



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

**DISBURSING AGREEMENT**  
**Residential**

Attention Escrow Department

Commitment No.: \_\_\_\_\_ Escrow No. \_\_\_\_\_

Lender: \_\_\_\_\_  
 Borrower: \_\_\_\_\_  
 Escrowee: Land Title Services, Inc.  
 Prime Contractor: \_\_\_\_\_  
 Date: \_\_\_\_\_

Lender has authorized a loan to the Borrower for the purpose of constructing a dwelling by Prime Contractor on property covered by the above-numbered commitment at a total construction cost of \$\_\_\_\_\_.

Borrower has made a down payment to the Prime Contractor in the sum of \$\_\_\_\_\_, and other borrower credits in the sum of \$\_\_\_\_\_, therefore, total funds available for construction will be \$\_\_\_\_\_ and will be deposited with Escrowee from time to time in installments as shall hereafter be agreed upon between Escrowee, Borrower and Lender.

The purpose of this Disbursing Agreement is to assure Lender that each advance of funds by Lender will have first lien priority on the property covered by the above numbered commitment. Borrower expressly acknowledges that this Disbursing Agreement is being entered into for the benefit of Lender, and that the Escrowee is not being retained by the Borrower to monitor the progress of construction or the performance of the Prime Contractor or for any other purpose. Borrower shall be solely responsible for monitoring the progress of construction, compliance with plans and specifications, the quality of materials and workmanship, whether the remaining undisbursed funds available for construction are sufficient to complete construction and the Prime Contractor's performance of its contractual obligations to Borrower. Borrower's written approval shall be required prior to any disbursement of construction funds by Escrowee, and the Borrower's written approval of any disbursement shall constitute a release of Escrowee from any and all claims of whatsoever nature relating to such disbursement. Borrower's written approval of a disbursement may be withdrawn only upon written notice to Escrowee, and such notice of withdrawal shall be effective only upon actual receipt by Escrowee.

It is expressly understood and agreed that Escrowee assumes no liability or responsibility for the satisfactory completion of said dwelling, insufficiency of funds to complete construction, nor for any other acts on the part of the Prime Contractor to be performed.

Escrowee is hereby authorized to enter upon the premises to conduct inspections on behalf of the Lender for the purpose of determining whether payment to the Prime Contractor is warranted. It is understood that any inspections, which may be conducted, are for the direct benefit of Lender only, and are for the sole purpose of assuring Lender that the stage of construction reasonably justifies payment to the Prime Contractor. Borrower acknowledges that it is responsible to assure itself that any draw request by Prime Contractor is justified, and Borrower will not rely on any inspection performed by or at the direction of Escrowee.

Escrowee is hereby directed to disburse all funds deposited in this account to the Prime Contractor, upon the written approval of Borrower, securing at the time of each respective disbursement proper waivers of lien for the amount so paid.

Prime Contractor is neither a party to nor a beneficiary of this Agreement. Provided, however, that any termination of the Prime Contractor by the Borrower, for any reason, shall cause a termination of this Agreement, and Escrowee shall not be required to disburse any further funds unless an amendment naming a new Prime Contractor shall be signed by Lender, Borrower and Escrowee.

Escrowee is hereby directed to make an up-to-date title search prior to the disbursement of each draw and give Lender immediate notice, by telephone or facsimile transmission, if any intervening liens or other adverse matters, other than those disclosed in the mortgage commitment and endorsements thereto, are discovered. If any intervening liens or other matters are discovered, Escrowee is directed to withhold disbursements until authorized in writing by Lender.

Escrowee is hereby directed, prior to disbursing the first draw, to obtain all of the following items.

- Copy of the building permit.
- Acceptable foundation survey showing exact location of the dwelling being constructed.
- Other \_\_\_\_\_

Escrowee is hereby directed, prior to disbursing funds for the items below, to obtain the document(s) shown in parentheses after that item (if applicable).

- Well/Well Drilling (Copy of Well Construction Report and Water Quality Test)
- Septic System (Private Sewerage System Inspection Report)

Escrowee agrees that all funds paid out under this agreement, upon the approval of Borrower and at the written direction of Lender, for work and material furnished, will be paid to the Prime Contractor for payment of said work and materials furnished.

Escrowee indemnifies Lender against loss by reason of any construction liens filed as the result of any failure on the part of Escrowee to disburse funds in accordance with this agreement. Borrower and Lender agree to advise Escrowee promptly in the event that either receives any notice of intent to file a lien claim from any contractor, subcontractor or materialmen in connection with the construction.

Lender and Borrower hereby each agree to hold Escrowee harmless for any loss, cost or expense, including reasonable attorneys fees, by reason of any claims or liens filed for which Escrowee was not given the funds with the written authority so to pay by Lender.

Borrower hereby agrees to promptly reimburse Escrowee for any loss, cost or expense, including reasonable attorneys fees, which Escrowee may reasonably and necessarily incur in prosecuting or defending any action to which Escrowee may be a party as a result of a dispute with reference to the rights of anyone claiming an interest in the funds deposited hereunder.

In consideration for the above services, Escrowee will be compensated for Escrow and Inspection Fees in the amount of \$\_\_\_\_\_. In addition, for any draw after the fourth draw, there will be an additional charge of \$\_\_\_\_\_ per draw. **If more than one check is needed per draw, there is an additional charge of \$\_\_\_\_\_ per check for the additional checks.**

This constitutes the entire agreement between the parties and may not be altered or modified except by a written instrument signed by all parties.

IN WITNESS WHEREOF, this agreement has been executed as of the day and year first written above.

Accepted by:

\_\_\_\_\_  
Borrower/

\_\_\_\_\_  
Borrower/

Lender

Land Title Services, Inc.

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

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