



PURCHASE AGREEMENT: AIR RIGHTS

AGREEMENT made this ____ day of _____, 20____, between _____ ("_____"), a New York _____ and _____ ("_____"), a New York _____, each having an office c/o _____ New York, New York (_____) and _____ are sometimes hereinafter referred to collectively as "Seller" and _____, a New York _____ having an office c/o _____, New York, New York (hereinafter referred to as "Developer").

STATEMENT OF FACTS

_____ is the owner in fee of the land and building and improvements thereon known and numbered as _____, New York and _____ is the owner in fee of the land and buildings and improvements thereon known and numbered as _____ Street, Exhibit A annexed hereto (herein referred to collectively as "Seller's Premises").

Developer is the owner in fee of the land and buildings and improvements thereon known and numbered as _____, New York, as such premises are more particularly described in Schedule B of Exhibit A annexed hereto (hereinafter referred to as "Developer's Premises"), which Developer's Premises are adjacent to Seller's Premises.

Developer desires to acquire and utilize on Developer's Premises all such rights as now or as may hereafter exist to Seller's unused excess floor area and development rights (hereinafter referred to as the "Seller's Excess Zoning Rights") attributable to Seller's Premises.

Seller shall join with Developer in executing and recording a Declaration of Restrictions ("Declaration") that the Developer's Premises and the Seller's Premises shall hereafter constitute one (1) zoning lot for the purposes of Section 12-10 of the Zoning Resolution of the City of New York, effective December 15, 1961, as heretofore amended August 18, 1977, or as the same may have been or may be hereafter amended (the "Zoning Resolution"). The Declaration shall be substantially in the form of Exhibit A, annexed, subject to and upon the terms and conditions set forth in a certain agreement (hereinafter referred to as the "Zoning Lot and Development Agreement") to be executed by Seller and Developer. The Zoning Lot and Development Agreement shall be substantially in the form of Exhibit B annexed. The Declaration and Zoning Lot and Development Agreement shall be recorded after the closing hereunder.

IT IS THEREFORE AGREED:

1. A. At the "Closing" (as hereinafter defined) hereunder Seller and Developer shall execute (a) the Declaration, pursuant to which Seller's Premises and Developer's Premises are to be treated as one (1) zoning lot for the purposes of and in accordance with the provisions of Section 12-10

of the Zoning Resolution, and (b) the Zoning Lot and Development Agreement, pursuant to which the Seller shall transfer to the Developer Seller's Excess Zoning Rights.

B. The Declaration and zoning Lot and Development Agreement shall, respectively, be in the form on the terms of respectively, Exhibits A and B hereto; provided that, the parties agree that they will consent to such technical changes in such instruments as shall be necessary so that they will have the effect of causing the Seller's Premises and the Developer's Premises to be treated as one zoning lot for the purposes and in accordance with the provisions of Section 12-10 of the Zoning Resolution, provided further that any such technical changes shall not create any additional benefits or liabilities than those contained in Exhibits A and B annexed hereto. The parties further agree, at the option of either Seller or Developer, to describe the uppermost height restriction relating to the existing buildings or any new construction in lieu thereof on Seller's Premises that is provided in paragraph 1(a) of the Zoning Lot and Development Agreement, by reference to a survey mutually acceptable to Seller and Developer. The obligations of the parties pursuant to this subparagraph B shall survive the Closing.

C. On or before the Closing, Seller shall deliver to Developer waivers, executed by all "parties in interest" (as said term is defined in Section 12-10 of the Zoning Resolution) or shall cause any such parties in interest to execute the Declaration in recordable form, so that the Developer's title insurance company, if any, is in a position at the Closing to issue the certification of the Buildings Department that is referred to in Section 12-10 of the Zoning resolution with respect to the Declaration. In the event that Seller is unable to procure a waiver from each such party in interest in Seller's Premises, then Developer may terminate this Agreement upon notice to Seller within five (5) days after Seller shall inform Developer that Seller is unable to procure such waiver. Developer's right of cancellation shall be its sole and exclusive remedy in the event Seller fails to deliver such waiver(s). If Developer fails to terminate this Agreement as herein provided, this Agreement shall remain in full force and effect without abatement and Developer shall be deemed to have waived the requirement for such waiver(s).

D. Seller shall be responsible for payment of such transfer tax (including, without limitation, New York City and New York State Real Property Transfer Taxes (collectively, "Transfer Taxes"), if any, that may be imposed by any governmental authority in connection with the execution and/or filing of the Declaration and the Zoning Lot and Development Agreement, or in connection with the rights granted to Developer by Seller pursuant to this agreement and the Declaration and the Zoning Lot and Development Agreement, no matter how such rights are characterized. Developer agrees to timely execute and deliver to Seller all documents reasonably required in order for Seller to comply with all applicable laws relating to the Transfer Taxes and cause the recordation of the Declaration and Zoning Lot Development Agreement.

2. In consideration of the transfer to Developer by Seller of the Seller's Excess Zoning Rights in accordance with the Above described Declaration and the Zoning Lot and Development Agreement, Developer agrees to pay to Seller, at the Closing, the amount of \$ _____ (hereinafter referred to as the "Purchase Price") by Developer's good check, directly to the order of Seller at the Closing, and the execution and delivery by Seller of the Declaration and the Zoning Lot and Development Agreement.

3. The parties warrant and represent to each other that they have dealt with no broker or finder in connection with this transaction and each party agrees to indemnify and hold the other harmless from and against any claims and actions made by any broker or finder with respect to this transaction.

4. If for any reason Seller is unable to transfer to developer Seller's Excess Zoning Rights in accordance with the terms of this Agreement or otherwise comply with the terms of this Agreement, the sole obligation of Seller shall be to reimburse Developer for the expense actually incurred by Developer for title examination of the Seller's Premises, in no event to exceed the net amount that would be charged by a title company in the City of New York for title examination of the Seller's Premises without issuance of policy, and upon the making of such reimbursement, this Agreement shall be null and void and neither party shall have any further rights against the other.

5. A. The closing of the transactions contemplated in this Agreement (the "Closing") shall be held at _____ at the offices of _____ on _____, 20__.

B. At the Closing Seller shall transfer Seller's Excess Zoning Rights to Developer, in accordance with the provisions of this Agreement, free of any lien, claim or encumbrance.

6. This Agreement may not be assigned by Developer unless a copy of the assignment, together with an agreement of the assignee assuming all of the terms and conditions of this Agreement to be performed by Developer, is deposited with the attorneys for Seller not less than five (5) days before the Closing, and in any event, no such assignment shall relieve Developer from Developer's obligations under this Agreement unless and until the assignee has performed all the terms and conditions hereof. Developer shall be solely liable for and shall pay all Transfer Taxes resulting from any such assignment of this Agreement by Developer. No such assignment of this Agreement by Developer shall delay the Closing.

7. This Agreement shall be binding upon and shall inure to the benefit of the parties hereto and their respective successors and assigns.

8. All notices of any kind hereunder shall be sent registered or certified mail, return receipt requested, to the parties at the respective addresses as first above set forth.

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

State of _____}

County of _____} ss:

On the _____ day of _____, 20____, before me the undersigned, personally appeared _____, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and the by his/her/their signature(s) on the instrument, the individual(s) or the person upon behalf of which the individual(s) acted, executed the instrument.

_____ Notary Public