>44,772.00</b>		<b>3,731.00</b>		100.0%			



**141 VIVA BENE CONDOMINIUMS  
2013 BUDGET FOOTNOTES  
FOR THE PERIOD JANUARY TO DECEMBER 2013**

01/09 - The common charges amount represents the total common charges to be levied against and collected from the unit owners during the period represented by this budget. Common charges will be used by the board of managers to defray the operational expenses of the condominium. Common charges are allocated to the units based on their respective assigned common interests. Interest income generated from the reserve and capital accounts.

02 - This expense represents the estimated cost for ordinary maintenance and repairs of the common elements including supplies, fixtures, hardware and other miscellaneous supplies. The Janitorial number represents the cost of a part time superintendent provided by the management company under its management agreement. The condominium does not have any employees.

03 - This expense includes all utilities consumed by the common elements consisting of electricity for lighting and heat, water for fire, irrigation and cleaning, telephone for fire and safety and alarm monitoring for safety.

04 - This expense covers the management fee for contract with Mirado Properties, Inc. and the estimated cost of general cleaning, snow removal, and landscaping.

05 - Insurance is based on the schedule of insurance as provided by Mackoul and Associates, 25 Nassau Lane, Island Park NY 11558. The Coverage is as follows:

All Risk policy which includes replacement cost coverage:	\$6,229,100
Personal property	Included in all risk
General Liability:	\$2,000,000
Non Owned and Hired Car:	\$1,000,000
Directors and Officers	\$1,000,000
Umbrella	\$10,000,000
Flood and earthquake Insurance	Included in all risk

06 - This includes both a certified audit and the preparation of federal and state tax returns. It is based on a quotation for the firm of Mcguigan and Tombs Co CPA's of Wall New Jersey. Legal fees are estimates of the cost of collection for delinquent unit holder fees and other minor issues.

07 - This includes the cost of parking lot license fees, photocopying, mailing charges and any miscellaneous taxes, office expenses, filing fees, property tax challenge fees, dues, book keeping and other unknown charges and expenses.

08 - This is a reserve for contingencies for any unforeseen costs and expenses which might be incurred during the operation of the condominium.

10 - This represents the budget excess or shortfall from the prior year budget.

**B**arhite  
and **H**olzinger, Inc. *Est. 1935*

March 20, 2013

**CERTIFICATION OF EXPERT ADEQUACY OF BUDGET**

Re: 141 VivaBene Condominium ("*Condominium*")  
141 Main Street, Tuckahoe, NY

The Sponsor of the Condominium Offering Plan, Dorami Realty of New York, Inc. ("*the Sponsor*"), for the captioned property, retained Barhite & Holzinger, Inc. to review the Operating Budget with Footnotes for the Condominium, attached hereto ("*Budget*") which includes projections of common charges payable by the owners of the Condominium Units for the calendar year 2013.

The undersigned is a licensed real estate broker and its principals have been engaged in the real estate brokerage and management business since 1935. Our experience in this field includes the management of numerous condominium projects located primarily in the New York Metropolitan area and Westchester County.

We understand that we are responsible for complying with Article 23-A of the General Business Law and the regulation promulgated by the Department of Law in Part 20 insofar as they are applicable to the Units in the Condominium.

We have reviewed the 2013 Operating Budget with Footnotes as it impacts upon the Condominium Units and investigated the facts underlying it with due diligence in order to form a basis for this certification. We have also relied on our experience managing residential, rental, cooperative and condominium buildings.

We certify that the projections in the Budget for common charges payable by the owners of the Units appear to be reasonable and adequate under the existing circumstances to meet the anticipated operating expenses fairly attributable to such Condominium Units for the projected calendar year 2013 and that the allocation of common charges attributable to the Units.

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**71 Pondfield Road • Bronxville, NY 10708**  
**Tel: 914/337-1312 • Fax: 914/793-3364**

*Licensed REAL ESTATE and INSURANCE BROKERS*

We further certify that the estimates in the 2013 Operating Budget for the common charges payable by the owner of the Units:

- (i) set forth in reasonable detail the projected income and expenses for the calendar year 2013;
- (ii) afford potential investors, purchasers and participants an adequate basis upon which to found their judgment concerning the common charges payable by the owners of the Units;
- (iii) do not omit any material fact;
- (iv) do not contain any untrue statement of a material fact;
- (v) do not contain any fraud, deception, concealment or suppression;
- (vi) do not contain any promise or representation as to the future which is beyond reasonable expectation or unwarranted by existing circumstances;
- (vii) do not contain any representation or statement which is false, where we:
  - (a) knew the truth;
  - (b) with reasonable effort could have known the truth;
  - (c) made no reasonable effort to ascertain the truth; or
  - (d) did not have knowledge concerning the representation or statement made.

We further certify that we are not owned or controlled by the Sponsor. We understand that a copy of this certification is intended to be incorporated into an Amendment to the Offering Plan. This statement is not intended as a guarantee or warranty of the common charges fairly attributable to the Units for the calendar year 2013.

This certification is made under penalty of perjury for the benefit of all persons to whom this offer is made. We understand that violations are subject to civil and criminal penalties of the General Business Law and Penal Law.

BARHITE & HOLZINGER, INC.

By   
John F. Holzinger, Jr., President

Sworn to before me this  
20th day of March, 2013

  
Notary Public

CLAUDIA TAGLIAFERRI  
Notary Public, State of New York  
No. 01TA6049655  
Qualified in Westchester County  
Term Expires October 23, 2014

SCHEDULE A		5/16/2013																	
141 VIVABENE TUCKAHOE NY																			
SALES PRICE AND ESTIMATED MONTHLY CHARGES FOR THE FIRST YEAR OF OPERATION																			
PERIOD FROM JANUARY 1, 2013 TO DECEMBER 31, 2013																			
0%																			
Unit Address	Rent Status (FN8)	Number of Rooms Bedrooms Baths (FN1, FN5)	Approx. Gross Square Footage (FN1)	Tenant Purchase Price (FN2)	Non-Tenant Purchase Price (FN2)	Percent Interest In Common Elements (FN3)	Monthly Common Charges (FN4)	Annual Common Charges (FN4)	Monthly Projected Real Estate Tax Charges (FN6)	Annual Projected Real Estate Tax Charges (FN6)	Monthly Projected Real Estate Tax and Common Charges (FN7)								
01	141-A	OCCUPIED	9/3/3.5	2,706	719,990	719,990	12.50%	466	5,597	1,374	16,491	1,841							
02	141-B	OCCUPIED	8/2/3.5	2,102	615,990	615,990	8.50%	317	3,806	1,075	12,903	1,392							
03	141-C	OCCUPIED	8/2/3.5	2,102	615,990	615,990	8.50%	317	3,806	1,075	12,903	1,392							
04	141-D	OCCUPIED	9/3/3.5	2,424	709,990	709,990	10.25%	382	4,589	1,239	14,864	1,621							
05	141-E	OCCUPIED	8/2/3.5	2,102	615,990	615,990	8.50%	317	3,806	1,075	12,903	1,392							
06	141-F	OCCUPIED	9/3/3.5	2,424	709,990	709,990	10.25%	382	4,589	1,239	14,864	1,621							
07	141-G	SOLD	9/3/3.5	2,424	N/A	N/A	10.25%	382	4,589	1,239	14,864	1,621							
08	141-H	OCCUPIED	8/2/3.5	2,102	615,990	615,990	8.50%	317	3,806	1,075	12,903	1,392							
09	141-I	OCCUPIED	9/3/3.5	2,424	709,990	709,990	10.25%	382	4,589	1,239	14,864	1,621							
10	141-J	OCCUPIED	9/3/3.5	2,706	719,990	719,990	12.50%	466	5,597	1,374	16,491	1,841							
<b>TOTALS</b>				<b>23,516</b>	<b>6,033,910</b>	<b>6,033,910</b>	<b>100.00%</b>	<b>3,731</b>	<b>44,772</b>	<b>12,004</b>	<b>144,052</b>	<b>15,735</b>							
TAXES				144,052	ESTIMATED TOTAL ANNUAL TAXES ALL UNITS												-		
COMMON				44,772	ESTIMATED TOTAL ANNUAL COMMON CHARGES ALL UNITS												-		
					<b>MONTHLY ANNUAL</b>														
<b>OWNERS COMMON CHARGES</b>								382	4,589										
<b>SPONSOR COMMON CHARGES</b>								3,349	40,183										
<b>TOTAL COMMON CHARGES</b>								3,731	44,772										

**141 VIVABENE CONDOMINIUM  
FOOTNOTES TO SCHEDULE A  
AS AMENDED FOR  
PERIOD 01/01/2013 THROUGH 12/31/2013**

1. (a) The number of rooms in each Unit is calculated in accordance with the "Recommended Method of Room Count", effective January 1, 1964, from the Real Estate Board of New York. All kitchen areas are deemed to be independent rooms, whether or not separated from the living room or dining room by a demising wall. However, the Units may have been altered by Tenants during occupancy and therefore should be inspected prior to purchase to determine the actual dimensions, layout and physical condition of the Unit. Except as otherwise set forth in the Purchase Agreement, the Building and each Unit will be sold in "As Is" condition.

(b) The total square footage shown on Schedule A is measured horizontally from the exterior face of exterior walls to the midpoint of the opposite interior walls, and from the midpoint of demising walls between Units to the midpoint of the opposite wall; square footage is measured vertically from the underside of the Unit's finished flooring to the exposed painted face of a concrete ceiling or the unexposed side of the Unit's drywall or plaster ceiling, as applicable. Usable square footage measured to the exposed face of interior walls will be significantly lower than the square footage shown in schedule A. Square footage shown in the Declaration of Condominium filed with the Westchester County Clerk will also be lower than the square footage shown on Schedule A because horizontal boundaries are measured from the unexposed inside surface of the exterior walls, the Unit side of any window glass, and the unfinished inside surface of any exterior wall door or window frame to the midpoint of the opposite interior walls, for purposes of distinguishing Units from common elements in the Declaration. Any floor plan or sketch shown to a prospective Purchaser is only an approximation of the dimensions and layout of a typical Unit. Each Unit should be inspected prior to purchase so that any prospective Purchaser will be able to inspect the actual dimensions, layout and physical condition. (See Part II of the Plan, Exhibit D for floor plans of each Unit).

2. The "Exclusive Purchase Period" for tenants in occupancy has expired. After the expiration of the Exclusive Purchase Period, Tenants will no longer have the exclusive right to purchase their Units and all sales will be subject to the Non-Tenant Purchase Price set forth in Schedule A. Non-Tenant Purchase Prices will be subject to increase by duly filed amendment. The Sponsor reserves the right to decrease the sales price below the Offering Plan price without filing a prior amendment to the Plan as long as the reduction in sales price does not constitute a general offering but is rather the result of an individually-negotiated Unit price with a Non-Tenant Purchaser, or with a Tenant after the Plan has been declared effective. See Section 9 for conditions applicable to these prices. In addition to the payment of the balance of the sales price at the time of closing, the Purchaser will be responsible for the payment of various closing costs and adjustments. See Section 18, entitled "Unit Closing Costs and Adjustments", for a schedule of estimated closing expenses to be paid by a Purchaser.

3. Pursuant to Section 339-i (1) (iv) of the New York Real Property Law, the percentage of Common Interest of each Unit in the Common Elements is based upon floor space, subject to location of such space and the additional factors of relative value to other space in the Condominium, the uniqueness of the Unit, the availability of Common Elements for exclusive or shared use, and the overall dimensions of the particular Unit. The approximate interior square

footage of the Units varies from 2102 to 2706 square feet, excluding Limited Common Elements.

4. The Common Charges payable by each Unit Owner are based on their Percentage of Common Interest in the Common Charges. See the footnotes to Schedule B and Schedule B-1 for a more detailed description of the expenses and services which Common Charges cover. The projected Common Charges do not cover certain costs such as repairs, replacements or alterations to the interior of Units, electricity, heat and hot water (which is separately metered for each Unit), air conditioning, cable television service, or fire and liability insurance for improvements and furnishings in the Units, which are the responsibility of the individual Unit Owner. The Sponsor is not offering mortgage financing in connection with this Plan. If the Purchaser obtains mortgage financing, the Purchaser will be responsible for debt service on the mortgage as an additional expense.

Based on the information provided to us regarding the use of the Units, it appears that the Condominium may elect to be taxed as a homeowners association under Sec. 528 and accordingly, its membership income will not be subject to federal tax. However, it does not appear that the Condominium members would incur substantial taxes even if Section 528 did not apply, i.e., if the Condominium is treated either as the agent or as a partnership for tax purposes. If, as anticipated, its income is largely offset by expenses, the ultimate income tax payable would be small. Hence the major concern, if Section 528 is not available, would lie in assuming the net taxable income derived from the Condominium's activities in any year is minimal. With careful attention to the various accounting and other administrative details, this would not be difficult to accomplish. Each person contemplating the purchase of a Unit is strongly advised to consult his or her own tax advisor as to all tax matters.

5. All Units have amenities which are appurtenant to the particular Unit, such as outdoor parking space which is a Limited Common Element. For a description of the rights and obligations of Unit Owners with respect to the repair and alteration of the Limited Common Elements see Section 22.

6. The Condominium is divided into individual tax lots, each Unit is taxed as a separate tax lot for real estate tax purposes and a Unit Owner will not be responsible for the payment of, nor will his or her Unit be subject to, any lien arising from the non-payment of taxes on other Units. Each Unit Owner's real estate taxes are based on his or her assessment by the assessor for the Town of Eastchester, 40 Mill Road, Eastchester, New York 10709 ("Town Assessor").

The Sponsor makes no representation as to the accuracy of the (i) assessed value of the Property; (ii) projected assessed value of the Property; (iii) tax rate; or (iv) method of assessing real property used by the Town Assessor.

The taxes shown on revised Schedule A for the period 1/1/2013 to 12/1/2013 are based on the actual tax bills for 2012 + a 4% estimated increase in taxes projected for 2013.

7. The total estimated monthly carrying charges are the sum of the estimated monthly Common Charges and the estimated monthly real estate taxes. If a Purchaser obtains financing, the Purchaser's debt service will be an additional expense.

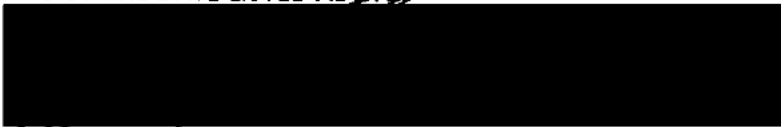
8. The Building has a total, monthly rent roll of \$32,325 with 0 vacant units and 9 units occupied by tenants.

**141 VIVABENE RENT ROLL AS OF**

**6/1/2013**

<b>UNIT</b>	<b>MONTHLY RENT</b>
141-A	4,000
141-B	3,100
141-C	3,900
141-D	4,000
141-E	3,100
141-F	3,100
141-G	SOLD
141-H	3,400
141-I	4,300
141-J	4,300
<b>TOTAL</b>	<b>33,200</b>

I CERTIFY THAT THIS IS A TRUE AND ACCURATE RENTROLL FOR 141 VIVABENE CONDOMINIUM  
AS OF THE DATE LISTED ABOVE



PHILIP RAFFIANI VICE PRESIDENT  
DORAMI REALTY OF NEW YORK INC  
SPONSOR



# STATE OF NEW YORK

## NOTICE OF APPEARANCE

Section 166 of the Executive Law requires a regulatory agency to maintain for public inspection, a record of who appears before it for a fee as a third party (i.e., an attorney, an agent, lobbyist\*, or representative) on behalf of a person or organization subject to the regulatory jurisdiction of the agency. This usually occurs when the third party's client is involved in an enforcement, formal permit, or application matter. *This form is subject to all the rules and regulations of the Freedom of Information Law. Information that is confidential as a matter of law need not be furnished.*

**Agency:** NEW YORK STATE ATTORNY GENERAL **Date:** 6/3/2013

**Division/Bureau:** Real Estate Finance Bureau

**1. Name of individual appearing:** PHILIP RAFFIANI

**Address:** 146 MAIN STREET, TUCKAHOE, NY 10707

**Telephone:** 914-337-8569

**2. Client represented:** 141 VIVABENE CONDOMINIUM

**Address:** 146 MAIN STREET, TUCKAHOE, NY 10707

**Telephone:** 914-337-8569

**3. Subject of appearance:**  **Regulatory/Enforcement**  **Lobbying**

CONDOMINIUM AMENDMENT FILING

**4. Acting in capacity of:**

**Attorney**  **Lobbyist**

**Agent**  **Other (describe)** \_\_\_\_\_

**5. Are you being compensated?**  **Yes**  **No** **If Yes:**      **Fee**      **Salary**

**6. Signature of individual appearing:** 

**7. Agency official (print name):** \_\_\_\_\_

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

\*A LOBBYIST is a person or organization, other than a New York State government employee acting in an official capacity, who appears for the purpose of influencing the adoption or rejection of proposed rules, regulations, rates or legislation, including the State budget. An "appearance" for lobbying purposes can be a personal visit, letter, telephone call, conversation at a meeting, or any other type of contact, but does not include "on the record" proceedings or hearings.



**END**

**COPY OF FILED PREVIOUS  
AMENDMENT #08 FOLLOWS**