

## RESIDENTIAL RIDER

“RIDER” annexed hereto and made part hereof to Contract of Sale between Channing Beach Plum LLC, as “Seller” and \_\_\_\_\_, as “Purchaser”.

Dated: March \_\_\_\_, 2010

---

### 1. TITLE TO BE CONVEYED SUBJECT TO:

The premises (the “Premises”) are sold and shall be conveyed and taken subject to the following:

State of facts an accurate survey and physical inspection would show.

Covenants, agreements, restrictions, encroachments and easements, if any, affecting said Premises.

Sewer agreements, and gas, electricity and telephone easements, recorded or unrecorded, if any, affecting said Premises.

Variations between fences, hedges, sheds, walls, curbs, street pavement, driveways and record lines of the Premises, if any.

Any building or zoning ordinances or other applicable municipal regulations and violations thereof, if any.

Any environmental conditions or hazardous conditions, if any.

Any exceptions listed in the title report prepared by American Land (title number AL-40335), a copy of which is attached hereto. Notwithstanding the foregoing, on or before Closing, Seller shall cure any exceptions that can be cured by the payment of money.

### 2. PAYMENT AT CLOSING

THE PAYMENT DUE AT CLOSING IN ACCORDANCE WITH THIS CONTRACT ON ACCOUNT OF THE PURCHASE PRICE MUST BE MADE BY PURCHASER'S PERSONAL CERTIFIED CHECK OR OFFICIAL TELLERS CHECK ON A NEW YORK CLEARINGHOUSE BANK PAYABLE DIRECTLY TO SELLER OR SELLER'S DESIGNEE. IF PAYMENT SHALL BE MADE TO

SELLER'S DESIGNEE, SELLER SHALL GIVE PURCHASER TWO DAYS' PRIOR INSTRUCTIONS. UNCERTIFIED CHECKS OF FUNDING COMPANIES, ATTORNEY'S ESCROW CHECKS AND CHECKS PAYABLE TO PURCHASER OR ANOTHER PARTY AND ENDORSED TO SELLER WILL NOT BE ACCEPTED AND TENDER OF SAME WILL NOT CONSTITUTE COMPLIANCE BY PURCHASER OF THEIR OBLIGATIONS HEREUNDER.

### 3. BROKER'S COMMISSION

Purchaser is solely responsible to pay Seller's Broker, Prudential Douglas Elliman, the buyer's premium in the amount of six percent (6%) of the gross sale proceeds. Prudential Douglas Elliman shall sell the Premises at an Auction Sale, the terms of which are more fully set forth in the Memo of Sale and Terms & Conditions Agreement for Real Estate Bidding Auction with Reserve attached hereto as Exhibit A, and made a part hereof (the "Auction Sale"). In this capacity, Prudential Douglas Elliman shall act as Auctioneer (the "Auctioneer").

### 4. CLOSING

The Purchaser must close title to the Premises at a date that is no more than forty-five (45) days after the conclusion of the Auction Sale, TIME BEING OF THE ESSENCE against Purchaser. However, such date may be extended solely by the Seller if Seller deems necessary. The Closing shall take place at the offices of Certilman, Balin, Adler & Hyman LLP, located at 90 Merrick Avenue, East Meadow, New York 11554.

### 5. CLOSING COSTS

In furtherance of Paragraph 17 of the printed Contract form, it is agreed and understood that all and any transfer taxes, including but not limited to State, County and Peconic Bay transfer taxes and recording tax(es) payable by reason of the delivery or recording of the deed or mortgage and transfer of Premises, shall be paid by the Purchaser regardless of which party is required by law to pay such transfer and/or recording tax, as well as all title company charges including, but not limited to, the cost of a title premium, recording fees, searches and taxes.

In connection with the Closing and Closing Date, the Purchaser is hereby given notice that **Time is of the Essence** Against the Purchaser and the failure of Purchaser to close for any reason whatsoever (except as otherwise provided below) including its failure to pay the balance of the Purchase Price on the Closing Date, will result in the forfeiture of the Downpayment and the termination of the Purchaser's right to acquire the Premises under these Terms and Conditions of Sale and Contract of Sale. There is no contingency of any kind or nature that will permit the Purchaser to cancel or avoid its

obligation under this Contract of Sale other than the Seller's inability to deliver title to the Premises.

## 6. DUE DILIGENCE

Expenses incurred by the Purchaser, or any competing bidder concerning any due diligence, such as obtaining title reports or environmental inspections, shall be the sole responsibility of such Purchaser or bidder, and under no circumstances shall Auctioneer or Seller be responsible for, or pay, such expenses. Auctioneer, Seller, or their professionals have not made and do not make any representations or warranties as to the physical condition, expenses, operations, value of the land or buildings thereon, or any other matter or thing affecting or related to the Premises or this Auction Sale, which might be pertinent to the purchase of the Premises, including, without limitation, (i) the current or future real estate tax liability, assessment or valuation of the Premises; (ii) the potential qualification of the Premises for any and all benefits conferred by or available under federal, state or municipal laws, whether for subsidies, special real estate tax treatment, insurance, mortgages, or any other benefits, whether similar or dissimilar to those enumerated; (iii) the compliance or non-compliance of the Premises, in its current or any future state, with applicable present or future zoning ordinances or other land use law or regulation, or the ability to obtain a change in the zoning or use, or a variance in respect to the Premises; (iv) the availability of any financing for the purchase, alteration, rehabilitation or operation of the Premises from any source, including, but not limited to, any state, city or federal government or institutional lender; (v) the current or future use of the Premises; (vi) the presence or absence of any laws, ordinances, rules or regulations issued by any governmental authority, agency or board and any violations thereof; or (vi) the compliance or non-compliance with environmental laws and the presence or absence of underground fuel storage tanks, any asbestos or other hazardous materials anywhere on the Premises. The Purchaser hereby expressly agrees and acknowledges that no such representations or warranties have been made. Auctioneer & Seller are not liable or bound in any manner by expressed or implied warranties, guarantees, promises, statements, representations or information pertaining to the Premises, made or furnished by Auctioneer or Seller or any real estate broker, agent, employee, servant or other person or professional representing or purporting to represent Auctioneer or Seller unless such warranties, guaranties, promises, statements, representations or information are expressly and specifically set forth in writing by Auctioneer or Seller.

## 7. PREMISES IS SOLD "AS-IS", "WHERE-IS" AND "WITH ALL FAULTS"

Purchaser is advised that he or she should make a complete and thorough physical inspection of the Premises and perform due diligence of any and all zoning building codes, environmental laws and compliance with all local, state and federal

governmental laws prior to entering into the Contract of Sale since Purchaser is buying the Premises "AS IS" "WHERE IS" and "WITH ALL FAULTS", including, but not limited to, any and all violations or non-compliances of the Premises, without any representations, covenants, guarantees or warranties of any kind or nature whatsoever.

## 8. SELLER'S DEFAULT

In furtherance of Paragraph 23 (b) of the printed Contract form, if the Seller is unable to deliver title to the Premises in accordance with this Contract of Sale for any reason whatsoever, Seller and Auctioneer's only obligation will be to refund the Down Payment, together with any interest earned thereon if any, to the Purchaser .

## 9. MISCELLANEOUS

a) In the event any provision of this rider shall conflict with any provision of the printed portion of this contract, the provision of this rider shall control.

b) Neither this Contract nor any instrument related hereto shall be recorded by Purchaser and any such recordation or attempted recordation by Purchaser shall be void and shall constitute a default by Purchaser hereunder.

c) This Contract shall be interpreted and enforced in accordance with the laws of the State of New York. If any provisions of this Contract shall be unenforceable or invalid, the same shall not affect the remaining provisions of this Contract and to this end the provisions of this Contract are intended to be and are severable.

d) Purchaser and Seller hereby waive trial by jury in any action, proceeding or counterclaim arising out of this Contract, provided such waiver is not prohibited by any laws of the State of New York. Any action or proceeding brought by either party hereto against the other, directly or indirectly, arising out of this Contract, shall be instituted in a court in Suffolk County and all motions in any such action shall be made in Suffolk County. This Paragraph shall survive the delivery of the Deed.

e) No failure or delay of either party in the exercise of any right given to such party hereunder or the waiver by any party of any condition hereunder for its benefit (unless the time specified herein for exercise of such right, or satisfaction of such condition, has expired) shall constitute a waiver of any other or further right nor shall any single or partial exercise of any right preclude other or further exercise thereof or any other right. The waiver of any breach hereunder shall not be deemed to be a waiver of any other or any subsequent breach hereof.

f) In the event of a Purchaser default under this Contract, Purchaser agrees that Seller may place the Premises back on the market for sale and Purchaser further

agrees to release any claim or lien it may have against the Premises. In addition, Purchaser authorizes the release of the downpayment from escrow to Seller in such event, provided that Escrowee shall give to Purchaser ten (10) days' prior written notice.

g) In the event a proceeding is pending to correct or reduce the assessed valuation of the Premises, such proceeding shall be continued by the attorneys presently retained for such purpose. Purchaser agrees to pay a share of the fees and disbursements in the event that a reduction is obtained which shall be in proportion to the share of the benefit to Purchaser from the date of closing to the date of determination of the proceeding. This provision shall survive the delivery of the Deed.

h) In furtherance of Paragraph 23 (a) of the printed Contract form, Seller and Purchaser agree that ten (10%) percent of the purchase price is a reasonable estimate of Seller's damages, regardless of the actual Downpayment deposited hereunder. Accordingly, in the event of Purchaser's default, Seller shall be entitled to liquidated damages in an amount equal to ten (10%) percent of the purchase price, and the amount, if any, which is due to Seller upon a Purchaser default in addition to the Downpayment, shall be promptly paid by Purchaser to Seller.

i) In the event that any of Purchaser and/or Purchaser's lending institution checks delivered at Closing to Seller are dishonored upon presentation for collection, Purchaser shall be obligated to replace same upon notice from Seller. It is agreed and understood that delivery of checks at Closing shall in no way relieve Purchaser of the obligation to pay the balance of the monies due hereunder, together with the costs incurred by Seller in collecting the proceeds, if any, including reasonable attorneys' fees. If said check(s) are dishonored, Purchaser shall arrange to have good funds immediately delivered to the Seller. Additionally, Purchaser hereby guarantees payment on all checks delivered by Purchaser's lending institution. This paragraph shall survive delivery of the deed.

**SELLER:**

**PURCHASER:**

Channing Beach Plum LLC

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

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_