



7700 WEST BLUEMOUND ROAD • WAUWATOSA, WI 53213-3440
 TELEPHONE: 414-259-5060 • FAX: 414-259-5078

**DISBURSING AGREEMENT
 COMMERCIAL**

Attention: Escrow Department

Commitment: _____
 Lender: _____
 Borrower: _____
 Prime Contractor _____
 Date: _____

Undersigned Borrower and Lender have entered into a construction loan agreement covering construction financing in the total amount of \$_____ for property at _____. Land Title Services, hereinafter referred to as Escrowee, has issued a title insurance commitment relating to the mortgage on the property in the amount of \$_____ which is identified by Commitment No. _____.

Borrower and Lender request that Escrowee supervise the disbursement of the loan funds under the loan agreement in accordance with the terms of this letter.

Borrower will, or will cause his Prime Contractor, to submit to Lender and Escrowee a signed cost breakdown showing the names of each person, corporation or other entity which has contracts under which payment may be required for any work done, material supplied or service furnished in connection with construction and developing the property (all such persons, corporations or other entities being called "sub-contractor"). If requested by Lender or Escrowee, Borrower will, or will cause his Prime Contractor, to furnish to Escrowee a copy of the contract with each sub-contractor. Borrower will, or will instruct his Prime Contractor, to keep Escrowee advised at all times of the names of all sub-contractors, and the type of work or material and the amount covered by each of their respective contracts with Borrower.

Disbursement of construction funds by Escrowee shall be made to the Prime Contractor, unless otherwise instructed by the Lender.

PRIOR TO THE FIRST DRAW, the Prime Contractor shall furnish Lender and Escrowee with the recertified foundation survey, a certified cost breakdown and any other documentation that Lender or Escrowee may require.

PRIOR TO DISBURSING EACH DRAW, Escrowee shall have in its possession the following:

- 1: Draw request, executed by the Prime Contractor and Borrower
- 2: Waivers from all Sub-Contractors listed on draw request.
- 3: Waiver from Prime Contractor for full amount of draw.
- 4: Waivers from all Sub-Contractors and Materialmen paid previously from owner's funds.

PRIOR TO THE DISBURSEMENT OF ANY FUNDS, Escrowee shall make an up to date title search and give Lender immediate notice by telephone if any intervening liens are disclosed (other than those expressly listed in Escrowees commitment identified above, or in subsequent amendments previously given to Lender). If any such intervening liens are disclosed, Escrowee shall withhold payment of further advances until Lender notifies in writing Escrowee that such intervening liens have been waived or satisfied. Escrowee will issue an endorsement to its commitment guaranteeing against construction liens to the extent of payments made (including the current advance) through Escrowee.

Said endorsement will reflect any changes of record affecting the subject property. However, if such an endorsement is not issued and a construction draw is disbursed by the Escrowee, then Lender shall be entitled to rely on the title insurance as in fact having been so continued without change of record or title status.

Escrowee shall keep records showing to whom payment is made, date of each payment and the amount of each payment. These records may be inspected by Borrower and Lender.

In the event that Escrowee shall determine that proper documentation to support a given disbursement, as required by this agreement, has not been furnished, Escrowee shall withhold payment of that portion of such disbursement as shall not be supported by proper documentation, and shall promptly notify Borrower and Lender of discrepancy or omission in such documentation. Until such time as such discrepancy or omission is corrected to the satisfaction of Escrowee, it shall withhold such amount. In the event that such discrepancy or omission is not corrected within a reasonable time, Escrowee shall, upon demand of Lender return such withheld funds to Lender and the indebtedness of Borrower to lender under loan agreement shall be credited with the amount of such funds.

Escrowee shall/shall not be required to conduct any inspections of the building during the course of construction. If the Escrowee is to conduct any inspections, it is understood that said inspections are to be made solely for the benefit of the Lender.

It is expressly understood and agreed that neither the Lender nor Escrowee assumes any liability or responsibility for the satisfactory completion of the building, nor for the adequacy of funds deposited with or advanced by either of them pursuant hereto complete the building, nor for the quality of workmanship in the construction or fixtures of said building, nor for any other acts on the part of contractors to be performed in the construction of this building.

Borrower agrees to pay an escrow and inspection fee of \$_____ per draw . This fee is to be paid for each draw on or before payment of that draw by the Escrowee to the Prime Contractor or any part of that payment directly to any Sub-Contractors. If additional checks are requested, there will be a \$_____ fee for each check issued.

Borrower hereby agrees that they will promptly reimburse Escrowee for any expenses which they may reasonably and necessarily incur in prosecuting or defending any action to which they may be a party as a result of a dispute with reference to the rights of anyone claiming an interest in the funds deposited with them for the payment for the construction costs.

If the foregoing is acceptable to Escrowee, please execute the form of acceptance set forth below and return one copy of this letter to Borrower and one to Lender at which time this letter will constitute an agreement between us.

Borrower/

*
LENDER

By: _____

LAND TITLE SERVICES, INC.

By: _____